

# OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 27 November 2013

The Council met at Eleven o'clock

## MEMBERS PRESENT:

THE PRESIDENT

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

THE HONOURABLE ALBERT HO CHUN-YAN

THE HONOURABLE LEE CHEUK-YAN

THE HONOURABLE JAMES TO KUN-SUN

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

THE HONOURABLE LEUNG YIU-CHUNG

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

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

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

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

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

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

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

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

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

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

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

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

THE HONOURABLE CYD HO SAU-LAN

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

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

THE HONOURABLE CHAN HAK-KAN, J.P.

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

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

DR THE HONOURABLE LEUNG KA-LAU

THE HONOURABLE CHEUNG KWOK-CHE

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

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

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

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

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

THE HONOURABLE LEUNG KWOK-HUNG

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE WONG YUK-MAN

THE HONOURABLE CLAUDIA MO

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

THE HONOURABLE JAMES TIEN PEI-CHUN, G.B.S., J.P.

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

THE HONOURABLE STEVEN HO CHUN-YIN

THE HONOURABLE FRANKIE YICK CHI-MING

THE HONOURABLE WU CHI-WAI, M.H.

THE HONOURABLE YIU SI-WING

THE HONOURABLE GARY FAN KWOK-WAI

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

THE HONOURABLE CHARLES PETER MOK

THE HONOURABLE CHAN CHI-CHUEN

THE HONOURABLE CHAN HAN-PAN

DR THE HONOURABLE KENNETH CHAN KA-LOK

THE HONOURABLE CHAN YUEN-HAN, S.B.S., J.P.

THE HONOURABLE LEUNG CHE-CHEUNG, B.B.S., M.H., J.P.

THE HONOURABLE KENNETH LEUNG

THE HONOURABLE ALICE MAK MEI-KUEN, J.P.

DR THE HONOURABLE KWOK KA-KI

THE HONOURABLE KWOK WAI-KEUNG

THE HONOURABLE DENNIS KWOK

THE HONOURABLE CHRISTOPHER CHEUNG WAH-FUNG, J.P.

DR THE HONOURABLE FERNANDO CHEUNG CHIU-HUNG

THE HONOURABLE SIN CHUNG-KAI, S.B.S., J.P.

DR THE HONOURABLE HELENA WONG PIK-WAN

THE HONOURABLE IP KIN-YUEN

DR THE HONOURABLE ELIZABETH QUAT, J.P.

THE HONOURABLE MARTIN LIAO CHEUNG-KONG, J.P.

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

THE HONOURABLE TANG KA-PIU

DR THE HONOURABLE CHIANG LAI-WAN, J.P.

IR DR THE HONOURABLE LO WAI-KWOK, B.B.S., M.H., J.P.

THE HONOURABLE CHUNG KWOK-PAN

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

**MEMBERS ABSENT:**

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

THE HONOURABLE TONY TSE WAI-CHUEN

**PUBLIC OFFICERS ATTENDING:**

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

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

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

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

MR GODFREY LEUNG KING-KWOK  
SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT

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

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

THE HONOURABLE EDDIE NG HAK-KIM, S.B.S., J.P.  
SECRETARY FOR EDUCATION

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

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

**CLERKS IN ATTENDANCE:**

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

MRS JUSTINA LAM CHENG BO-LING, DEPUTY SECRETARY GENERAL

MR ANDY LAU KWOK-CHEONG, ASSISTANT SECRETARY GENERAL

MISS FLORA TAI YIN-PING, ASSISTANT SECRETARY GENERAL

MISS ODELIA LEUNG HING-YEE, ASSISTANT SECRETARY GENERAL

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

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

## TABLING OF PAPERS

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

Subsidiary Legislation/Instrument	<i>L.N. No.</i>
Antiquities and Monuments (Declaration of Historical Buildings) Notice 2013.....	186/2013

### Other Papers

- No. 40 — Fire Services Department Welfare Fund  
Report on the Administration of the Fund and financial statements together with Report of the Director of Audit for the year ended 31 March 2013
- No. 41 — Estate Agents Authority  
Annual Report 2012/13
- No. 42 — Hong Kong Housing Authority  
Annual Report 2012/13
- No. 43 — Hong Kong Housing Authority  
Financial Statements for the year ended 31 March 2013
- No. 44 — The Commissioner on Interception of Communications and Surveillance  
Annual Report 2012 to the Chief Executive (together with a statement under section 49(4) of the Interception of Communications and Surveillance Ordinance)
- No. 45 — Independent Police Complaints Council  
Report 2012/13

- No. 46 — Supplemental Report of the Public Accounts Committee on Report No. 60 of the Director of Audit on the Results of Value for Money Audits  
(November 2013 — P.A.C. Report No. 60A)

Report No. 5/13-14 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

## **ADDRESSES**

**PRESIDENT** (in Cantonese): Addresses. Mr CHAN Kin-por will address the Council on the "Report of the Independent Police Complaints Council 2012/13".

### **Independent Police Complaints Council Report 2012/13**

**MR CHAN KIN-POR** (in Cantonese): President, on behalf of the Independent Police Complaints Council (IPCC), I present its fourth Report since its incorporation in 2009. This Report covers the financial year ending 31 March 2013.

In the year 2012-2013, the IPCC scrutinized and endorsed the findings of 2 489 complaint cases involving 4 884 allegations, a decrease of 20.9% and 21.7% respectively over the previous year. During this period, the three most common allegations were "Neglect of Duty" (with 2 317 counts), "Misconduct/Improper Manner/Offensive Language" (with 1 789 counts) and "Assault" (with 323 counts). These three types of allegations accounted for 90.7% of all allegations made in 2012-2013.

In 2012-2013, 1 507 allegations were fully investigated. Of these, 101 were classified as "Substantiated"; 61 "Substantiated Other Than Reported"; 29 "Not Fully Substantiated"; 630 "Unsubstantiated"; 81 "False" and 605 "No Fault". These figures also include 166 allegations of which classification was changed from that earlier conducted by the police following queries raised by IPCC. In 2012-2013, IPCC has raised a total of 938 query points and suggestions in respect of the cases endorsed. Out of these query points, the police accepted 468 of them.

Under the Observers Scheme, 2 012 observations were conducted in 2012-2013, a decrease of 0.4% over the previous year. During the reporting period, the IPCC has also interviewed two persons to seek clarification from them on matters relating to the investigation reports.



In addition to the usual work of monitoring complaint investigations carried out by the Complaints Against Police Office, the IPCC has strengthened the liaison with the police and other stakeholders on issues of significant public interest. Its aim is to act as a bridge between the police and all stakeholders, to provide a platform for the exchange of views and to foster better understanding between everyone concerned.

President, on behalf of the IPCC, I wish to take the opportunity of tabling this Report in this Council to thank this Council and other stakeholders for their support of the IPCC's work.

President, I so submit.

**PRESIDENT** (in Cantonese): Mr Abraham SHEK will address the Council on the "Public Accounts Committee Report No. 60A".

**Supplemental Report of the Public Accounts Committee on Report No. 60 of the Director of Audit on the Results of Value for Money Audits (November 2013 — P.A.C. Report No. 60A)**

**MR ABRAHAM SHEK:** President, on behalf of the Public Accounts Committee (PAC), I have the honour to table our Report No. 60A today. This Report is supplemental to the PAC's Report No. 60 and contains our conclusions and recommendations on Chapter 7 of the Director of Audit's Report No. 60 on "Preventive education and enlisting public support against corruption".

President, before I report on the conclusions and recommendations made by the PAC, I, on behalf of the PAC, would like to point out that the PAC recognizes the dedication and the good work of the Independent Commission Against Corruption (ICAC) and its staff in making Hong Kong a world renowned corrupt-free society during the past 40 years. The PAC's Report tabled today only deals with the handling of official entertainment, duty visits outside Hong Kong and gifts during the tenure of the former Commissioner of ICAC, Mr Timothy TONG Hin-ming which I shall highlight below.

The PAC deplores the inadequacies and non-compliances of the ICAC in the handling of official entertainment, duty visits outside Hong Kong and gifts during the tenure of the former Commissioner of ICAC, Mr Timothy TONG Hin-ming, and condemns the then ICAC for having:

- tarnished the well known reputation of Hong Kong as a place of probity as well as that of the ICAC as the forerunner in corruption prevention;
- eroded the credibility of the ICAC, and the Community Relations Department of the ICAC in particular, in educating the public and enlisting public support against corruption; and
- undermined the effectiveness of the work of the Community Relations Department, as public funds which should have been used to provide more organizations and persons with preventive education and enlist greatest public support against corruption were spent on lavish official entertainment and gifts and excessive duty visits.

Now, I touch on the subject of public money spent on the work of Community Relations Department.

The PAC expresses alarm and strong resentment, and finds it unacceptable that public money, which should have been used on providing preventive education and enlisting public support locally against corruption by the Community Relations Department, had been spent by the ICAC on official entertainment, gifts, and duty visits outside Hong Kong during the tenure of the former Commissioner of ICAC, Mr Timothy TONG Hin-ming.

The PAC considers it inexcusable and condemns the then ICAC for failing to put in place adequate checks and balances to ensure that the handling of its official entertainment, gifts, and duty visits outside Hong Kong which should have been carried out in the most appropriate, economical, effective and efficient manner during the tenure of the former ICAC Commissioner, Mr Timothy TONG Hin-ming. I shall now elaborate further on the inadequacies and non-compliances identified in these three matters.

#### *Official entertainment*

On the handling of official entertainment, the PAC notes that the Community Relations Department of the ICAC had continued to exclude the cost of wine and hard liquor procured separately from the expenditure of the meal it organized, despite two incidents that took place in 2008 and 2009 respectively:

- (1) the Administration Branch of the ICAC had introduced the ICAC Form 569 in June 2008, subsequent to the Community Relations Department's decision to exclude the cost of wine and Moutai (茅台) in the expenditure of a dinner hosted by the former ICAC Commissioner, Mr Timothy TONG Hin-ming, on 18 September 2007. The main purpose of the Form was to facilitate ICAC officers to comply with government guidelines on official entertainment, that is, to include the cost of wine and hard liquor procured separately in the total expenditure of the meal for control purposes; and
- (2) amendments were made to the ICAC's Commission Standing Orders on "Entertainment Expenses" in July 2009. The amended Orders set out explicitly that expenditure per person for entertainment should be inclusive of food, beverages and tips.

#### *Duty visits*

Regarding the handling of duty visits outside Hong Kong, the PAC notes that whilst the Commissioner of ICAC is required to seek approval from the Chief Executive for attending duty visits outside Hong Kong, the former ICAC Commissioner, Mr Timothy TONG Hin-ming, made no confirmation with the receiving parties on the detailed itinerary prior to submitting the applications to the Chief Executive for approval. This had allowed changes to the duty visit plan, including wantonly adding sightseeing activities and visiting more locations, without the knowledge of the Chief Executive. An example was the duty visit to Beijing and Yunnan in January 2009. Mr TONG's application to the Chief Executive did not include a trip to Lijiang which mainly involved visits to scenic spots.

#### *Gifts*

On the handling of gifts, the PAC notes that it is the stated policy of the ICAC since 1996 to "limit to the minimum the exchange of gifts on official occasions. Where an exchange of gifts is unavoidable, the exchange should be made from organization to organization". This policy was later incorporated into the ICAC's Commission Standing Orders on "Acceptance of Advantages".

The PAC also notes that some of the "Commission-wide" gifts approved by the former ICAC Commissioner, Mr Timothy TONG Hin-ming, such as beef brisket and fish balls, could not be said to come under the meaning of "Commission-wide" gifts; and some other "Commission-wide" gifts, such as scarves and a camera, were of a personal nature and were expensive.

*Others*

In addition, on official entertainment, the PAC also expresses grave dismay and finds it inexcusable that the Community Relations Department had continued the practice of not including the cost of wine and hard liquor procured separately in the total expenditure of the meal, in blatant disregard to the relevant requirement in the Commission Standing Orders as I have earlier said.

The PAC expresses grave dismay and finds it inexcusable that the Administration Branch of the ICAC then failed to serve as a gatekeeper for proper use of public money as it had failed to ensure that the requirements of the relevant Commission Standing Orders and government rules and regulations were complied with.

As the public has high expectation of the conduct of the Commissioner of ICAC, the PAC considers it inexcusable and condemns the former ICAC Commissioner, Mr Timothy TONG Hin-ming, for his ignorance or total disregard to: (i) the requirement to include the cost of wine and hard liquor procured separately in the expenditure of the meal, and (ii) the requirement that the giving of gifts should be to organizations, as opposed to individuals, and should be kept to the minimum, so as to avoid attracting criticisms of soliciting gifts and giving rise to unnecessary exchanges of gifts.

The PAC also expresses alarm and strong resentment, and finds it unacceptable that Moutai was served and consumed at many of the official entertainment hosted or attended by Mr Timothy TONG Hin-ming during his tenure as Commissioner of ICAC. Not only had such serving of Moutai increased the costs of the meals, official businesses of the ICAC, which might and often be confidential in nature, could be divulged under the influence of hard liquor or alcohol. The PAC considers that it is inappropriate for the ICAC, a law enforcement agency, to serve Moutai at official entertainment.

*Way forward*

To prevent the recurrence of the inadequacies and non-compliances identified in the report, the PAC urges that the ICAC should:

- (1) put in place more checks and balances to ensure that public money is used in the most appropriate, economical, effective and efficient manner; and
- (2) take steps to ensure that no attempts will be made by ICAC officers to circumvent or violate the ICAC's regulatory systems and procedures for handling official entertainment, duty visits outside Hong Kong and the giving of gifts to indulge the wishes and whims of their superiors.

Regarding the work of the Community Relations Department, the PAC urges the Department not to, in pursuit of making greater use of the mass media and web platforms to disseminate probity messages, slacken its work on making face-to-face contacts with different segments of the community and the general public to achieve the same, having regard to the fact that conducting activities by face-to-face approach has been consistently acknowledged by the ICAC as the most effective way to get the anti-corruption messages across.

Lastly, President, I wish to record our appreciation of the contributions made by Members of the PAC. Our gratitude also goes to the witnesses who attended the hearings held by the PAC. I would also like to express our gratitude to the Director of Audit and his colleagues for their unfailing support.

Last but not the least, I would like to thank the Secretariat for giving us their unfailing support.

Thank you, President.

**QUESTION UNDER RULE 24(4) OF THE RULES OF PROCEDURE**

**PRESIDENT** (in Cantonese): Questions. Urgent question. I have permitted Dr KWOK Ka-ki to ask an urgent question under Rule 24(4) of the Rules of Procedure.

## **Emergency Measures to Cope with an Outbreak of Invasive Pneumococcal Epidemic**

**DR KWOK KA-KI** (in Cantonese): *President, the two successive fatal cases involving two children infected by serotype 3 Streptococcus pneumoniae (pneumococcus) last week have aroused public concern. After a meeting held on 25 November, the Scientific Committee on Vaccine Preventable Diseases (SCVPD) and its Working Group on Pneumococcal Vaccination (Working Group) of the Centre for Health Protection (CHP) of the Department of Health (DH) considered that a booster dose of 13-valent Pneumococcal Conjugate Vaccine (PCV13) among children under five years old who had received PCV7 or PCV10 was not required at this point in time. However the Government announced concurrently that it decided to subsidize, through the Vaccination Subsidy Scheme, one booster dose each for children aged two to under five years old who had not previously received PCV13 (booster dose programme) and the details of the programme would be announced later. Some parents have said that these two pieces of news, which contain contrasting information concerning the need or otherwise for children to receive vaccination, have sent out confusing messages, which is not conducive to stabilizing the epidemic and will also pose a serious threat to the health of children. In this connection, will the Government inform this Council:*

- (a) *whether it will immediately publish clear guidelines to assist parents in deciding whether their children need to receive pneumococcal vaccination; if it will, of the contents of the guidelines; if not, the reasons for that;*
- (b) *whether it has put in place any immediate measures to ensure an adequate supply of vaccines by pharmaceutical manufacturers; if it has, of the details; if not, the reasons for that; and*
- (c) *when the booster dose programme will be implemented the soonest; whether the Government has put in place emergency measures to cope with an outbreak of invasive pneumococcal epidemic prior to the implementation of the booster dose programme; if it has, of the details, including the circumstances under which the Government will implement such measures; if not, how the Government can ensure that the epidemic will be under control?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, my reply to Dr KWOK Ka-ki's question is as follows:

(a) and (c)

The SCVDP and its Working Group of the CHP of the DH convened a joint meeting in the afternoon of 25 November in light of the two recent fatal cases of children infected with invasive pneumococcal disease (IPD). The SCVDP and the Working Group have closely examined the global and local IPD situation, in particular the situation caused by serotype 3 pneumococcus. Based on the information currently available, the joint meeting considered that a booster dose of PCV13 is not required at this point in time for children under five years old who had received 7-valent or 10-valent Pneumococcal Conjugate Vaccines.

Taking into account the SCVDP's view together with concerns across the community and parents, and noting the SCVDP and other experts' views, the Government has decided to subsidize one booster dose through a vaccination subsidy scheme for children aged two to under five years old who have never received PCV13. The Government aims to launch in December this year a PCV13 Vaccination Subsidy Scheme (the Subsidy Scheme), under which private doctors will provide a booster vaccine to children aged two to under five years old who have never received PCV13. Implementation details of the Subsidy Scheme will be announced in due course. In parallel, the Government will step up dissemination of related information to the public, including information on the prevention of IPD and the effectiveness of PCV13, and so on, to keep the public well informed.

All along, the CHP has been maintaining an established notification and surveillance mechanism, and devises infectious disease prevention and infection control strategies in accordance with the gathered surveillance information and data. The Government remains vigilant and monitors the latest developments of infectious diseases, and will convene relevant meetings when necessary to make timely reviews and adjustments to the surveillance

mechanisms and prevention and control strategies in order to prevent the occurrence and spreading of epidemic to protect public health.

The Government has been implementing the following measures:

- Surveillance of Pneumococcus: The DH has set up a laboratory surveillance system targeted at IPD for comprehensive surveillance of the local trend of IPD and changes in serotype replacement and antibiotic resistance, and so on. This surveillance system covers all the microbiology laboratories in public and private hospitals in Hong Kong and therefore can provide comprehensive and detailed epidemiological data of IPD in Hong Kong.
- Control of Outbreaks: According to the DH's guidelines on prevention of infectious diseases, schools or institutions that notice or suspect an outbreak of cases must make early notification to the CHP. Upon receipt of notification, the CHP will contact the schools and institutions, and as necessary conduct epidemiological investigation, inspection and medical surveillance, as well as provide professional advice on preventive and control measures and environmental hygiene.
- Publicity and Risk Communication: The CHP has all along been monitoring the local epidemiological data on IPD. It has issued a letter to all doctors in Hong Kong to update them on the local situation of IPD and advise on medication, in order to remind them to stay alert of IPD and minimize the impact of disease.
- Free and Subsidized Vaccination Programmes: Parents should continue to have their new-born children vaccinated in accordance with the recommendations under the Childhood Immunization Programme. Elders aged 65 or above who have never received a pneumococcal vaccination should receive one dose of the pneumococcal vaccine, and can receive it for free or with a subsidy under the Government Vaccination Programme or the Elderly Vaccination Subsidy Scheme. Moreover, as preceding infection with influenza



will lead to more severe complications caused by IPD, children aged six months and above should receive seasonal influenza vaccination unless there is contraindication.

- Public Education: The public should maintain good personal and environmental hygiene practices. The Government will strengthen its messages to the public on maintaining personal and environmental hygiene through a variety of means, including websites and health education material.
- (b) According to information provided by the pharmaceutical company, there is sufficient stock of PCV13 vaccine in Hong Kong at present, and more vaccines will be sent to Hong Kong next month. The Government is liaising with the vaccine supplier to ensure that there are sufficient vaccines to meet local needs.

**DR KWOK KA-KI** (in Cantonese): *President, I do appreciate the presence of the Secretary at our meeting this morning, but he has not answered my urgent question. My urgent question is: how can parents know what messages they should trust? The decision made by the Government this time is that it will subsidize a booster vaccination for children, and this is not in line with the view of the SCVPD. I understand this decision, and I agree with it to a certain extent. However, the crux of the problem is that the messages received by parents now are inconsistent. This morning when I visited the district, a parent came and said to me, "Dr KWOK, according to the experts, this vaccine is only effective for six to 12 months. My son received it a year ago. Should I get him vaccinated again?" This parent continued, "What the experts and the Government have said are totally inconsistent. Should my son be vaccinated?"*

*As far as this matter is concerned, the Secretary must make it crystal clear. In Taiwan, a booster vaccination programme was carried out as a national policy in 2011. Many advanced countries around the world have also launched booster vaccination programmes based on sound reasons. President, the most important point is that the Secretary has given no answer as to when the vaccine will be made available for those parents who are as restless as ants on a hot pan. The Secretary has only said that the vaccine will start to be available in December, but when can the children be vaccinated?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, this is an obvious example which shows that there is still no international consensus on the effectiveness of pneumococcal vaccines of different valences. In particular, on the degree of extra protection that PCV13 can provide to children who have received PCV7 or PCV10, the information currently available is insufficient to enable local experts to reach a consensus. This is very clear. Dr KWOK Ka-ki, this is not our subjective wish. In truth, relevant local experts in various aspects do have different views, and there is no way that the Administration can align these views as it wishes.

The Government understands that with the free flow of information in the present age, every expert is free to express his or her view through the media. All along, the Government has put in place effective mechanisms such as the SCVPD mentioned by me just now, the members of which include representative experts. If the mainstream opinion of these experts is that for the time being, there is no sufficient evidence in the medical literature worldwide to support that a vaccination or booster dose of PCV13 — I mean, booster vaccination — will be obviously effective, and therefore they give this advice to the Government, and the Government cannot raise an objection to this opinion given by the experts. But then, given that some other experts have now expressed dissenting views through different media channels and the Government is very concerned about different messages being received by members of the public, the Government has, after balancing the views of different parties and weighing the pros and cons, made an administrative decision to provide vaccination through the Vaccination Subsidy Scheme to children aged two to under five years old who have received PCV7 or PCV10 but are willing or wish to receive a booster dose of PCV13.

I note that despite this announcement, different views of different experts still continue to appear in the media. I would like to stress once again that no matter how inconsistent the views are, I believe there is one point that can be established, and that is, parents do not have to rush to seek an immediate booster vaccination for their children. Many experts have pointed out that it is most important to maintain personal and environmental hygiene. This is because, with reference to all the views of different experts, even if the vaccine is received, it cannot possibly offer one hundred percent protection. That being the case, personal and environmental hygiene is of utmost importance.

The Government certainly needs some time to make arrangements for this vaccination scheme. But I can tell all of you today that we will strive to shorten

the time as much as possible. I originally said that according to the information provided to me by the CHP earlier, it might take five to six weeks before this scheme could be launched, but now it can be launched ahead of schedule in December, that is about two weeks later. In a few days — by this I mean in the coming two or three days, the CHP should be able to fully co-ordinate various parties, and then announce the details of the vaccination scheme.

I believe that our colleagues have tried their best to strike a balance as far as possible given the diverse views and information. We respect the view given to us by the experts from the Committee and the Working Group, and therefore we have not included this vaccination in the Government's regular vaccination programmes. However, we also recognize that members of the public have truly received different messages, and they will continue to receive different messages. I would like to make one more point. I certainly do not want to continue to see the emergence of different messages, but let me reiterate that individual experts do have different professional opinions, and we have to respect their right of free expression of their professional views.

Of course, where necessary, we may also need to consider consulting authoritative institutions, such as the relevant specialist colleges under the Academy of Medicine. Yet, I can foresee that even within these colleges, the views of different experts may not be fully reconciled in the short term. I hope that Honourable Members can understand this.

**PRESIDENT** (in Cantonese): Dr KWOK, what is your question?

**DR KWOK KA-KI** (in Cantonese): *President, I want to ask a brief question. Secretary, suppose there is a three-year-old standing next to you now and his parent asks you, "Secretary, should he be vaccinated?" How will you answer?*

**PRESIDENT** (in Cantonese): Dr KWOK, the Secretary has already answered in detail.

Before I call upon other Members to ask their supplementary questions, I would like to remind all Members that the Panel on Health Services has arranged a meeting to discuss this issue. If you can save your question for that meeting of

the Panel on Health Services, at which you may exchange views with or request information from the Government, it is not necessary for you to raise it when we deal with this urgent question now.

**DR PRISCILLA LEUNG** (in Cantonese): *President, over the past few years, given the existence of the Government's subsidized vaccination programmes, many medical service providers and Members' offices have collaborated in providing vaccine injection service for the convenience of residents. Yesterday, we heard some private doctors say that the centralized placement of orders for the vaccine by the Government would actually lower their service efficiency. Presently, owing to such urgent demand all of a sudden, the vaccine is out of stock in many private clinics. They asked if they could revert to the usual practice, whereby they can first order the vaccine themselves and provide vaccination service to the public before they claim the subsidy retrospectively from the Government, so as to allow greater convenience for residents and enhance their service efficiency.*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, regarding Dr Priscilla LEUNG's supplementary question, I have also heard different opinions from doctors in the private sector. On the one hand, I have indeed heard of the situation mentioned by Dr LEUNG where some private doctors consider that it will be more flexible for them to order the vaccine from the pharmaceutical company themselves and then arrange for vaccination. But on the other, some other private doctors have said that they will have difficulty placing orders themselves. As the Government has a regular arrangement for ordering vaccines for its vaccination programmes every year, we take the view that, from two perspectives, a better approach should be to place orders through this scheme.

The first perspective is the use of public money. We should bear in mind that this vaccination is subsidized by the Government. If we can resolve issues in relation to ordering the vaccine and the transport arrangements, and so on, the vaccine can be purchased at a lower price through the Government's regular order contracts. The second perspective is that if orders are to be placed by individual doctors, we can neither control the situation nor ensure effective placement of orders by each doctor with the supplier. We have to consider these matters too.

Lastly, I hope that all of you can give the CHP some time. The CHP is liaising very closely with various parties, including the pharmaceutical supplier, the Hospital Authority, and all other parties that are likely to be involved or to assist in this booster vaccination programme. As I mentioned just now, the CHP will announce the relevant details in a few days.

**PRESIDENT** (in Cantonese): Dr LEUNG, what is your question?

**DR PRISCILLA LEUNG** (in Cantonese): *President, it is the same question. If private doctors are able to secure orders for the vaccine, can they first provide the service before they claim the subsidy retrospectively?*

**PRESIDENT** (in Cantonese): Dr LEUNG, please sit down. The Secretary has already answered.

**DR PRISCILLA LEUNG** (in Cantonese): *He has not answered this question. He only said that he was not sure if private doctors would be able to secure a supply of the vaccine.*

**PRESIDENT** (in Cantonese): Dr LEUNG, please sit down. The Secretary has already answered. If you are not happy with the Secretary's reply, please follow up through other means because there are still eight Members waiting to ask their supplementary questions.

**DR LEUNG KA-LAU** (in Cantonese): *President, you got wind of our decision so quickly. It was only half an hour ago that we decided that the Panel on Health Services would convene a meeting at 10.45 am next Monday. Before the meeting of the Panel, I would like to ask the Secretary to provide some concrete data to allay the concerns of parents. According to historical or international experience, among children aged two to five who have never received vaccination, what are the infection rate and fatality rate of this invasive pneumococcal disease? This part of my question is about the situation of*

*children who have never received vaccination. In addition, after PCV7 is received, by what percentage will the risk be reduced? After PCV10 is received, by what percentage will the risk be reduced? And after PCV13 is received, by what percentage will the relative risk be reduced?*

*The Secretary indicated just now that parents do not have to rush to get their children vaccinated. His argument is that a delay of one week does not matter. By mathematical induction — President, I believe you understand — if a delay of one week does not matter, then a delay of two weeks does not matter either, and it is no big deal even if there is a delay of three weeks. So my supplementary question is: what is the cumulative risk?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, earlier, I have already made it clear that the data and information currently available in the medical literature worldwide cannot enable local experts — at least local experts — who have read them to reach a consensus on whether the protection rate is sufficient to support us to require a booster dose of PCV13 for all children who have received PCV7 or PCV10. Therefore, I do not think that there is an authoritative source of information which can enable me to answer the question asked by Dr LEUNG Ka-lau just now regarding the detailed rates. Different experts may see different rates with reference to different pieces of literature.

However, I hope all of you can understand that when reading the medical literature, apart from looking at the figures, one also has to look at various aspects, such as the design of the study, and so on. Therefore, different experts reading the same report may come up with different opinions. I believe that the medical sector is very clear about this.

For that reason, the information that I can give Dr LEUNG Ka-lau today is merely the following information, which is what I can provide to the best of my ability. According to the CHP's data, the numbers of children under five years old who were infected with serotype 3 pneumococcus in the past few years are as follows: six in 2010; three in 2011; four in 2012; and seven in 2013 (as at 22 November).

**DR LEUNG KA-LAU** (in Cantonese): *Just now I asked about data, not expert opinions. I knew that different people would have different opinions, and that was why I asked about data. So I hope that the Secretary will provide data.*

**PRESIDENT** (in Cantonese): Dr LEUNG, it is more appropriate for you to raise your request for data at the meeting of the Panel on Health Services.

**PROF JOSEPH LEE** (in Cantonese): *President, there are a lot of opinions in society about whether children should be vaccinated or not. The decision made by the Government this time has apparently gone against its previous practice, because generally the Government would make evidence-based scientific decisions in cases of this sort. But on this occasion, while the Government's experts have indicated that vaccination is not required, there are dissenting views in the community. In the end, according to the Secretary, the Government has made an administrative balance, which is the decision to subsidize vaccination with public money.*

*I would like to ask a supplementary question via the President regarding this decision made by the Secretary, who has said that this decision to arrange a booster vaccination is only made in response to the current situation and is not a regular practice. However, will this arrangement cause greater confusion among members of the public? If the same circumstances arise next year, what will the Bureau do? This has given rise to the impression that the Government's policy implementation is very confusing, because this administrative decision mentioned by the Secretary is, in our opinion, a political decision which has left the public at a loss as to what to do.*

*President, I would like to ask the Secretary: If similar circumstances arise in future, how will the Secretary consider the situation? Will he turn the booster vaccination into a routine and regular practice, or just implement it as a one-off measure?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, Prof Joseph LEE has raised a very important question. If the Government's policy implementation in different areas involves certain professional categories in particular, it will usually set up expert committees, advisory committees,

consultative committees, and so on. Of course, in setting up these committees, the Government has to ensure that firstly, the relevant professional categories will be adequately represented in these committees, and secondly, it will respect the views expressed by the experts in these committees. However, I believe that the present case is neither the first nor the last. After taking into account the views of the experts, the Government very often has to consider other factors as well. In the present case, our experts have clearly pointed out that their view is merely based on the medical literature and information available internationally and locally, yet it is the best professional judgment passed by them after analysis. As far as this case is concerned, it is obvious that there has been no international or local consensus.

Regarding this case, from the medical perspective, I can say that everyone should be psychologically prepared for this situation, which is bound to happen. Our medical knowledge is accumulated gradually through countless practical experiences and studies. In the process, there are inevitably stages where it is impossible to make any clear-cut judgment on certain professional medical issues due to insufficient information. We come across these circumstances every day. Under such circumstances, apart from pointing out the constraints on their professional views, the experts will also clearly inform the Administration of their views, and that they will not consider other factors. For instance, our expert will not consider the factor that when the messages received by members of the public in the community point to two contrasting views, they would be perplexed and helpless. So who should consider these factors? These are exactly what the Government has to consider. This is also the reason why the Government has to make an administrative decision.

**PRESIDENT** (in Cantonese): Prof LEE, has your supplementary question not been answered?

**PROF JOSEPH LEE** (in Cantonese): *My supplementary question is very direct. That is, if this situation recurs next year, will the Secretary likewise adopt the present approach to subsidize vaccination with public money?*

**PRESIDENT** (in Cantonese): Secretary, will you answer this question?



**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): Although I have not provided a direct reply, I believe I have already spelt out the principles. I mean, I cannot rule out the possibility of the occurrence of a similar situation. It may have occurred before, and it will continue to occur in future.

However, on every occasion, while we respect the views of such expert committees, we understand that there are other social factors which they cannot consider, and these factors have to be considered by the Government. As for what decisions are to be made after consideration, I certainly cannot explain to Prof LEE the approach to be taken on every occasion, as this is a hypothetical question which I cannot answer. On every occasion, we will make a decision that we consider most appropriate for the community as a whole in response to the prevailing circumstances, and this is also our responsibility as an accountable Bureau.

**MR ANDREW LEUNG** (in Cantonese): *President, in the present case, parents are like "ants on a hot pan", and the Government's political decision to subsidize a booster vaccination for their children gives no cause for much criticism. But then, opinions of experts continue to diverge without a consensus among them. While some opine that the vaccine is effective for six to 12 months, there are opinions from overseas that it is effective for two to five years.*

*May I ask the Government and the Secretary what the side effects of PCV13 are, and whether it is worthwhile to receive a booster dose of it? In addition, suppose a child aged two to five asks the Secretary this question: The Secretary said just now that it is not necessary to receive the vaccine, but is it really not necessary to receive it?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): First of all, I have to admit that I am not an expert in infectious diseases, so I may not be able to tell you all the side effects of PCV13. But generally, the injection of vaccines will have two types of side effects. The first type is "overall side effects", and the other is "unique side effects". As far as unique side effects are concerned, I have not particularly heard of any serious side effects of this vaccine. But in this regard, I dare not say that I already know all information.

As for general side effects, upon the injection of any vaccine, there may be mild soreness, redness and swelling at the injection site, and in the short term, recipients may also experience fever, and so on. In the case of severe allergies, there may be skin rashes and even other more serious reactions.

But on the whole, I note that the experts are not particularly concerned about any serious side effects of this vaccine. In discussing this case, the focus is not on whether there are serious side effects, but on whether this vaccine is of any help. In this regard, a conclusion has yet to be reached. Before a conclusion can be reached, let me make it clear to the public that the expert committee has not recommended a booster vaccination, but as the Government is aware of the concern of the public, if parents insist that they want a booster vaccination for their children even though it may only offer a little bit of extra protection, the Government is willing to provide a subsidy.

**PRESIDENT** (in Cantonese): Quite a number of Members have expressed great concern over this issue, but since this Council has already spent 30 minutes on this urgent question, will Members please follow up through other means. First question.

## **ORAL ANSWERS TO QUESTIONS**

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

### **Affairs Which HKSAR Administers on Its Own in Accordance with Basic Law**

1. **MR ALBERT HO** (in Cantonese): *At the Legislative Council meeting on the 6th of this month, a Member of this Council moved a motion under the Legislative Council (Powers and Privileges) Ordinance (the P&P Ordinance) to authorize a panel of this Council to order the Government to produce the relevant documents involved in the vetting and approval of domestic free television programme service licence applications (seeking documents under the P&P Ordinance). Two Members of this Council have revealed that, prior to the aforesaid meeting, some officials of the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region (LOCPG) had*

*approached them and discussed the subject with them. Subsequently, in responding to the criticism that such action of LOCPG was tantamount to interfering in the internal affairs of Hong Kong, a Member of the Executive Council said that seeking documents under the P&P Ordinance would impact on the confidentiality system of the Executive Council and as constitutional issues were involved, LOCPG had the responsibility to uphold the Basic Law and the policy of "one country, two systems". In this connection, will the Government inform this Council:*

- (a) as Article 22 of the Basic Law stipulates that "no department of the Central People's Government and no province, autonomous region, or municipality directly under the Central Government may interfere in the affairs which the Hong Kong Special Administrative Region (HKSAR) administers on its own in accordance with this Law", whether the authorities have formulated any mechanism or procedure to deal with situations where there is interference in the affairs which Hong Kong administers on its own; if they have, of the details; if not, the reasons for that;*
- (b) whether it has assessed if seeking documents under the P&P Ordinance is an affair which the HKSAR administers on its own as stipulated in Article 22 of the Basic Law; if the assessment outcome is in the affirmative, whether it has assessed if the officials of LOCPG have contravened the aforesaid article of the Basic Law by discussing the matter with Members of this Council; if the assessment outcome is in the affirmative, whether the authorities have relayed to LOCPG that its officials have contravened the Basic Law by expressing views on this matter; if they have not, of the reasons for that; and*
- (c) whether the aforesaid views of the Executive Council Member reflect the views of the Executive Council; if so, of the justifications for the Executive Council to hold such views?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, regarding the Member's question, after consulting relevant bureaux and departments, I will represent the Administration to give a consolidated reply as follows:

According to Article 12 of the Basic Law, the HKSAR shall be a local administrative region of the People's Republic of China, which shall enjoy a high degree of autonomy and come directly under the Central People's Government (CPG). According to Article 2 of the Basic Law, the National People's Congress authorizes the HKSAR to exercise a high degree of autonomy and enjoy executive, legislative and independent judicial power, including that of final adjudication, in accordance with the provisions of the Basic Law. According to Article 16 of the Basic Law, the HKSAR shall be vested with executive power. It shall, on its own, conduct the administrative affairs of the Region in accordance with the relevant provisions of the Basic Law.

Since the establishment of the HKSAR, the Central Authorities have been acting in strict accordance with the fundamental principles and policies of "one country, two systems", "Hong Kong people ruling Hong Kong" and "a high degree of autonomy", as well as the provisions of the Basic Law to support the Chief Executive and the HKSAR Government in administering Hong Kong in accordance with law. On 18 March 2013, the Premier of the State Council LI Keqiang met with the Chief Executive of the HKSAR. He stated that the new leadership of the CPG was committed to thoroughly implementing the "one country, two systems" principle and would act in strict accordance with the Basic Law and fully support the Chief Executive and the HKSAR Government in administering Hong Kong in accordance with law. Since the reunification, the HKSAR Government has also been administering the affairs of Hong Kong in strict accordance with the Basic Law and the "one country, two systems" principle.

Regarding the system of confidentiality of the Executive Council, the Chief Secretary for Administration has already replied to a Member's question at the Legislative Council meeting on 13 November this year. The Chief Secretary for Administration has emphasized that Executive Council is an organ with constitutional status that assists the Chief Executive in policy-making. In order to perform its function in a fully competent manner, Executive Council has been adhering to the principle of confidentiality over the years to ensure that Executive Council Members can speak freely and honestly without any pressure when giving advice to the Chief Executive. It also enables the Chief Executive to listen to different views when assessing the pros and cons of policies, so that the policies eventually formulated will be more comprehensive. The principle of confidentiality is also the basis on which the integrity of the Executive Council system relies. Protecting the integrity of the Executive Council system is a

matter of significant public interest. In line with the principle of confidentiality of Executive Council, the Government will not disclose the content of Executive Council agendas and discussions, but the Government will explain the decisions made and the relevant considerations by means of press releases and Legislative Council Briefs.

Our reply to the three parts of the Member's question is as follows:

- (a) Since the reunification, the CPG, the offices set up by the CPG in the HKSAR and the HKSAR Government have all along been adhering strictly to the "one country, two systems" principle, the provisions of the Basic Law, and abiding by their own areas of responsibility in accordance with law.
- (b) The legal basis relevant to the Legislative Council's request for production of documents is stipulated clearly in the relevant provisions under the Basic Law and the P&P Ordinance (Cap. 382):
  - (i) According to Article 73 of the Basic Law, when exercising the powers and functions stated in that Article of the Basic Law, the Legislative Council may summon the persons concerned to testify or give evidence.
  - (ii) According to section 9(1) of the P&P Ordinance, the Legislative Council or a standing committee thereof may, subject to sections 13 and 14, order any person to attend before the Legislative Council or before such committee and to give evidence or to produce any paper, book, record or document in the possession or under the control of such person.
  - (iii) On the other hand, Article 48(11) of the Basic Law provides that one of the powers and the functions of the Chief Executive is to decide, in the light of security and vital public interests, whether government officials or other personnel in charge of government affairs should testify or give evidence before the Legislative Council or its committees. Besides, any person may refuse to answer any question or produce any

paper according to section 13 of the P&P Ordinance and enjoy the privileges of witness according to section 14 of the Ordinance.

Since the reunification, the Government has been acting in strict accordance with law in handling the request made by the Legislative Council to produce documents under the P&P Ordinance.

The LOCPG is an organization authorized by the CPG and performs functions in accordance to the authority conferred by the CPG, including liaising with the Office of the Commissioner of the Ministry of Foreign Affairs of the People's Republic of China in the HKSAR and the Hong Kong Garrison of the Chinese People's Liberation Army; promoting general exchange and co-operation between Hong Kong and the Mainland; liaising with various sectors of the community of Hong Kong to enhance exchanges between the Mainland and Hong Kong; and reflecting the views of Hong Kong residents on the Mainland, and so on.

Regarding the domestic free television programme service licence applications mentioned in the question, we notice that there are media reports on Legislative Council Members mentioning that they were approached by LOCPG officials. According to the relevant media reports, the concerned Members stated that no one had exerted any pressure on them. Moreover, we notice that the concerned Members had different voting inclinations on the concerned motion at the Legislative Council.

- (c) I have quoted in part (b) of the reply the legal basis relevant to the Legislative Council's request for production of documents under the P&P Ordinance. As regards the views expressed by an individual Executive Council Member on public occasions, so long as the principles of "confidentiality system" and "collective responsibility system" of the Executive Council are not violated, Executive Council Members, like any other citizen, have the same right of expressing personal opinions. We will not comment on the personal views expressed by individual Executive Council Members.

**MR ALBERT HO** (in Cantonese): *President, when this Council was to vote on a major motion in the past and there is a close margin of votes, LOCPG officials would approach Members to have discussions with them; in reality, they were exerting pressure. This is not the first time they do so. Members should recall that, around late 2011, when this Council was going to vote on the motion on whether LEUNG Chun-ying had concealed a conflict of interest in the West Kowloon Reclamation Concept Plan Competition, some Members were invited by the LOCPG to account for their voting intentions.*

*President, my supplementary question is: If this Council will invoke the P&P Ordinance to carry out an investigation, irrespective of the target and disregarding whether the investigation will focus on the licencing incident or the decision of the Executive Council, these are the internal affairs of the HKSAR, that is, "the affairs which the HKSAR administers on its own" as stipulated in Article 22 of the Basic Law. On this occasion, Central officials contacted individual Members, including Mr Paul TSE, before voting took place in this Council, and subsequently he became political conscious and finally changed his voting intention. Is this not interfering in the internal affairs of this Council?*

*Can the Secretary reiterate two points? First, whether these are internal affairs; second, whether making Mr Paul TSE change his voting intention is evidently interfering in the affairs which the HKSAR administers on its own. How should the Secretary follow up on this?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): *President, Dr LEUNG Ka-lau is present. Mr Albert HO has just asked a question about the application for domestic free television programme service licence, I suggest that he should directly ask the person concerned who may be clearer about the details.*

However, generally speaking, from the perspective of legal principles, the legislature and the executive authorities act in accordance with the Basic Law and the relevant local legislation. At the political level, 70 Legislative Council Members are returned by election, and I believe they will be accountable to their electors. We exercise independent judgment when we vote in this Council and make accurate choices for the interests of voters and the public. On this incident, as I mentioned in my main reply just now, the Members concerned stated that no one had exerted any pressure on them.

I would like to add that section 19 of the P&P Ordinance explicitly stipulates that any person who endeavours to compel any member by force or menace to declare himself in favour of or against any motion or matter pending before the Council or a committee commits an offence. If any person believes that any other person has violated the provisions of this Ordinance, I believe there are clearer provisions in the law.

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

**MR ALBERT HO** (in Cantonese): *The Secretary has not directly answered one part of my supplementary question, that is, whether conducting an investigation on the licencing incident belongs to the affairs which Hong Kong administers on its own as stipulated in Article 22 of the Basic Law. He has not answered "yes" or "no".*

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

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, the Secretary concerned has given a detailed account time and again. Regarding the licencing incident, I believe the Administration and the officers of the Policy Bureau concerned will follow the usual practice and handle the matter in accordance with the relevant legislation and statutory procedures.

**MS CLAUDIA MO** (in Cantonese): *President, regarding the LOCPG's interference in the internal affairs of Hong Kong, I will only discuss the objective and the process but not the consequences. For example, if I beat someone up but he is not badly injured, this does not mean that beating someone up is reasonable and lawful. I would like to ask the Secretary if he feels ashamed that the LEUNG Chun-ying Government has connived in disguise the LOCPG's intervention in the internal affairs of Hong Kong?*



**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, as I have noticed, a few years ago, the Director of the LOCPG and his colleagues were invited to a luncheon with Members at the Legislative Council Complex and there were exchanges between them at the luncheon. Since the Legislative Council considers that it could have normal exchanges with LOCPG officials on that occasion, I believe it can also accept normal exchange of views with the LOCPG in the HKSAR. These are not acts of intervention, nor acts as perceived by Ms Claudia MO.

**MS CLAUDIA MO** (in Cantonese): *President, I am sorry that he goes so far as to compare the luncheon that you arranged to this incident of interference. This is absolutely unacceptable and he is insulting you, President.*

**PRESIDENT** (in Cantonese): Ms MO, I have repeatedly said that debates are not allowed at the question time. If you disagree with a government official's answers, please express your views through other channels.

**MS CLAUDIA MO** (in Cantonese): *He is insulting you.*

**MR MA FUNG-KWOK** (in Cantonese): *The last motion moved under the P&P Ordinance was eventually negated because a number of Honourable colleagues considered that we should not challenge the Executive Council system. But this does not mean that the Executive Council or the Government can use this pretext on every occasion to obstruct the enhancement of the transparency of accountability and the formulation of government policies.*

*As the Government has stated in the main reply, the Government will explain the decisions made and the relevant considerations by means of press releases and Legislative Council Briefs. May I ask the Secretary what factors should be included or excluded in these considerations? How thorough are these considerations? If the community has strong queries, should the Government give an explanation, and how should clarifications be made to allay public concerns?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, as I have mentioned in my main reply, the Executive Council has been adhering to the principles of confidentiality and collective responsibility before and after the reunification, and the system has been effectively implemented over the years. I have also mentioned in my main reply that while observing these two principles that have been adhered to over the years, the Government will explain the decisions made and the relevant considerations by means of press releases and Legislative Council Briefs.

Under the principle of confidentiality, we also need to strike a suitable balance between the documents or information handled. For instance, as Mr MA Fung-kwok has just said, some issues or documents discussed by the Executive Council sometimes involve personal data or commercially sensitive information; I thus believe that we still have to adhere to the principle of confidentiality.

If we check the records, we will know that when the Administration discloses the decisions of the Executive Council to the Legislative Council by means of Legislative Council Briefs, it sets out in detail its decisions, arguments and considerations, as well as the human right and financial impacts, and so on. We believe these arrangements have struck a suitable balance. Mr MA Fung-kwok has just asked a question about Mr Albert HO's motion concerning free television licence, I trust that Secretary Gregory SO has already given a detailed account of the Executive Council documents that can be disclosed; thus, I do not have anything to add.

**MR GARY FAN** (in Cantonese): *The Secretary stresses that the Government has always strictly adhered to the principle of "one country, two systems" and the provisions of the Basic Law. In the controversies over moral and national education last year, HAO Tiechuan, Director-General of the Publicity, Culture and Sports Department of the LOCPG publicly expressed on Weibo his views in support of national education. The former Secretary for Education, Michael SUEN, also told the media before he left office that LOCPG officials had given him advice on national education. Can the Secretary tell me, on this incident or on the situation that I have just described, whether the LOCPG has violated the provision in Article 136 of the Basic Law that "On the basis of the previous educational system, the Government of the Hong Kong Special Administrative Region shall, on its own, formulate policies on the development and improvement*

*of education"? If the Secretary thinks that it has not violated the provision, can he give the reasons?*

**PRESIDENT** (in Cantonese): Mr FAN, your supplementary question has strayed too far away from the main question. The examples you give have nothing to do with the main question. Please consider raising another question.

**MR ANDREW LEUNG** (in Cantonese): *When Mr ZHANG Xiaoming was the Deputy Director of the Hong Kong and Macao Affairs Office, he wrote an article entitled "Enriching the implementation of 'one country, two systems'". He proposed the implementation of a number of powers and responsibilities, including the Chief Executive is accountable to the Central Authorities, the Central Authorities have power to appoint principal officials, and the Standing Committee of the National People's Congress has the power to oversee the enactment of laws in the SAR. Mr ZHANG Xiaoming is now the Director of the LOCPG. Does the SAR Government think that its roles in these areas have become less important? Has the LOCPG participated more in the affairs of the SAR?*

**PRESIDENT** (in Cantonese): Mr LEUNG, how is your supplementary question related to the main question?

**MR ANDREW LEUNG** (in Cantonese): *The Secretary has mentioned in part (b) of his main reply the responsibilities of the LOCPG. Has the LOCPG made the roles of the SAR Government less important? Has the LOCPG been more involved in the affairs of the SAR?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, I think the supplementary question just asked by Mr Andrew LEUNG is about an article published by Mr ZHANG Xiaoming, the incumbent Director of the LOCPG, when he was the Deputy Director of the Hong Kong and Macao Affairs Office. The article touched upon the three powers and responsibilities of the Central Authorities in connection with the HKSAR according to the Basic Law. I have already set out the responsibilities to be fulfilled by the LOCPG in Hong Kong in my main reply, and I have mentioned

that the LOCPG will act in strict accordance with the fundamental principles and policies of "one country, two systems", "Hong Kong people ruling Hong Kong" and "a high degree of autonomy", as well as the provisions of the Basic Law. As to an article written by Director ZHANG Xiaoming when he was the Deputy Director of the Hong Kong and Macao Affairs Office, I believe I may not be able to give the Legislative Council an account of each of the articles written by each person who is not a government official of the HKSAR. However, I may generally explain to Mr LEUNG the three powers of the Central Authorities that he has just mentioned.

If I remember correctly, the first point is about the Chief Executive's reporting arrangements. According to Article 43 of the Basic Law, the Chief Executive shall be accountable to the CPG. In the past years, the Chief Executive went to Beijing at around the end of each year to report on his work to national leaders. As we all know, the arrangements are highly transparent and press marshalling is permitted.

The second point is the power to appoint principal officials. According to Article 48 of the Basic Law, the Chief Executive shall nominate and report to the CPG (the State Council) for appointment the principal officials. In the past, the State Council announced the appointment of principal officials through the orders it issued. I believe that this is a transparent process.

The third point is about the laws enacted by the Legislative Council in Hong Kong. According to the Basic Law, laws enacted by the legislature must be reported to the Standing Committee of the National People's Congress for the record. As far as I recall, since the reunification, more than 560 enacted laws have been reported to the Standing Committee for the record, and none of them has been returned to the SAR to be handled afresh.

Regarding the three powers and responsibilities just mentioned by Mr LEUNG, I believe what we witnessed in the past told us that they were generally effective, and the Central Authorities and the SAR have fully discharged the powers and responsibilities stipulated in the Basic Law.

**PRESIDENT** (in Cantonese): We have spent nearly 23 minutes on this question. Second question.

**Handling of Incidents of Students Being Bullied by Teaching Staff**

2. **DR FERNANDO CHEUNG** (in Cantonese): *President, recently, there have been a few incidents in which students were bullied, beaten up and indecently assaulted by teaching staff, and more than one school was involved. According to the Code for the Education Profession of Hong Kong, a member of the education profession, in the course of his teaching, should have concern for students' safety, seek to establish confidence and trust grounded on mutual respect between himself and the students, and avoid making students feel embarrassed or ashamed. In addition, according to the guidelines of the Education Bureau regarding the safety of students, the school should provide a safe learning environment for students to protect their physical and mental health and safety. Under section 62(f) of the Code of Aid for Special Schools and section 57(f) of the Code of Aid for Secondary Schools/Primary Schools, the School Management Committee (SMC) may suspend a teacher from his duties if he is involved in criminal proceedings of a serious nature, or if he is under investigation for serious misconduct and it would be against the interest of the school for him to continue to teach in the classroom. However, such provisions do not require the school to consider the interest of students, and are implemented by the SMC rather than the Education Bureau. The SMC may therefore decide that the teacher concerned be allowed to continue teaching and there is no need to suspend his duties. On the other hand, the monitoring of teachers' professional conduct is currently under the purview of the Council on Professional Conduct in Education (CPC) under the Education Bureau, but the CPC has no real power and will only advise the Permanent Secretary for Education on cases of misconduct involving educators. In this connection, will the Government inform this Council:*

- (a) *of the existing procedures and guidelines for schools to handle incidents in which teachers and other staff members are suspected of bullying students, and the respective power and responsibilities of the Education Bureau, SMCs and school principals in such incidents; whether the Government will amend the legislation to stipulate that if a teacher is involved in a serious incident of bullying or suspected of having committed a criminal offence, the Education Bureau may, in the interest of students, directly order the school concerned to suspend the teacher concerned from his duties; if it will, of the timetable and details; if not, the reasons for that;*

- (b) *whether the authorities will make reference to the mechanisms for regulating the conduct of professionals such as social workers, lawyers, doctors and nurses, and set up an independent organization to regulate the professional conduct of teachers in place of the current arrangements; if they will, of the timetable and details; if not, the reasons for that; and*
- (c) *of the number of complaints received by the Education Bureau in the past 10 years about teachers allegedly bullying students and, among them, the number of cases substantiated, and the penalties imposed on the teachers concerned?*

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

- (a) School is the place where students learn and grow. The Education Bureau will not tolerate any act of teaching staff that impairs the physical/psychological health or safety of students. Schools are required to implement proactive measures to prevent such kind of incidents.

The Codes of Aid and Code of Aid for Special Schools are formulated under the framework of the Education Ordinance (Cap. 279). The Education Ordinance provides that the management committee of a school shall be responsible for ensuring that the school is managed satisfactorily and the education of the pupils is promoted in a proper manner. The principal of a school shall, subject to the directions of the management committee, be responsible for the teaching and discipline of the school and for such purposes shall have authority over the teaching staff and pupils of the school.

In order to create a caring school environment and safeguard the interests of students, the Education Bureau has compiled the School Administration Guide and regularly issued circulars to provide schools with clear guidelines on student affairs, including discipline, student behaviour, home-school co-operation, and handling of bullying in school and suspected child abuse cases.

At the implementation level, the Education Bureau has required schools to formulate and implement strategies to ensure the safety of students at school. If students are found being abused, schools should follow the Procedural Guide for Handling Child Abuse Cases issued by the Social Welfare Department (SWD) and consult the SWD or the Child Abuse Investigation Team of the Police Force for appropriate actions. For cases in which criminal offence may be involved, schools should report to the police. For cases in which misconduct of a teaching staff member is substantiated, the SMC or Incorporated Management Committee (IMC) as the employer may, depending on the seriousness of the incident, take disciplinary actions as appropriate against the teaching staff concerned in accordance with the requirements of the Codes of Aid and Employment Ordinance. Such disciplinary actions may include issuing a verbal or written warning, withholding the annual increment, suspending the teacher from normal duties, executing dismissal or even summary dismissal. As the interests of students is always at the heart of the daily operation of a school, it is natural that the interests of students would be the key consideration when the school management determines what types of disciplinary action is to be taken against the teaching staff who have committed misconduct.

The Education Bureau will decide whether to initiate direct investigation in the light of the nature and seriousness of the incident. If investigation finds the teacher concerned to have violated the Education Ordinance or other legislation, the Education Bureau will refer the case to the police for follow-up. Depending on the circumstances of each case, the Education Bureau may issue written recommendations to the SMC or IMC concerned and require the school management to submit a follow-up report on the implementation of the evaluation and improvement measures recommended by the Education Bureau, and to review the relevant disciplinary actions.

Furthermore, according to section 41 of the Education Ordinance, the Permanent Secretary for Education may, where necessary, directly appoint any persons she thinks fit to be managers of a school to assist the school in the effective implementation of the Education

Bureau's recommendations and further support the school management in carrying out its monitoring and administration functions. In addition, upon conclusion of the case, the Education Bureau will take appropriate follow-up actions against the teacher concerned, for instance issuing a warning or advisory letter to him/her or considering cancellation of his/her registration as a teacher.

The existing Education Ordinance and Education Regulations have already stipulated the respective authority of the Education Bureau, the management committee of schools and the school principals. We have no plan to amend the relevant provisions.

- (b) The proposal of establishing an independent organization for regulating the professional conduct of teachers will have far-reaching impact on the education sector. It is necessary for the sector to have a thorough grasp of the details regarding its functions, roles, composition, mode of operation and operating expenses, and so on, and indicate its full endorsement and support as well. The role and functions of the proposed organization should also fit in the education landscape in Hong Kong. The Government is not in a position to set any timetable before the sector has reached a consensus on the matter.
- (c) Since the current classification of complaints is different from the past, we can only provide figures on complaints against teachers over alleged bullying for the past four years. According to our available records, a total of 37 complaints were received against aided school teachers over alleged bullying of students in the past four school years, of which 20 were unsubstantiated, 11 partially substantiated, three substantiated and are still being processed. For the substantiated complaint cases, apart from the disciplinary actions against the teachers taken by the SMCs or IMCs concerned, the Education Bureau will also take appropriate follow-up actions, including issuing a warning or advisory letter to the teachers concerned, in the light of the nature and seriousness of the cases.



**DR FERNANDO CHEUNG** (in Cantonese): *President, I believe the majority of teachers and schools have been devoted to teaching students and working for the students' well-being. Nonetheless, we have actually handled cases in which teachers have allegedly bullied students, as I have mentioned in the main question. Investigation by the Education Bureau proved that the cases were substantiated and have caused bodily harm to the students concerned. Also, these cases have to be referred to the police for follow-up criminal proceedings.*

*However, under these circumstances, the teachers concerned can continue teaching and the Education Bureau can do nothing about this under the existing guidelines. May I ask the Secretary for Education, being the head of the education authorities, if the investigations conducted by the Policy Bureau under his purview found that some teachers have actually caused harm to students such that the cases have to be referred to the police for follow-up actions, does he consider it appropriate for these teachers to continue teaching?*

**SECRETARY FOR EDUCATION** (in Cantonese): *President, I am not going to elaborate on the details of individual cases. But generally speaking, regarding the few cases mentioned by the Member, we will handle the case according to the relevant procedures once we have been notified. While individual cases have been directly handled by the SMCs, we have taken the initiative to look into cases which were considered to be of a more serious nature, and upon investigations, formal written recommendations have been issued to require the schools concerned to take follow-up actions within a certain period of time. Should the case be serious, the Permanent Secretary will exercise his power and appoint people in the community or professionals to the SMC of the school concerned to follow up on the matter.*

*We totally agree with the Member's view that students must be well-safeguarded and protected. While the schools exercise their power to deal with the matter, we will maintain close contact with the dedicated officials of the relevant school districts. As Members may be aware, under the Employment Ordinance, the SMC or IMC is responsible for the appointment and dismissal of teachers. Thus, the relevant parties will work closely together in accordance with the relevant procedures.*

**MR MARTIN LIAO** (in Cantonese): *President, concerning the incidents in which students were bullied, beaten up and indecently assaulted by teachers, as the saying goes, "prevention is better than cure". The CPC under the Education Bureau has established a set of codes, which spells out, inter alia, the professional obligations of teaching staff towards students, peers, employers, parents and members of the public. Despite the extensive coverage of the codes, so far no mandatory courses have been provided for new teachers to gain a comprehensive understanding of the content. Since educators have a very important role and position in inspiring students, they should therefore persevere with their sense of mission to teach the next generation. In this connection, may I ask the authorities if they have planned to organize relevant mandatory courses and seminars to enable all educators to better understand their obligations, thereby deepening their sense of mission?*

**SECRETARY FOR EDUCATION** (in Cantonese): We are all very concerned about how teachers handle these matters. The Education Bureau has regularly organized diversified training programmes for schools to, *inter alia*, promote love and care, respect, self-discipline and self-confidence, as well as heighten the awareness of teachers and students on anti-bullying, such as the Caring School, the Enhanced Smart Teen Project, Understanding Adolescent Project (Primary), and so on. In the past few years, we have also introduced the Harmonious School — Anti-bullying Program, under which over 200 schools have launched "Anti-bullying Day/Week" using the resource packages, teaching materials, charters, publicity materials provided by the Education Bureau, and organized Harmony Ambassadors Training Camp.

On the training of teachers, the Education Bureau has regularly organized seminars and workshops on topics such as the nurturing of positive school climate, collaboration with the police, handling students' emotional and behavioural difficulties, conflict management, bullying in schools and effective communication with parents. In addition, the Education Bureau has also commissioned tertiary institutions to organize training and certificate courses for teachers, in which school bullying has been included as a compulsory component. For cases of a more serious nature or having a negative implication on the school operation, the schools concerned would notify the relevant Regional Education Office for investigation and follow up in accordance with the established mechanism of the Education Bureau, while the School Development Officers and

Educational Psychologists from the Education Bureau would provide consultation and follow-up services.

**MR JAMES TIEN** (in Cantonese): *President, I certainly agree that the majority of schools and teachers in Hong Kong have been wholehearted in teaching students and the bullying incidents are just isolated cases. And yet, in part (c) of the main reply, the Secretary said that there is no record for the past 10 years, but only four years. And of the cases investigated within these four years, 20 cases were unsubstantiated and only three were substantiated. My question is, with regard to these three cases, did the Education Bureau's follow-up actions include the issuance of warning letters or advisory letters to the teachers concerned? Since the cases were substantiated, I assume that they are of a more serious nature. But in spite of the seriousness, the Secretary said that they had at most issued warning letters or advisory letters, does this serve any deterrent effect?*

*My supplementary question to the Secretary is: If a case is substantiated, is the Education Bureau capable of suspending the teacher concerned from his duties, for example, prohibiting him from teaching — not only in his original school, but also from taking up the teaching post, as in the case of doctors, who are not be permitted to practise after medical incidents. This kind of measure will have much stronger deterrent effect. May I ask the Government if it has the power to do so? If so, are those three substantiated cases not so serious as to warrant an order to cancel the teachers' registration?*

**SECRETARY FOR EDUCATION** (in Cantonese): *President, in the few cases mentioned earlier, measures had actually been implemented in accordance with the actual situation. First, we had promptly approached the relevant schools and demanded the teachers concerned not to contact the students. This is the first step. Second, a written recommendation was issued to the relevant schools for follow-up, which include referring the case to the police. Third, while requesting the relevant schools to take follow-up actions, the Permanent Secretary for Education had also exercised his power to appoint professionals to assist in the schools in taking follow-up actions.*

Regarding the registration of teachers, we would handle the case based on an objective and fair mechanism. Even if there is an intention to deregister the teacher concerned, an appeal system has been put in place. In some cases, an appeal may reach the Chief Executive in Council. We will solemnly and seriously handle each and every case.

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

**MR JAMES TIEN** (in Cantonese): *The Secretary has not answered my supplementary question. I asked if an order had been issued to cancel the registration of the teacher concerned. He only replied that a review would be conducted and there were cases where an appeal was referred to the Chief Executive in Council. But had any teacher been deregistered?*

**SECRETARY FOR EDUCATION** (in Cantonese): Among the abovementioned dozens of cases, three of them are being processed and one has reached the follow-up stage after the investigation and heading towards this direction.

**MR LEUNG YIU-CHUNG** (in Cantonese): *President, yesterday, the parent of a severely mentally handicapped girl complained to me that his daughter was often found to have seriously swollen head and legs after school, and once even her fingers were swollen. He then complained to the Education Bureau, which subsequently replied that no reason could be identified upon investigation, and the complaint later disappeared into obscurity. I wonder if this case is among the 20 unsubstantiated cases mentioned in the Secretary's response to part (c) of Dr Fernando CHEUNG's main question.*

*But no matter what, the Secretary has reiterated time and again that appropriate follow-up actions would be taken, and if similar cases arise, the teacher concerned may receive warning letters or advisory letters, or even have his registration cancelled. President, punishment is important as it may serve as an alarm to other people, which I think is significant. But as Mr Martin LIAO has said, prevention is better than cure. May I ask the Secretary if more will be*

*done on prevention? Apart from what have been said, will the Secretary review the staff-to-student ratio, the workload of teachers and manpower provision, or even provide additional school social workers and include professionals to assist in the teaching and learning process, with a view to minimizing the distress caused to teachers and students, and the possibility of bullying incidents?*

**SECRETARY FOR EDUCATION** (in Cantonese): President, regarding the issues mentioned by the Member, we have always maintained direct liaison with schools. Last week, I visited a school and we had a general discussion on the relevant cases. A teacher told me, "Secretary, we are aware that teachers are duty-bound and required by our profession to protect the children. But look at me, I have bruises all over my body and we have followed the procedures. Therefore, regarding the handling of such cases, we hope that the Secretary and the community at large will have trust in our profession and the quality of our schools." On the other hand, the school has also shared with our District Officers their experiences in handling individual cases and territory-wide experiences. In our view, while entrusting the schools to handle the cases is the best approach, the Education Bureau should provide the necessary support. This is something that has to be done and should continue.

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

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

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

**MR LEUNG YIU-CHUNG** (in Cantonese): *My question to the Secretary is: Given that bullying may be caused by the distress of students and teachers — teachers' distress may be attributable to the heavy workload, insufficient manpower or lack of support — may I ask the Secretary if he will revisit, for example, the staff-to-student ratio and the teachers' workload under the existing*

*education system, and comprehensively review the possibility of providing additional professionals as support? The Secretary has not answered these questions at all.*

**PRESIDENT** (in Cantonese): Secretary, has a review been conducted on the issues raised by the Member?

**SECRETARY FOR EDUCATION** (in Cantonese): I would like to provide some additional information. In fact, the review is ongoing and one example is that all schools are expected to be supported by psychologists by 2016. As for other professional support, arrangements will continued to be made according to the seriousness of the cases, for example, cases of moderate or minor seriousness would be appropriately monitored and dealt with.

**MR CHAN CHI-CHUEN** (in Cantonese): *Part (b) of Dr Fernando CHEUNG's main question is about whether the authorities will make reference to other professions and set up an independent regulatory body, just like the Bar Association, to monitor teachers' conduct.*

*The Secretary replied that "the Government is not in a position to set any timetable before the sector has reached a consensus on the matter". As a matter of fact, in the maiden Policy Address delivered by our first Chief Executive TUNG Chee-hwa, he had given an oral undertaking to set up a General Teaching Council (GTC), an organization similar to the teacher union. In his second Policy Address, he had even earmarked \$20 million for the setting up of the GTC. If I ask the Secretary where the money has gone, I trust he had no idea whatsoever.*

*My supplementary question is: Secretary, you claim that no consensus has been reached, have you carried out any study or consultation to ascertain the percentage and reason of opposition before drawing the conclusion that "the Government is not in a position to set any timetable"?*

**SECRETARY FOR EDUCATION** (in Cantonese): The Government had accepted the recommendation made by the former Education and Manpower Bureau in the 1997 Policy Address to set up the GTC, and it was also clearly stated in the 1998 Policy Address that the Government had earmarked \$20 million for this purpose. Upon completion of the relevant consultation in 1999, the former Education and Manpower Bureau had issued a press release in July 1999, stating that the majority of the views collected supported the setting up of the GTC. Yet, views on the role, responsibilities and composition of the GTC were divergent. Thus, in the 1999 Policy Address, the Government had slowed down the pace of establishing the GTC, so as to allow more time for the education sector to discuss the responsibilities of the GTC. In the past five years, the Education Bureau has handled many cases concerning teachers' conduct. In the process, we do not see any need to resort to other organization to decide on the punitive action to be taken. However, we will keep our ears open to the education sector in considering issues such as the handling of the teachers' conduct.

**MR CHAN CHI-CHUEN** (in Cantonese): *President, it is now 2013 and 2014 is around the corner, but the Secretary has yet to grasp any data. How can he say that a consensus has not been reached? Is he going to take any actions or not?*

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

**SECRETARY FOR EDUCATION** (in Cantonese): As I have just said, exchanges will continue and we will keep accumulating the relevant experiences. Although the education sector and the professional teaching teams are heading towards this direction, I do not think a consensus can be reached so quickly. Above all, the GTC will only achieve its mission if a consensus can be forged.

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

### **Recruitment of Part-time Doctors for Accident and Emergency Departments of Public Hospitals**

3. **DR LEUNG KA-LAU** (in Cantonese): *President, it has been learnt that there are currently quite a number of doctor vacancies to be filled in the accident and emergency (A&E) departments of public hospitals, and such shortage of manpower has resulted in exceedingly long waiting time for A&E services for patients triaged as semi-urgent and non-urgent. Some of these patients had to wait for more than 20 hours. I have also learnt that the Secretary for Food and Health has urged public and private doctors to participate in the scheme to work part-time in A&E departments of public hospitals in order to alleviate the situation of manpower shortage. However, the hourly salary of part-time doctors in A&E departments at present is merely around 70% of that of full-time doctors. In this connection, will the Government inform this Council whether it knows:*

- (a) the respective average weekly working hours of full-time doctors of various ranks in A&E departments of public hospitals at present, as well as the respective median hourly salary (including basic salary and regular allowances) of doctors of various ranks calculated on the basis of the aforesaid working hours;*
- (b) the respective median hourly salary of part-time doctors of various ranks in A&E departments of public hospitals at present, as well as the criteria for determining the relevant salary level; and*
- (c) if the Hospital Authority (HA) conducted open recruitment of part-time doctors for A&E departments in the past three years; if so, when and how the recruitment was conducted; if not, of the reasons for that?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): *President, with an ageing population, advances in medical technology and an increasing demand for healthcare services in the community, the manpower requirement for healthcare personnel grows commensurately. In the past few years, the HA has always been concerned about the manpower supply and implemented a series of measures to address manpower issues. Recruiting part-time doctors is certainly one of the measures. Besides, in 2013-2014, the HA expects to recruit about*



300 full-time doctors to meet the service demand. The HA started the recruitment of non-local doctors to practise with limited registration since 2012 as one of the additional and short-term measures to address the manpower problem. In addition, in recent years, the HA has created additional promotion posts, strengthened professional training and relieved the workload of its front-line healthcare workers by re-engineering work processes and streamlining work procedures with a view to boosting staff morale and improving staff retention. Such measures have reaped positive results and the turnover rate of full-time doctors dropped from 5% in 2010-2011 to 3.8% in 2013-2014 (October 2012 to September 2013). Besides, the Government has taken steps to tackle the problem at source, including the allocation of an additional \$200 million for the triennial cycle starting from 2012 to increase the number of first-year first-degree places in medicine by 100 to 420 per year. The HA expects to see an increase in the total number of doctors when 320 and 420 medical graduates complete their internship in 2015-2016 and 2018-2019 respectively. The Medical Council of Hong Kong (the Medical Council) has also decided to increase the number of licensing examinations from once to twice a year, with a view to facilitating those overseas-trained Hong Kong residents to return to practise in Hong Kong.

In tandem with the said measures, the HA enhanced the remuneration package of part-time doctors and allowed greater flexibility for their employment in early 2012 to increase doctor manpower in the short term. Without affecting the promotion of other young doctors, the HA has made proactive efforts to retain some of the doctors who have retired or left the HA. In 2011, there were about 60 retired or departed doctors continuing to serve in public hospitals on a part-time basis. As at the end of September 2013, there were 301 part-time doctors working in the HA, of which 247 are retired, departed or changed from full-time to part-time employment, providing support equivalent to about 117 full-time doctors.

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

- (a) The conditioned work hours of doctors working in A&E departments of the HA are 44 hours gross per week (hours of on-call duties not included). The HA employs full-time staff on a monthly-rated basis. Mid-point monthly basic salary according to Notional Annual Mid-point Salary (NAMS), monthly allowance and fixed-rate honorarium of various ranks of full-time doctors are as follows:

- (i) Mid-point monthly basic salary of a Resident is \$70,490. Monthly allowance is \$17,330. Fixed-rate honorarium of A&E Residents is \$4,750 per month;
  - (ii) Mid-point monthly basic salary of an Associate Consultant is \$96,150. Monthly allowance is \$33,119. Fixed-rate honorarium of A&E Associate Consultants is \$4,750 per month; and
  - (iii) Mid-point monthly basic salary of a Consultant is \$136,550. Monthly allowance is \$47,047. Fixed-rate honorarium of A&E Consultants is \$2,750 per month.
- (b) Since the implementation of the new part-time employment scheme introduced in January 2011, there is no need for part-time doctors to take up on-call duties. Part-time doctors employed under the new scheme are hence offered remunerations at 70% of those of full-time doctors of the same rank (including monthly salary based on the unified pay point and monthly allowance for the rank) and the calculation is based on the number of service sessions.

If the doctor concerned chooses to perform on-call duties on a part-time basis, the remuneration for such duties will be calculated according to that of a full-time doctor of the same rank who has similar qualification and experience (including monthly salary based on the salary point which is determined by the relevant experience in the rank, monthly allowance and fixed-rate honorarium) and the calculation of salary per month is based on the number of service hours per week.

- (c) The HA will recruit part-time doctors through open recruitment and through regular invitation by issuing letters to doctors who have retired or resigned for three months and those who are about to leave the HA. The HA will also recruit part-time doctors through other means of referral. From January 2011 when the HA has enhanced the part-time doctor scheme to end of September 2013, the number of part-time doctors for A&E departments has increased from eight to 30. Private doctors can apply to be HA's part-time doctors through open recruitment, other means of referral and

self-nomination. The HA will continue to recruit full-time and part-time doctors for A&E departments through various means to meet operational needs.

In the face of challenges posed by an ageing population and increasing demand for healthcare services, the Government has set up a high-level steering committee to conduct a strategic review of the healthcare manpower planning and professional development in Hong Kong. The review covers healthcare professionals from 13 professions which are subject to statutory regulation. The steering committee will assess manpower needs in these healthcare professions and put forward recommendations on how to cope with the 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.

**DR LEUNG KA-LAU** (in Cantonese): *President, all my questions have been set out in the main question, and there is no reason why my opportunity of asking supplementary question should be wasted.*

*I would like to point out that part (c) of my main question is about whether the Government has conducted any open recruitment over the past three years, and not whether it will do so in future. According to the Secretary's present reply, no open recruitment has ever been conducted in the past. When browsing through the HA's website, I still cannot find the relevant recruitment advertisement. This is against the requirement for employing foreign labour.*

*My supplementary question is as follows. As the Secretary pointed out in part (a) of the main reply, the conditioned work hours of doctors working in A&E departments are 44 hours gross per week (hours of on-call duties not included), but time-off would be granted for hours of on-call duties performed by doctors working in A&E departments. In other words, the work hours of doctors are still 44 hours per week including hours of on-call duties. That is where the problem lies. As he pointed out in part (b) of the main reply, part-time doctors are offered remunerations at 70% because they need not perform on-call duties,*

*but that is not applicable for doctors working in A&E departments because their work hours are still 44 hours per week including hours of on-call duties.*

*Earlier, the Secretary had explained that the hourly rate of part-time doctors in A&E departments was 70% of that of full-time doctors because part-time doctors did not need to work night shift, rather than on-call duties. I have spoken with officers-in-charge of A&E departments who confirmed that it was indeed impossible to recruit part-time doctors to work night shift, and that was one of the reasons why patients had to wait as long as 20 hours in some cases. That is how the sum is worked out.*

*I presume that the Secretary is acting in good faith and has no intention of exploiting others. If the work hours of full-time doctors are 44 hours per week, in which eight hours are night shift and 36 hours are day shift, and the ratio of day-time salary is 0.7, or the same as the present situation, then the ratio of night-shift salary will work out to around 2.3 times. My supplementary question is as follows: Whether the Secretary is willing to consider fine-tuning the part-time employment scheme for doctors working in A&E departments so that, as suggested by those officers-in-charge, different ratios of salary would apply for part-time doctors working in different times, that is, if the ratio of day-time salary is 0.7, the ratio of night-shift salary should be around 2.3. In that case, I am sure that it would be easier to recruit part-time doctors to work night shift, which will in turn help reduce the waiting time of patients. That is my supplementary question: Whether the part-time employment scheme for doctors working in A&E departments can be fine-tuned?*

**PRESIDENT** (in Cantonese): You have already asked your supplementary question. Please sit down. Secretary, please reply.

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, I would like to respond to two points regarding Dr LEUNG's supplementary question. First, as far as I understand, from the perspective of the HA, if different salaries are offered for different periods of work, including Dr LEUNG's suggestion of recruiting part-time doctors to work night shift by offering a more attractive hourly salary, I think the HA would have its concerns because from the HA's

perspective, all full-time doctors working in hospitals cannot choose to work only day shift or night shift. As far as I understand, if such a choice is available, the HA may have concerns about its impact on the existing full-time doctors.

Nonetheless, regarding Dr LEUNG Ka-lau's suggestion as to whether more flexible arrangements are available so that consideration can be given to offering different salaries to part-time doctors working in different periods, such consideration must of course be given on the premise I mentioned just now about taking care of the feelings of other full-time doctors, that is, whether they would feel that as full-time doctors, they cannot choose to work day shift or night shift, while part-time doctors are given such a choice, and the hourly salary of night shift would be higher. I would be willing to pursue with the HA measures to fine-tune the existing remuneration of part-time doctors working in A&E departments if the feelings of existing colleagues can be taken care of without causing too much impact.

**MR ALBERT CHAN** (in Cantonese): *President, given that the existing problems with A&E services are worsening, members of the public are worried that their personal safety and health cannot be taken care of properly, and the short supply of doctors is the root of the entire problem. Moreover, regarding the roster and work arrangements of A&E departments, it seems that doctors also consider it a "polluted industry" and are unwilling to take up such work; even when they are made to do such work, they may not feel happy about it.*

*Under these circumstances, and coupled with the short supply of doctors in the HA — given that the Government has earlier acted in a courageous and open manner regarding the importation of foreign labour — whether the Secretary will also proactively, fully and assiduously consider, study and implement the relevant issues and measures relating to the practice of overseas doctors in Hong Kong? At present, even doctors from Commonwealth countries cannot practise in Hong Kong. I would like to ask whether the authorities would consider introducing special measures or mechanisms, or legislative amendments, so that doctors, particularly experienced doctors from Commonwealth countries, can practise in Hong Kong, in order to resolve the short supply of doctors in Hong Kong and safeguard the safety and health of Hong Kong citizens?*

**PRESIDENT** (in Cantonese): I believe that the "polluted industry" as mentioned by the Member actually means an "obnoxious industry". Secretary, please reply.

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, regarding Mr Albert CHAN's question, we have all along considered various options to facilitate the practice of overseas doctors in Hong Kong. Of course, under the existing legal framework, all overseas doctors can only practise in Hong Kong after passing the licensing examinations. However, we have recently reached a consensus with the Medical Council in this regard. From next year onwards, the Medical Council will increase the number of licensing examinations from once to twice a year. We will also discuss with the Medical Council whether other means are available so that doctors who have passed the examination can return to practise in Hong Kong more easily and conveniently. We will work in those areas.

Nonetheless, regarding Mr CHAN's question as to whether legislative amendments would be introduced, particularly to allow doctors from Commonwealth countries to practise in Hong Kong, I think this will create problems because insofar as Hong Kong's licensing system is concerned, except for doctors who are local graduates, the same treatment should apply, and the current licensing examinations are also applicable for all doctors who are non-local graduates. If we only waive the examination requirement for doctors who are graduates of certain places or from certain medical schools, I think this will create problems. Hence, I have reservation in this regard. Nonetheless, we will explore all options under the existing framework in order to facilitate overseas doctors, particularly Hong Kong medical students in overseas countries, to return to practise in Hong Kong more easily after graduation, which can in turn help improve our situation.

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

**MR ALBERT CHAN** (in Cantonese): *President, I have grounds for my suggestion just now about making legislative amendments because insofar as barristers are concerned, lawyers from common law countries in the Commonwealth can also practise in Hong Kong ...*

**PRESIDENT** (in Cantonese): Mr CHAN, there is no need for you to explain the reasons.

**MR ALBERT CHAN** (in Cantonese): *Whether he would consider amending the laws to ensure openness in this regard, so that the life and health of Hong Kong people can be safeguarded and the effect of "urgent times, urgent handling" be achieved?*

**PRESIDENT** (in Cantonese): Secretary, would you consider amending the laws?

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): Honestly, for the time being, we will not consider making legislative amendments for the special circumstances as mentioned by Mr Albert CHAN. As I pointed out just now, if Mr CHAN was referring to waiving the examination requirement on our own accord so as to allow doctors from the Commonwealth or other countries, or even doctors who graduated from certain medical schools to return to practise in Hong Kong, I personally have reservation about it because our current licensing examination system is applicable across the board for all doctors who are non-local graduates.

**MR WONG TING-KWONG** (in Cantonese): *President, I would like to ask the authorities what are the qualifications of a doctor working in the A&E department, and whether these qualifications are the major reason preventing the authorities from employing full-time or part-time doctors in A&E departments? If so, whether the authorities will consider improving the conditions or increasing the remuneration so as to increase the number of doctors working in A&E departments?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): Thanks to Mr WONG for the supplementary question. First of all, so far as each medical specialist department is concerned, different qualifications of course apply if a doctor is to become a registered specialist doctor. At present, requirements have been laid down by all specialty colleges under the Hong Kong Academy of Medicine in respect of the channels through which and the duration after which

doctors can pass the relevant examination and certification of the Hong Kong Academy of Medicine to become specialist doctors after their graduation and internship.

Nonetheless, if Mr WONG's question is mainly concerned about part-time doctors, in fact, not all doctors providing service in A&E departments have attained the level of specialist doctors specified by the Hong Kong Academy of Medicine, and many of them are what we call resident doctors or doctors under internship; moreover, doctors in A&E departments will focus their time and energy on looking after patients in the urgent category. Hence, the main objective of the HA's current policy on the recruitment of part-time doctors is to shorten as far as possible the waiting time of non-urgent patients, and on this premise, I can say that the relevant requirements are relatively less stringent than a specialist doctor.

**MR GARY FAN** (in Cantonese): *President, the shortage of doctors in public hospitals is not a new phenomenon. In part (b) of his reply to Dr LEUNG Ka-lau's question just now, the Secretary pointed out that the salary of part-time doctors was 70% of that of full-time doctors because they were not required to perform on-call duties. My question is that given the lack of marked improvement to the current manpower shortage in public hospitals, and notwithstanding the Bureau's claim that the HA has already implemented the new part-time employment scheme, whether the Bureau or the HA will consider increasing the remuneration percentage of part-time doctors in future so as to attract more part-time doctors to provide the relevant services?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, thanks to Mr FAN for his supplementary question which is somewhat along the line of the suggestion just made by Dr LEUNG. Let me reiterate that when determining the remuneration of part-time doctors, the HA will make reference to the remuneration of full-time doctors, and the reason for offering a discounted remuneration is that full-time doctors basically have no choice and they must perform on-call duties.

Hence, when determining the remuneration of part-time doctors, we hope that on the one hand, the remuneration is attractive, but on the other hand, if the remuneration is too attractive, existing full-time doctors may consider that their employment conditions are seemingly less favourable on average. This will in



turn create internal human resources problems for the HA. Hence, under such checks and balance, nonetheless, I am still willing to further pursue with the HA on the means available to fine-tune the employment conditions of part-time doctors, so that they are attractive enough to recruit more doctors to help improve the situation.

**MR MA FUNG-KWOK** (in Cantonese): *President, this question is mainly about the possible prolonged waiting time due to shortage of doctors in A&E departments. In fact, I would like to ask the Government whether the prolonged waiting time in A&E departments is caused by other factors, in addition to the shortage of doctors. Is it possible that the situation is caused by the shortage of other healthcare personnel? Regarding the solution to this problem, the Government has pointed out in the last paragraph of the main reply that a high-level steering committee has already been established to review the situation. In that case, what is its work as regards the training and manpower preparation of other types of healthcare personnel?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, thanks to Mr MA for the question. It is correct to say that in the face of various problems such as an ageing population, the demand for healthcare services on the whole, particularly those provided by public hospitals, has been increasing. Under this situation, I can say conclusively that the HA is not only facing manpower shortage in a particular grade as there are also problems of varying degrees in other grades. Why then is the manpower shortage of doctors often raised specifically for discussion? The objective reason is that currently, the training of doctors requires six years, together with one year of internship. Given such a long training period for doctors, even if the Government intends to increase the number of trained doctors, it will take a certain period of time after the increase in the number of places for medical undergraduate students before they become doctors after graduation. Comparatively speaking, the training period for other grades is not so long, but they still face manpower problems of varying degrees.

**PRESIDENT** (in Cantonese): This Council has already spent 22 minutes 30 seconds on this question. Fourth question.

**Allocation of Primary and Secondary School Places**

4. **MRS REGINA IP** (in Cantonese): *According to the information on the website of the Education Bureau, the results of the central allocation (CA) of Primary One (P1) places as well as the results of the allocation of discretionary places (DP) and CA of Secondary One (S1) places (allocation results) for 2014-2015 school year will be released on 7 June and 8 July 2014 respectively, while those primary and secondary schools under the Direct Subsidy Scheme (DSS) will conduct their own admission exercises and determine when to release the results. It has been learnt that DSS schools usually set the deadlines for admitted students to reply whether to accept the places ahead of the release dates of the allocation results, and those students who have accepted places of DSS schools will not be allocated government or aided school places. In this connection, will the Government inform this Council:*

- (a) *whether it will consider advancing the release dates of the allocation results to dates earlier than the deadlines set by DSS schools for students to reply if they accept the places, so as to allow those students offered places by DSS schools and their parents to make choices between the places offered by DSS schools and those by government or aided schools; if not, of the reasons for that;*
- (b) *if the allocation results will not be released earlier, whether the authorities will consider increasing the ratio of DP for schools and requiring the schools concerned to advance the release of the results of allocating such places; if not, of the reasons for that; and*
- (c) *as there are views that the experience of teachers has direct impact on a school's attractiveness to gifted students and there is a succession gap of teacher talents at present, whether the Government will consider deferring the retirement ages of school principals and teachers to help those schools with enrolment difficulties to maintain their teaching quality, so as to attract students to enrol in such schools; if not, of the reasons for that?*

**SECRETARY FOR EDUCATION** (in Cantonese): President, regarding the question raised by Mrs Regina IP,

(a) and (b)

Parts (a) and (b) of the question primarily suggest early announcement of the allocation results of public sector school places to facilitate parents' decision on whether to send their children to a DSS school or public sector school, and increase in the proportion of DP. Below is a consolidated reply to both parts.

We appreciate that some parents on one hand hope that they can have different types of schools to choose from; and on the other hand are keen about their children having a greater chance of being admitted to their preferred school to suit the needs, aptitude and abilities of their children. We also note schools' wish to have more flexibility in admitting students according to their educational philosophy and characteristics with steady and sustainable development to ensure the quality of teaching.

The allocation mechanism (including the Primary One Admission (POA) System<sup>(1)</sup> and Secondary School Places Allocation (SSPA) System<sup>(2)</sup>) aims to facilitating allocation of school places in an orderly manner. It has been the general consensus of stakeholders that we should not rely too heavily on academic results to assess students' ability or to select students for basic education. Premised on this, we have conducted a comprehensive review of the allocation mechanism. Having considered and balanced the views of different stakeholders, the prevailing detailed arrangements of the POA and SSPA have been implemented since 2005 and 2007 respectively.

Under the POA, DP quota accounts for 50% of the places of a school. As regards the SSPA, to provide parents with more

- (1) Under the POA System, DP takes up 50% of a school's P1 places. DP admission results are released in end-November each year. Children who have not been offered a discretionary place will participate in the CA. Each primary school should earmark its remaining P1 places, that is, 50%, for CA.
- (2) The SSPA System is divided into two stages: DP and CA. For DP, schools should set their admission criteria and consider students' applications according to the guidelines of the Education Bureau. The computer-processed CA is based on the order of school preference and scaled internal assessment results of the applicant students as well as the random number assigned by the computer system.

opportunities to directly select their preferred schools, the DP quota of a school has been increased from 20% to 30% since 2007. The number of schools that parents may apply for their children has also been increased to two at most. Besides, parents are only required to indicate their order of preference to the Education Bureau. Major stakeholders generally agree that the 30% DP quota and DP application to two schools at most would strike the right balance in the light that parents and students are provided with more school choices while schools are allowed greater discretion to admit students according to their educational philosophy and characteristics. In tandem, the aforesaid arrangements would alleviate schools' pressure arising from processing a substantial number of applications. With the above arrangements, schools can also reserve most of their places for students in their school net during CA. Further, it would avoid aggravating the difference among schools in the utilization of the DP quota and the undesirable labelling effect so caused.

DP admission results of the POA are released in end-November each year. We have explored whether DP admission results of the SSPA can be released earlier. However, stakeholders having connection with primary schools are generally concerned about the impact of the early release of results on the overall learning atmosphere among Primary Six students and teachers' handling of different learning needs and expectations of students arising from those who have secured a place in the DP stage while others have to await their CA results. The Secondary School Places Allocation Committee<sup>(3)</sup> has had in-depth discussions of the issue from time to time<sup>(4)</sup>. However, a consensus is yet to be reached due to diverse views.

It should be appreciated that the school places allocation mechanism involves different stakeholders. Both primary and secondary schools have to handle within a short span of time a substantial number of applications and related matters including school choice

(3) The Secondary School Places Allocation Committee is an advisory body under the Education Bureau tasked to give advice to the Secretary for Education on the detailed operation of the SSPA System.

(4) Over the past two years, the Secondary School Places Allocation Committee had in-depth discussions at meetings on 24 November 2011, 15 March 2012, 13 March 2013 and 20 June 2013.

counselling, internal assessments, interview arrangements, and so on, to ensure that the S1 places are allocated in a fair and equitable manner. Besides, DSS schools enjoy autonomy over admission of students (including the time for releasing admission results). Practically, there would be operational difficulties to ensure that the allocation results of P1 and S1 places could be released before the deadlines set by individual DSS schools for parents' acceptance of offer.

- (c) No statistical evidence is available to show that there is a direct correlation between teachers' length of service and their school's attractiveness to gifted students. In general, schools are served by teachers of varying age and length of service. Under the Education Ordinance, except with the written permission of the Permanent Secretary for Education, a person employed as a teacher or the principal of an aided school shall not continue to be so employed in posts on the establishment for a school year or any part thereof if he/she has attained the age of 60 years or more before the commencement of the school year. Furthermore, deferring the retirement ages of school principals and teachers will also affect the employment opportunities of prospective teachers. In fact, it is the responsibility of the School Management Committee or Incorporated Management Committee of aided schools to observe the relevant retirement age requirement and plan ahead for better human resources management, together with the development of a succession plan, including internal promotion, promotion or redeployment from other schools under the same school sponsoring body and open recruitment, so as to facilitate a healthy staff turnover. Except under very special circumstances, applications for extension of service normally will not be granted.

**MRS REGINA IP** (in Cantonese): *President, the Secretary has just advised that the DP admission results can be released in end November but it will be somewhat difficult for the secondary school place allocation results to be released at that time because after discussion, stakeholders are concerned about the impact of the early release on the learning atmosphere. However, I would like to point out that overseas countries have similar arrangements. Take for*

*example the United States. Many universities have early admissions which start in November. Some high school students are already admitted to the university when they are attending the 11th grade and they are not subject to the pressure of university application or examination in the second half of the 12th grade. Even so, these students will not slack in their studies even without the pressure of examination.*

*Therefore, even if there is an earlier release of secondary school admission results, I think school principals need not worry too much that students being admitted will slack in their studies as it can be reasonably expected that only a small number of students will be admitted to DSS schools. I wonder if the Secretary is willing to negotiate with these schools again.*

**SECRETARY FOR EDUCATION** (in Cantonese): The situation mentioned by Mrs Regina IP is correct and there has been such a situation before. However, we must always exchange views and observe the real situation in our discussion. On the one hand, the number of DP is not small at all, and on the other hand, the background and situation of primary school students progressing to secondary schools are different from that of secondary school students entering the university. I will try to minimize the pressure created in the process in the light of the actual situation of schools.

In respect of advancing the release of allocation results of S1 places, I have visited some schools and according to the views relayed, if there are two groups of students in a classroom, the group of students who have been admitted to secondary schools will only be concerned about matters concerning S1 admission, while the other group of students who have not been admitted to secondary schools would like to concentrate on completing the remaining curriculum. Under such circumstances, it will certainly create certain difficulties for teachers. This is the actual situation that I perceive. I also understand Members' views and hope that I can continue to negotiate with the education sector concerning matters in this respect.

**MR IP KIN-YUEN** (in Cantonese): *President, one of the main purposes of establishing DSS schools is to provide parents with more choices. Parents may wish to have the choice to enrol their children in certain DSS schools or government or aided schools. However, under the current arrangement, DSS*

*schools can release the admission results early and this automatically denies students the chance of being allocated a place in government or aided schools. Will this lead to a regression with regard to parents' choices and is therefore unfair to them? They could have a choice of many schools but the Education Bureau now forces them to make a choice in advance and after making the choice, they cannot have their children enrolled in government or aided schools when the allocation results of these schools are announced later. Therefore, my supplementary question is whether such an approach is unfair to these parents.*

**SECRETARY FOR EDUCATION** (in Cantonese): On the premise of optimization of resources, in order to allow different types of schools to make more accurate estimate on the number of student intake in the new school year, thereby facilitating their planning on teaching and other matters, it is necessary to disallow students who have been admitted to DSS primary schools or DSS secondary schools which do not participate in the CA of places to be allocated a place in the public sector schools through the CA of P1 or S1 places.

For parents, this actually involves two processes. First, they must first consider which schools to choose in the process of the allocation of DP. If they choose DSS schools, it is true that the admission process will start early and parents will have to choose between CA and admission exercise conducted by individual secondary schools. As a matter of fact, if there are not too many choices of school places available, such an uncertainty will impose another kind of pressure on students. Therefore, under the present system, there are several types of schools available for parents to choose from, and we consider that a good balance has been struck. Any changes made to the system will only increase the pressure of student finding school places.

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

**MR IP KIN-YUEN** (in Cantonese): *I am not sure if the Secretary has answered my supplementary question because he said that parents have to make a choice.*

*Does it mean that the policy formulated by the Secretary has already restricted the choices of parents and hence caused unfairness? I wish to clarify whether he has truly replied my supplementary question.*

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

**SECRETARY FOR EDUCATION** (in Cantonese): What I really mean is, as stated in the main reply, parents on the one hand wish to have more choices and on the other hand, they wish their children have a better chance to enrol in the school that they prefer. A balance must be struck between the two. If parents favour DSS schools, they will automatically make greater efforts to obtain a place in DSS schools or other aided schools. Therefore, for parents and students, they have the chance and the choice, but most important of all, we should not exert too much pressure on students in choosing school places.

**MS CYD HO** (in Cantonese): *The Secretary said just now that some primary schools are very concerned that in the same class, some students have got S1 places while others have not, which creates difficulties for teachers. Then, is there a stronger reason to implement a simultaneous admission system, so as to avoid a divided class of students? However, the Secretary actually had mentioned another reason, that is, some students are admitted to prestigious schools while others are not, which would lead to a tricky situation. However, accepting different turns in life, favourable or otherwise, and the fact that there are incidents not up to our expectation is also part of education. Therefore, if the Secretary does not handle the issue of simultaneous admission properly, people will only suspect that the authorities intentionally favour the present DSS system, using parents' resources to improve the education services, thereby maintaining the status quo.*

*My supplementary question to the Secretary is whether he can give a more adequate reason than the one in the main reply to convince us why he gives in to the concern of a small number of primary school teachers to destroy the ecology of the entire education system.*



**SECRETARY FOR EDUCATION** (in Cantonese): I thank Ms HO for her supplementary question. The premises I mention involve balance, choice, analysis and comparison. For students who choose a DSS school or an aided school, these schools have their own systems and cultures. The reason for a school to choose to join the DSS is that it wants more flexibility. However, DSS schools also have to face certain risks, including insufficient student intake.

Therefore, from what I learn from the sector, DSS schools wish to decide on the admission earlier so as to ensure a stable student intake and that they can make a better teaching plan, which is their premise. Even if we advance the admission process of all schools, according to the present arrangements and our understanding, DSS schools can still change their admission dates. Hence, there are two different systems and we may not be able to make a direct comparison or subjectively control the admission dates of DSS schools, thereby setting the same admission date for all schools.

**DR HELENA WONG** (in Cantonese): *President, I think the Secretary is diverting our attention with these remarks. He is not answering our question, and what he has said is totally nonsense. I cannot see how he is qualified to be the "commander-in-chief" in the education sector ...*

**PRESIDENT** (in Cantonese): Dr WONG, please raise your supplementary question and do not make comments.

**DR HELENA WONG** (in Cantonese): *... Because it was asked in the main question whether the admission dates of DSS schools could be postponed to sometime after the announcement of the results of the CA to ensure parents and students' right to choose. The reason for posing this question is that many parents who enrol their children in DSS schools complain to Legislative Council Members that the Education Bureau has not properly regulated the DSS schools ...*

**PRESIDENT** (in Cantonese): Dr WONG, please raise your supplementary question.

**DR HELENA WONG** (in Cantonese): *The question is if the Secretary does not arrange for simultaneous admission of all schools, parents will have no choice because they have to know what school places are allocated to their children under the CA system before they can make a comparison with the DSS schools they have enrolled their children in. However, the present system of the Education Bureau favours the DSS schools and disregards the interests and right of choice of parents.*

*President, my supplementary question is simple enough, as the Secretary of Education, does he consider he is duty-bound to uphold the interests of individual DSS schools or the rights and interests of parents and students regarding their choice of schools. Which of the two has a higher priority?*

**SECRETARY FOR EDUCATION** (in Cantonese): I thank the Member for her supplementary question. I reiterate that under the Hong Kong education system, our purpose is to provide a diversified education system so that the people can choose various types of schools according to their strengths. That is our foremost purpose. At present, DSS schools accounts for about 9% of all schools in Hong Kong. Over the years, they have provided a special and alternative choice for parents and students. This is the current model, which is not only sustainable but also smoothly implemented.

As mentioned at the very beginning of the main question, we understand that parents wish to have more choices and can also choose their preferred schools. But the two may not be fully compatible. Therefore, for the same reason, when we provide the education service, we also aim at providing students and parents with diversified choices and that is our major policy.

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

**DR HELENA WONG** (in Cantonese): *He has not answered my supplementary question clearly. My question is what should be the prime consideration of the Secretary for Education: to safeguard the parents and students' right to choose or uphold the interests of DSS schools. He keeps saying that they have the choice but in reality they do not.*

**PRESIDENT** (in Cantonese): Dr WONG, please sit down. Secretary, do you have anything to add?

**SECRETARY FOR EDUCATION** (in Cantonese): Let me reiterate. I understand Members' concern. If I were the parent, I hope to have more choices but at the same time I only want my child to enrol in certain schools; hence the prerequisite is that I have to make a decision. The advantage in Hong Kong is that there are many types of schools available for people to choose from but in the process, they will need to consider carefully and make a decision.

**MRS REGINA IP** (in Cantonese): *President, another part of my main question concerns the retirement age of the principals and teachers of aided schools. I agree with the Secretary that their length of service may not be in direct proportion to the attractiveness to students. However, after the retirement of the experienced principals and vice principals of many prestigious schools, those schools have a hard time finding a successor and very often the teaching standard and management skills of the newly recruited staff are below par. Now that the Government is reviewing the retirement age of civil servants in its policy on population, will the Secretary propose to review the retirement age of the principals and teachers of government and aided schools as well during the process?*

**SECRETARY FOR EDUCATION** (in Cantonese): I thank Mrs Regina IP for asking a very good question. I am also a member of the Steering Committee on Population Policy and we will conduct a comprehensive review on the overall retirement age.

I can provide more information for the reference of Mrs Regina IP. In respect of school principals' application for extension of service, according to the statistics in the past few years, there have been about three applications each year, with the exception of the 2011-2012 school year. In that year, owing to the parallel running of the old and new academic structures, there were 11 applications from school principals for extension of service. Moreover, the same situation also applies to teachers' applications for extension of service. There were none a few years ago but in the 2011-2012 school year, 57 applications were received and among them some were lodged out of personal choice. In fact, other public or private organizations also have the same problem. I hope that schools can retain talents by various means to allow these staff to continue making contributions and pass their knowledge and expertise down to the next generations.

**PRESIDENT** (in Cantonese): Fifth question.

### **Fuel Mix for Future Energy Policy**

5. **DR ELIZABETH QUAT** (in Cantonese): *President, to achieve the reduction targets for pollutant emission by 2015 and those for carbon emission by 2020, to tie in with the gradual reduction in the use of the existing coal-fire generating units, and to meet the future demands for electricity, the Government will review Hong Kong's fuel mix for electricity generation. Options available for consideration include increasing the use of natural gas, buying electricity from Mainland power grid and importing nuclear energy, and so on. The Government has planned to consult the public on the future fuel mix for electricity generation by the end of this year, and indicated that in the relevant review, it will strike a proper balance among the energy policy objectives such as safety, reliability, affordability and environmental protection. In this regard, will the Government inform this Council:*

- (a) *whether the authorities will expedite the formulation of a comprehensive energy policy; of the targets of the fuel mix in the short, medium and long terms which have been considered by the authorities when formulating the energy policy, as well as the timetable for implementing such targets; whether the authorities have thoroughly considered and evaluated the impact of increasing*

*the proportion of natural gas used on tariff and people's livelihood when they set the short-term target for the reduction in pollutant emission by 2015; in respect of setting the medium-term target for reduction in carbon emission by 2020, whether the authorities will make reference to Japan's recent announcement on lowering its latest target for reduction in carbon emission and in response to the ever-changing environmental factors, and consider conducting a corresponding review; if they will, of the details; if not, the reasons for that;*

- (b) in determining the new fuel mix required for meeting the reduction targets for pollutant emission and carbon emission, whether the authorities have drawn up any option (such as setting up a fund for stabilizing the price of natural gas fuel) to ensure a stable supply of fuel for electricity generation and the electricity tariff at a reasonable level which is affordable to members of the public; if they have, of the details of the options; if not, the reasons for that; and*
- (c) with regard to the long-term plans for power grid development, whether the authorities will examine different options for opening up the power grids and for power interconnection, so as to tie in with the objective of the future fuel mix (for example, importing renewable energy from the Mainland by means of "dedicated transmission lines"); if they will, of the details; if not, the reasons for that?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, at present, coal accounts for about 54% of Hong Kong's fuel mix for electricity generation, natural gas 23% and nuclear energy imported from the Mainland 23%. In order to reduce carbon emissions from power generation and to combat climate change, the Government proposed in end 2010 to improve our fuel mix for power generation in 2020 by substantially reducing the reliance on fossil fuels, which are highly carbon-emitting, gradually retiring existing coal-fired generating units, and increasing the share of non-fossil, clean and low-carbon fuels, including importing more nuclear energy.

While the Government is consolidating the views received during the public consultation exercise, the Fukushima nuclear incident took place as a result

of the earthquake and tsunami hitting northeastern Japan. Various sectors in the community had expressed different views on the application of nuclear energy since then. After the incident, the Mainland Government immediately conducted a comprehensive safety check on nuclear facilities and suspended the approval of new nuclear projects, which was resumed only in end 2012.

As the existing coal-fired generating units in Hong Kong will start to retire in the coming few years, and all electricity supply infrastructure requires long-term planning, we consider it necessary to review the future fuel mix for power generation in a timely manner, in order to meet the future electricity demand of Hong Kong. We are conducting a review of the future fuel mix, and are engaging various stakeholders, including experts, academics, industry and business sectors, as well as non-governmental organizations to solicit their views. We are working out the details of the public consultation which we plan to launch shortly. As such, we could only provide some in-principle responses to the questions raised by the Dr QUAT as follows:

- (a) Each fuel source has its own merits and demerits. In reviewing the overall fuel mix, we will strive to strike a balance among the four energy policy objectives of safety, reliability, affordability and environmental protection. With regard to environmental improvement, we understand that different countries would set their environmental protection targets having regard to their own circumstances. In a consultation document published in end 2010, the Government proposed to set a target to reduce carbon intensity by 50% to 60% by end 2020 as compared with the level in 2005. The Government will review the carbon intensity reduction target proposed in 2010 during the review of the fuel mix for power generation.

In respect of air pollutants emission, as power generation is one of the major sources of air pollutants in Hong Kong, to achieve continuous improvement of the air quality, the power companies should continue to strive to reduce emissions. As such, we already issued in 2008, 2010 and 2012 respectively three Technical Memoranda (TM) pursuant to the Air Pollution Control Ordinance (Cap. 311) to stipulate emission caps on three specified pollutants. The first TM specified the emission caps for 2010-2014, the second

TM tightened the emission caps for 2015-2016, and the third TM tightened the emission caps further with effect from 1 January 2017.

One of the major initiatives adopted by the power companies to meet the specified emission caps was to increase the use of natural gas, which will add pressure to tariff increase. As the fuel market has been volatile, and the tightened TM will only take effect in 2015, we considered it not appropriate to make any assumptions on the trend of fuel prices for assessment of tariff increase during the preparation of the relevant TM. The two power companies will submit their tariff adjustment proposals to the Government pursuant to the Scheme of Control Agreements (SCAs).

- (b) The reliability and price of energy supply are two important considerations for our review of the fuel mix. On energy supply, the SAR Government signed a Memorandum of Understanding (MoU) on energy co-operation with the National Energy Administration of the Central People's Government in 2008 to ensure continuous supply of clean energy to Hong Kong for the next two decades. With efforts from all parties, the MoU is being implemented progressively; the agreement on the supply of nuclear electricity from Daya Bay Nuclear Power Station was renewed for a further term of 20 years until 2034, and the Second West-East Natural Gas Pipeline (Hong Kong branch) was completed in 2012 for offtaking natural gas for power generation in Hong Kong.

In terms of price, regardless of the future fuel mix, replacement of coal by cleaner energy would inevitably add pressure to tariff increase. Hence, if we are to reduce greenhouse gas and air pollutant emissions, and mitigate the impact of rising electricity bills for individual electricity consumers, the most fundamental way is to further promote territory-wide energy saving to reduce electricity demand. Energy efficiency and conservation has always been an important energy policy of the Government. Regarding the proposal of setting up a fund for stabilizing the price of natural gas fuel, we consider it in essence a subsidy on electricity tariff by public money. It is not the most effective way of using public money, nor can it achieve the result of encouraging energy saving and reducing

emissions. Therefore, we have no plans to consider the proposal at this stage.

- (c) In respect of the regulatory framework of the electricity market, as stipulated in the current SCAs signed between the Government and the two power companies, before implementing any changes to the regulatory regime, the Government will take into account all relevant factors, and discuss with the power companies market readiness, potential future changes to the electricity supply regulatory framework and transition issues before 2016.

The mid-term review of the SCAs just completed has provided a useful platform for us to listen to different views of the public, and helped us plan the development of the electricity market after 2018. We will soon launch the public consultation on fuel mix for power generation, and look forward to the active participation by the general public. The consensus forged on the future fuel mix will be an important basis for the review of the regulatory framework of the future electricity market. We are now proceeding with the preparatory work, and will continue to maintain dialogues with various stakeholders.

**DR ELIZABETH QUAT** (in Cantonese): *President, first of all, I think the Secretary has not answered part (c) of my main question at all, that is, "whether the authorities will examine different options for opening up the power grids and for power interconnection". I think the Secretary should first give a reply on this. Besides, the public would certainly like to see an equilateral triangle in electricity generation, that is, it is environmentally friendly, and fuel prices will not lead to an excessive upward adjustment of the basic tariff. However, nowadays we often hear the two power companies say that a price has to be paid for environmental protection. If the target for emission is to be met and cleaner fuel is to be used, the basic tariff will definitely increase substantially. My supplementary question is how the Administration will make a balance in this iron triangle in formulating the future fuel mix for electricity generation. What policies or legal bases does the Environmental Protection Department have to ensure that the two power companies will implement the Government's proposal of energy mix in 2020 so as to meet the target of protecting the environment without substantially pushing up the tariff?*



**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, I thank Dr Elizabeth QUAT for the supplementary question. As mentioned just now, we can only provide some in-principle responses today as relevant documents are still under preparation. Regarding some specific questions raised by Dr QUAT, I believe we will take into full consideration, especially the public consultation on fuel mix for power generation will be carried out very soon. We will conduct objective analyses on various mainstream options, including analyses on reliability, safety, price implication and environmental implication, so as to facilitate a full and balanced discussion in our community. I agree very much with Dr QUAT that different fuel mix options will cause different impacts and have their own merits and demerits. We will make objective analyses on these impacts and contradictions as well so as to facilitate thorough discussion. We can only provide some in-principle responses today. We will not exclude any feasible option. We need some time to prepare further details for timely public discussion.

**MR TANG KA-PIU** (in Cantonese): *President, the total number of workers in power plants hired by the two power companies and those engaged by subcontractors is estimated at 3 000 plus. I notice that the option available in 2018 is either increasing the use of nuclear power or importing more electricity from the Mainland. In any case, I guess the proportion of local electricity generation will definitely decrease. I am not sure how much it will drop from the present proportion of 70% but surely job opportunities of power plant workers will be affected. Therefore, I would like to ask whether the Government has considered employment aspect in its assessment. If it has, how are workers' jobs secured?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, I thank Mr TANG Ka-piu for his question. I understand that Mr TANG refers to the possible long-term impact on industry players in the relevant sectors upon the adoption of some fuel mix options in the future. I think this is a rather new idea as our energy policy in the past focused on the four major aspects of reliability, safety, environmental implication and affordability to the community as well as households. These have been our main factors for considerations.

But I guess what Mr TANG means is that some of our options may reduce local operation and in turn lead to a transfer of employment opportunities. This

is a new issue of concern. I understand what he means. We are currently preparing the relevant documents. We have listened to Members' views and will consider how to provide appropriate responses to the public.

**MR LEE CHEUK-YAN** (in Cantonese): *President, now the Government says the consultation on fuel mix is being carried out. But the biggest concern is in fact the overall regulatory system that follows. How can we talk about fuel mix without talking about the regulatory system and long-term development plans? This will be meaningless. May the Secretary please tell us whether discussion on these two aspects will be carried out at the same time? In particular, we have been talking about future development for years. I remember during the era of Stephen IP, we already talked about interconnection between the two power companies. Nowadays we no longer hear about this, and I do not know how the result is. There is no more discussion at all. May I ask the Secretary whether the Government will discuss with the two power companies regarding the future power interconnection between them? In particular, in view of the decreasing demand for the Hong Kong Electric Company Limited, will the CLP Power Hong Kong Limited increase its electricity supply? Will the reduction in the overall use of electricity generating units and facilities facilitate the task of emission reduction? How is the deliberation on the development in this aspect? Has the Government started its deliberation with the two power companies already? Does the Government have a standpoint regarding the interconnection between the two companies?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): *President, I thank Mr LEE for his questions. Let me say it this way: discussion in the community seems to suggest that we should move step by step towards the long-term goal of opening the electricity market. The Government has also been moving forward along this track. However, we adopt a gradual and orderly approach under which the first step is to consider the fuel mix for electricity generation. This may have an impact on the issues of concern raised by Members just now. As such, our first step is to proceed with this and observe the future long-term direction or consensus in our community regarding fuel mix for electricity generation. For the question raised by Mr LEE, from now to the end of 2015, we need to conduct an in-depth study on whether there will be major changes before the contracts of the two power companies expire in end 2018. Therefore*

it consists of two episodes. When the first episode of studying fuel mix is done, the abovementioned tasks will be carried out as the second episode.

On the question of whether power interconnection will be carried out, I have already replied just now. Our direction is to set the long-term objective of opening the market. Regarding the details of the interconnection, we should note that in order to achieve the four energy policy objectives, the most important may not be the means, but the options to be adopted, including the system. Reliability is important because Hong Kong is a high-density city full of high-rise buildings and our daily life relies very much on various electrical appliances. We must make sure a safe and reliable supply of energy under different fuel mix options. At the same time, all the four objectives should be given due consideration as we are increasingly concerned with environmental protection and affordability.

In answering Mr LEE's question, therefore, I would like to point out that we are also moving towards this direction in line with public opinions. However, the first step for the time being is to commence public consultation to discuss issues on fuel mix for electricity generation. Such issues will affect our further discussion on enhancing and changing our system in these two years.

**DR KENNETH CHAN** (in Cantonese): *President, I would like to ask Secretary WONG Kam-sing on the question of principle about nuclear energy. The Secretary has mentioned the Fukushima nuclear incident in his reply to Members' questions. My supplementary question is whether the Government still maintains its positive attitude towards nuclear power stated in 2010 Hong Kong's Climate Change Strategy and Action Agenda, which suggested that nuclear power is technically reliable and clean and Hong Kong should move towards increasing the proportion of nuclear power to account for 50% of the fuel mix. May the Government provide an in-principle reply regarding its attitude? It is stated in the main reply that "various sectors in the community had expressed different views on the application of nuclear energy". Then how is the reaction of the Government after the Fukushima nuclear incident?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): *President, I thank Dr Kenneth CHAN for his question on nuclear power. I guess we all understand that after the Fukushima nuclear incident, there have been different views towards*

nuclear power among regions and throughout the whole world. As mentioned just now, the Mainland Government has suspended the approval of some relevant projects, which was resumed only in the end of last year. Therefore, our consultation on future energy mix will also include the relevant discussion and the latest development which will provide the basis for public discussion.

In essence, a "50-40-10" package was recommended in the 2010 Action Agenda under which the proportion of nuclear power will be increased to account for 50% of the fuel mix, natural gas to be increased to 40% and coal to be reduced to 10%. I believe the public also expects to have more options and hence their aspirations should be responded. Apart from the "50-40-10" model, are there other options available for public discussion? On the one hand, this will help achieve the four energy policy objectives mentioned just now, and on the other hand, allow the community to make a decision after making various comparisons.

Dr CHAN's supplementary question is on our perspective on nuclear power safety. We will discuss and co-ordinate with the relevant Policy Bureaux in this regard. Basically, our view is to allow the community to carry out a more open discussion. The Mainland Government has already resumed the approval of relevant projects after review. There is also new inspiration in the Mainland and European countries such as the United Kingdom where the safety of nuclear power is not entirely negated in principle. Of course, the Hong Kong community will also examine the impacts or risks in this regard when different options are available. I believe that we should make objective discussion in the documents being drafted instead of evading these questions.

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

**DR KENNETH CHAN** (in Cantonese): *I do not quite understand the Secretary's reply. He has actually made a great detour by saying bunch of words. Does the Secretary mean that they have changed from a firm, proactive and positive attitude in the past to a retreated, reserved and doubtful attitude in dealing with the issue of nuclear power?*

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

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, we are still drafting the documents and I will give a simple response to Dr CHAN's supplementary question. In principle, we should not exclude any possibility. As I have just said, both the Mainland and advanced European countries have, after reviewing their situation, made progress in the future development of nuclear power while ensuring safety as their general direction. As such, when discussion is held in Hong Kong, we should bear in mind that the Mainland or even advanced countries have given their recognition in this aspect. Various options will be put forward for Hong Kong people to choose and to make a decision in the light of the local situation.

**MR WU CHI-WAI** (in Cantonese): *President, according to the papers submitted by the Government to the Legislative Council in 2003, the infrastructure in case of an interconnection between the two power companies will take 60 months. It is now 2013. The Government has pointed out in part (c) of the main reply that before 2016, market readiness should first be taken into account before the question of whether to carry out interconnection will be further considered.*

*May I ask whether this implies that the interconnection between the two power companies will not be included in the new franchise contracts of the two companies to be signed in 2018?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, I thank Mr WU Chi-wai for his question on the interconnection between the two power companies. Just now I have pointed out the future development when the existing contracts of the two power companies expire in 2018. We are now discussing the fuel mix of the two companies and will explore the way forward after two years. We will not exclude any possibility.

Having said that, we should understand that a lot of technical considerations are involved and more time is needed for the arrangement. I think it is most important to grasp the two coming opportunities by thoroughly studying the impacts of different options on the four energy policy objectives or principles. These include the technical feasibility of the interconnection

between the two power companies mentioned by Members, and the impact on these four overall energy policy objectives. I believe the community can make a decision only after thorough discussion, consideration and deliberation. Therefore, it should be done step by step.

**PRESIDENT** (in Cantonese): Mr WU, I know you are not quite dissatisfied with the Secretary's reply. However, as this Council has spent almost 24 minutes on this question, please follow up through other channels. Last question seeking an oral reply.

### **Impact of State Security Committee on Work of Hong Kong Government**

6. **DR KWOK KA-KI** (in Cantonese): *President, the Third Plenary Session of the 18th Central Committee of the Communist Party of China (CCCPC), which was concluded on the 12th of this month, decided to establish a State Security Committee (SSC). It has been reported that the purpose of establishing SSC is to "improve China's mechanism and strategy for state security, and to ensure national security". It has also been reported that members of SSC will include the heads of the Hong Kong and Macao Affairs Office of the State Council (HKMAO) and the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region (LOCPG). Regarding the impact of SSC on the work of the Government of Hong Kong, will the Government inform this Council:*

- (a) *when and through which channel it first learnt of the decision to establish SSC; whether the police and the Department of Justice will revise the existing law-enforcement and prosecution policies in response to the purpose of SSC; if they will, of the details; whether the Government will restart the work of enacting local legislation to implement Article 23 of the Basic Law; if it will, of the timetable and details;*
- (b) *whether it has assessed if, upon the establishment of SSC, there will be corresponding changes in the roles played by the HKMAO and the LOCPG in handling matters related to the relationship between the Central Authorities and the Hong Kong Special Administrative Region (HKSAR) in accordance with the Basic Law; if there will be*

*changes, of the details; whether it has studied if there is a legal basis for the HKMAO and the LOCPG to carry out tasks in Hong Kong in furtherance of the purpose of SSC; if there is a legal basis, of the details; and*

- (c) *as Article 22 of the Basic Law stipulates that all personnel of the departments of the Central Government shall abide by the laws of the HKSAR, whether the Government has made enquiries with the Central Authorities to see if SSC personnel will carry out activities in Hong Kong, including handling matters related to the Occupy Central movement, in order to ensure that they abide by the laws of the HKSAR; if they will carry out activities, of the legal basis, and whether the authorities have assessed if such a practice will violate the policy of "one country, two systems" and the principle of "Hong Kong people ruling Hong Kong" and "a high degree of autonomy" being implemented in Hong Kong?*

**SECRETARY FOR SECURITY** (in Cantonese): President, since the establishment of the HKSAR, the Central Authorities have been acting strictly in accordance with the fundamental policies of "one country, two systems", Hong Kong people ruling Hong Kong", "a high degree of autonomy" and the provisions of the Basic Law in supporting the Chief Executive and the HKSAR Government in administering Hong Kong in accordance with the law, with a view to maintaining the prosperity and stability of Hong Kong.

We note that The Third Plenary Session of the 18th CCCPC held earlier announced the establishment of the National Security Commission (NSC). Since information about NSC available is very limited, the HKSAR Government will not comment on speculations or reports that are not based on facts.

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

- (a) The Central Government and the HKSAR Government have all along been acting strictly in accordance with the Basic Law. Article 14 of the Basic Law provides that the Government of the Hong Kong Special Administrative Region shall be responsible for the maintenance of public order in the Region. The Third Plenary

Session of the 18th CCCPC is to deal with matters of national level, and should not be confused with internal security upheld by the HKSAR Government in accordance with the law.

Hong Kong is ruled by law. The police will continue to take enforcement action in a fair, just and impartial manner in accordance with the laws of Hong Kong, so as to maintain public order and public safety of Hong Kong.

Regarding criminal prosecution, Article 63 of the Basic Law provides that the Department of Justice "shall control criminal prosecutions, free from any interference". That constitutional guarantee of independence ensures that prosecutors within the Department may act independently according to the law without political or any other undue influence.

There has not been any change to the current term of HKSAR Government's stance on the legislative exercise of Basic Law Article 23 (BL23). The HKSAR has a constitutional duty to enact laws in accordance with BL23 to protect national security. However, the current priorities of the HKSAR Government are to deal with the various social and livelihood issues. The Administration understands the community's concerns over the BL23 legislative exercise. When the legislative exercise is to be taken forward, the HKSAR Government will fully consult the community in order to achieve a broad-based consensus on the legislative proposals. Any legislative proposals to be drawn up will be consistent with the relevant provisions of the Basic Law and the related international conventions protecting our various rights and freedoms.

(b) and (c)

Article 22 of the Basic Law provides that "No department of the Central People's Government and no province, autonomous region, or municipality directly under the Central Government may interfere in the affairs which the Hong Kong Special Administrative Region administers on its own in accordance with this Law. If there is a need for departments of the Central Government, or for provinces,



autonomous regions, or municipalities directly under the Central Government to set up offices in the Hong Kong Special Administrative Region, they must obtain the consent of the government of the Region and the approval of the Central People's Government. All offices set up in the Hong Kong Special Administrative Region by departments of the Central Government, or by provinces, autonomous regions, or municipalities directly under the Central Government, and the personnel of these offices shall abide by the laws of the Region."

The above provision of the Basic Law states clearly that the Central Government (CG) offices and their personnel shall abide by the laws of the HKSAR. Hong Kong is ruled by law and everyone is equal before the law. In fact, the CG offices and their personnel have been exemplary in abiding by the laws of the HKSAR.

The HKSAR Government has all along been maintaining connections with the Central Authorities and other Mainland departments in accordance with the Basic Law and the principle of "one country, two systems", and is required to contact or communicate with relevant officials from time to time.

The law-enforcement authorities of the HKSAR and the Mainland respect each other's jurisdiction. Neither of them is subordinate to the other. Neither of them interferes the jurisdiction of the other. Under no circumstances can law-enforcement officers take enforcement actions in the territory of the other. Law enforcement can only be undertaken by law-enforcement authorities of that territory in accordance with the local law.

The Administration respects the freedom and right of procession and peaceful assembly which are enjoyed by Hong Kong residents under the Basic Law and the Hong Kong Bill of Rights Ordinance. The Administration is concerned about Occupy Central initiated by some members of the community and the possible illegal acts associated. There are also concerns from many organizations and individuals over the impact of Occupy Central on the community.

President, I have to reiterate that when expressing their aspirations, participants of public meetings, demonstrations or processions

should, under the premise of observing the laws of Hong Kong, conduct such activities in a peaceful and orderly manner without breaching public order or adopting any act of violence. The police will formulate and take appropriate measures to facilitate the smooth conduct of lawful and peaceful public meetings and processions on one hand, while on the other, minimizing the impact of such events on members of the public and road users, as well as ensuring public order and public safety.

**DR KWOK KA-KI** (in Cantonese): *President, I am not sure if the Secretary is the Secretary for Security in Mars. He said earlier that the SAR Government would act in accordance with the laws of Hong Kong. However, Members may remember that core security zones were established by the police without legal justifications when Mr LI Keqiang, then Vice Premier, visited Hong Kong. In addition, Members may probably not forget that in the process of granting free television licenses, officials of the LOCPC had telephoned some Members of the Legislative Council and openly challenged Article 22 of the Basic Law. The Secretary was not telling the truth.*

*President, my supplementary question is: If the purpose of setting up the NSC is to "ensure national security", will the SAR Government, on the basis of such principle, allow the NSC, upon its establishment, to get involved behind the scene or blatantly, or even interfere with the law-enforcement work of the SAR, particularly in dealing with ... as Members may have noticed, President, they have been smearing the Occupy Central movement, describing it as an illegal activity, so as to justify their action against it, or they may enact legislation to implement Article 23 of the Basic Law.*

**SECRETARY FOR SECURITY** (in Cantonese): *President, I do not agree with Dr KWOK's allegation that I was not telling the truth in my main reply. Everything I said are true facts with legal backing. As stipulated by Article 22 of the Basic Law, the law-enforcement authorities of the HKSAR and the Mainland have all along respected each other's jurisdiction. Neither of them is subordinate to the other. Neither of them interferes the jurisdiction of the other. Under no circumstances can law-enforcement officers take enforcement actions in the territory of the other. Anyone shall abide by the laws of the HKSAR, no matter who he or she is.*

Dr KWOK mentioned the issue of granting free television licenses just now. As far as I remember, the Secretary for Constitutional and Mainland Affairs has already given his reply in the Legislative Council earlier. Therefore, I shall not repeat now.

**MR CHRISTOPHER CHUNG** (in Cantonese): *President, as the saying goes, "If you have a clear conscience all your life, you need not fear a knock at the door at midnight." Are Members afraid of the NSC? Have they done many things that are detrimental to the country and therefore do not have a clear conscience?*

*President, Hong Kong is part of China. Earlier, SNOWDEN, a special agent of the United States, disclosed in Hong Kong that the Government of the United States has been illegally stealing information from the Hong Kong Government. Will the Government inform this Council whether the NSC can, upon its establishment, stop foreign powers or their agents from betraying the interests of Hong Kong and the country? Has the Government made any assessment in this connection? Can the NSC protect the interests of Hong Kong from being jeopardized?*

**SECRETARY FOR SECURITY** (in Cantonese): President, according to the relevant provisions of the Basic Law, the SAR Government shall be responsible for maintaining public order in Hong Kong. This task has all along been the responsibility and commitment of the disciplinary forces of Hong Kong.

Take anti-terrorism as an example. We have been maintaining contacts with many overseas law-enforcement authorities and have made timely exchanges of intelligence. Therefore, irrespective of whether the NSC will be established or not, we will be fully committed to maintaining public order and security in Hong Kong. Our disciplinary forces have the ability, determination and experience to carry out such duties properly.

**MR JAMES TO** (in Cantonese): *President, the extreme opinions propagated by some colleagues may actually cause instability to the country indirectly. The Secretary said that information about the NSC available was very limited.*

*However, given the limited information, can the Secretary confirm that NSC will not play any role in the impending consultation on constitutional reform, particularly in vetting the candidates in the election of the Chief Executive? I ask this question because Mr LI Fei, an official of the Central Authorities, said during his recent visit to Hong Kong that the Central Authorities would not accept anyone who confronted the Central Government as the Chief Executive. Given the limited information, can the Secretary confirm that the NSC will not screen candidates?*

**SECRETARY FOR SECURITY** (in Cantonese): President, we are also aware that different press reports have speculated and commented on the establishment and functions of the NSC. As such speculations and comments were made without any factual basis, we will not respond to such comments.

Mr TO has raised a question on constitutional reform just now. According to the information available to us, I cannot see how that will be affected in any special way.

**DR LAM TAI-FAI** (in Cantonese): *President, as our country becomes stronger and rises to power through peaceful means, many countries and regions have become jealous and are worried that they will be taken over or greatly surpassed by China. Therefore, these countries have, by hook or by crook, tried to hinder the development of China, causing it to become insecure and divided. I understand that the establishment of the NSC is part of the macro strategic planning of China and since Hong Kong is part of China, it is only natural that it will be protected by the Motherland. If Hong Kong is not included under the scope of work of the NSC, we would feel very insecure and worry whether we have been abandoned and become "orphans". Therefore, those who have tried earlier to relate the NSC with the Occupy Central movement or even the Chief Executive election are thinking in an arrogant, self-important and narrow-minded way ...*

**PRESIDENT** (in Cantonese): Dr LAM, please ask your supplementary question.

**DR LAM TAI-FAI** (in Cantonese): *President, my supplementary question is very simple. I would like to ask the Government: According to what the Secretary knows or has been informed, to what extent will the scope of work of the NSC be related to the security of Hong Kong? I hope the Secretary will make use of this opportunity to provide more details so that Members will better understand the situation and feel more secure.*

**SECRETARY FOR SECURITY** (in Cantonese): President, perhaps let me quote from the speech made by President XI in the Third Plenary Session of the CCCPC as reported by the XinhuaNet, "The National Security Commission is mainly responsible for formulating and implementing national security strategies, promoting the development of the rule of law in relation to national security, formulating directions and policies of national security and exploring ways to resolve any major national security issues". Institutions similar to the NSC are commonplace and many countries all over the world have set up similar organization. It is not a novel institution.

As far as public order and security in Hong Kong are concerned, the Security Bureau is well aware that they are the responsibilities of the SAR Government according to the relevant provisions in Article 14 of the Basic Law. The legal and judicial systems of Hong Kong are well-developed and members of the public and the Government have to abide by the laws. In this way, the rule of law as well as the stability and prosperity of Hong Kong have been safeguarded to a very large extent. Certainly, we also know that maintenance of the law and order in Hong Kong has not come by easily. The law-enforcement authorities have remained vigilant at all times and have been maintaining close contacts with law-enforcement authorities overseas, exchanging intelligence and assessing the situations as they arise. Our disciplinary forces are responsible for maintaining public order in Hong Kong. We have full confidence in them and they certainly have the ability to take decisive actions in accordance with the law so as to maintain law and order in Hong Kong. The Hong Kong Police Force will continue to carry out the responsibility of maintaining law and order in Hong Kong in strict accordance with the laws of Hong Kong in a fair, just and impartial manner. Maintenance of the order in Hong Kong is, I believe ...

(Dr LAM Tai-fai stood up)

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

**DR LAM TAI-FAI** (in Cantonese): *President, the Secretary has obviously not answered my supplementary question.*

**PRESIDENT** (in Cantonese): Please repeat your supplementary question so that the Secretary can reply.

**DR LAM TAI-FAI** (in Cantonese): *My supplementary question is: According to what the Secretary knows or has been informed, to what extent will the scope of work of the NSC be related to the security of Hong Kong?*

**PRESIDENT** (in Cantonese): Secretary, Dr LAM is asking about the work of the NSC and not the work of the law-enforcement authorities of Hong Kong. Do you have anything to add?

**SECRETARY FOR SECURITY** (in Cantonese): President, as I have pointed out in my main reply, information about the NSC available is very limited. However, I can tell Members that we have all along been handling the internal affairs of Hong Kong properly in accordance with the Basic Law and Members can rest assured.

**MR WONG KWOK-KIN** (in Cantonese): *President, as the saying goes, "one should not blow his own trumpet", but some people in Hong Kong are just pompous. The establishment of NSC is apparently a major policy at the national level, but these people seem to think that it is established for the sole purpose of taking actions against Hong Kong. A Member has made a fuss and asked whether the NSC would take actions against the Occupy Central movement and the Secretary has also made a fuss in giving a response on the movement. Therefore, I want to ask the Secretary whether the Security Bureau considers that the Occupy Central movement will endanger national security; or whether Members also consider that the Occupy Central movement will endanger national*

*security, and thus they asked the Secretary if the NSC would take any actions against the movement.*

**SECRETARY FOR SECURITY** (in Cantonese): President, I mentioned the Occupy Central movement because it has been particularly mentioned in the question raised by the Member. I only mentioned it in response to that particular point.

Maintaining public order in Hong Kong is the responsibility of the Hong Kong Police Force. We definitely have the ability, confidence and experience to handle any internal affairs of Hong Kong. Therefore, there is absolutely no need and unnecessary for us to seek help from any place outside Hong Kong. We can certainly handle things properly on our own.

Many people in the community are concerned about the Occupy Central movement, but I agree with Mr WONG that it can be regarded as totally irrelevant to what has been mentioned in the main reply today.

**MR LEE CHEUK-YAN** (in Cantonese): *As Mr Christopher CHUNG said, "If you have a clear conscience all your life, you need not fear a knock at the door at midnight". What is XI Jinping afraid of? Is he afraid of the people and hence has to establish the NSC? Therefore, we should ask what the Central Government is afraid of. It seems that Dr LAM Tai-fai is very worried that Hong Kong might not be included under the scope of work of NSC. I would like to ask the Secretary: After the NSC has been established, does it mean that we need not enact legislation to implement Article 23 of the Basic Law because the NSC will actually carry out national security duties in Hong Kong? Will Dr LAM Tai-fai be rest assured then? Furthermore, the Secretary could not answer Dr LAM Tai-fai's question. Perhaps he really does not know the answer. My supplementary question is: Does the Secretary know whether the NSC will comprise personnel of the HKMAO and the LOCPG? If it will, will the notion of national security and the relevant laws be forced upon Hong Kong and implemented by the SAR Government? If you say you do not know at this moment, it will be too late to respond when you are asked to do so in future. Therefore, will you ...*

**PRESIDENT** (in Cantonese): Mr LEE, if you have asked your supplementary question, please sit down.

**SECRETARY FOR SECURITY** (in Cantonese): Mr LEE has expressed many opinions. First of all, I would like to respond to one point which he has raised and that is, it has been reported that the membership of the NSC will include personnel of the HKMAO and the LOCPG. In an article in one Hong Kong newspaper, the writer started off with the words "It has been reported" and went on in great length. I would like to point out that first, we will not comment on such matters. Second, as the article has not provided any supporting facts, the contents can be regarded as speculative. The stance of the SAR Government on Article 23 has been clearly stated in my main reply and I shall not repeat.

**MR LEE CHEUK-YAN** (in Cantonese): *President, he has not answered my supplementary question. I have directly asked him whether the membership will include personnel of the HKMAO and the LOCPG, but he only told us it was so reported and that the report was speculative. I will ask him now whether it will actually ...*

**PRESIDENT** (in Cantonese): Mr LEE, you have not raised your supplementary question directly just now. Secretary, on the question of whether the membership of the NSC will include personnel of the two institutions mentioned by Mr LEE, will you reply?

**SECRETARY FOR SECURITY** (in Cantonese): President, information about the NSC available is very limited. Therefore, we will not comment on speculations or reports which are not supported by facts.

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



**WRITTEN ANSWERS TO QUESTIONS****Assistance for Operators of Money Changers to Open Bank Accounts**

7. **MR CHAN HAN-PAN** (in Chinese): *President, recently, I have received requests for assistance from the operators of money changers holding licences issued by the Commissioner of Customs and Excise to operate money changing service (licensed MCs). They indicated that some banks had refused to open bank accounts for their MCs, causing great difficulties and inconvenience to their businesses. In this connection, will the Government inform this Council:*

- (a) *of the current number of licensed MCs in Hong Kong and the measures currently undertaken by the Customs and Excise Department (C&ED) to monitor the compliance with the licensing requirements by the operators concerned;*
- (b) *whether it knows the number of licensed MCs which have accounts with banks in Hong Kong; if no such information is available, whether it will compile such statistics;*
- (c) *whether the authorities had, in the past three years, received complaints or requests for assistance from the operators of licensed MCs in respect of their being unable to open accounts with banks; if so, of the details; and*
- (d) *of the mechanisms the Hong Kong Monetary Authority (HKMA) has in place and the measures it has taken at present to help the operators of licensed MCs to open bank accounts and to receive related complaints?*

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

- (a) Pursuant to the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (Cap. 615) (AMLO) which came into operation on 1 April 2012, any person who seeks to operate a money changing or remittance service as a business is

required to apply to the Commissioner of Customs and Excise for a money service operator (MSO) licence. A licensee is required to apply for a renewal of the licence every two years.

According to the records of the C&ED as on 31 October 2013, there were 1 152 licensed MSOs in Hong Kong. Of which, 899 operated both remittance and money changing services, 211 a remittance service only and 42 a money changing service only.

The C&ED will assess whether a licence applicant is fit and proper to be licensed to operate a money service. It will also monitor licensees' implementation of customer due diligence and record-keeping requirements and compliance with other licensing conditions on a continuous basis, as well as combat any unlicensed money service operation. To ensure that licensed MSOs comply with the requirements stipulated in the AMLO, the C&ED will conduct, on a regular basis, compliance inspections. These include interviewing licensees by appointment, performing on-site examination, requiring regular reports from licensees, and monitoring licensees' implementation of relevant regulatory measures as required under the AMLO.

In addition, during compliance inspections, the C&ED will verify whether licensed MSOs have put in place appropriate internal control mechanisms, and whether they have complied with the requirement prohibiting maintenance of any anonymous account for a customer as well as other relevant statutory requirements. If a licensed MSO fails to comply with the statutory requirements, the C&ED may take disciplinary actions or refer the case to the Department of Justice to consider bringing criminal prosecutions, in accordance with the AMLO.

- (b) According to the information provided to the C&ED by the applicants for MSO licences and the licensees, as well as the results of compliance inspections conducted by the C&ED, all 1 152 existing licensed MSOs have opened at least one account with a bank in Hong Kong.

- (c) Over the past three years, the C&ED and the HKMA have received three written submissions or complaints from MSOs regarding the difficulties in opening accounts with banks or closure of accounts by banks.

Based on the records of the C&ED as on 31 October 2013, it had received reports from a total of 164 licensed MSOs (which would usually have opened accounts with a number of banks) claiming that some of their business accounts were cancelled by individual banks. About six banks were involved, and around 560 such accounts in total were cancelled.

- (d) It essentially is a commercial decision of banks to consider whether or not to establish new business relationships or maintain existing business relationships with particular clients. We understand that the banking sector provides banking services for MSOs after evaluating these clients and fulfilling the relevant customer due diligence requirements under the AMLO. It is the responsibility of banks to exercise due diligence in managing their business risks to combat suspected money laundering or terrorist financing transactions in accordance with the AMLO.

When a bank decides to terminate its existing business relationship with a client, it should, in compliance with the Code of Banking Practice endorsed by the HKMA, give the client a reasonable period of notice before closing its accounts. The HKMA also expects banks to act reasonably and communicate with the clients concerned about the reason of any such decisions.

As the AMLO covers various financial sectors, the Administration and the regulators will continue to liaise with the sectors concerned to implement the statutory regulatory requirements to enhance our anti-money laundering and counter-terrorist financing regime. We will continue to listen to the views of these sectors on the implementation of the AMLO, and ensure effective enforcement of the regulatory requirements, without undermining Hong Kong's commitment to fulfilling our international obligations.

**Tenancy Arrangements for Logistics Sites**

8. **MR FRANKIE YICK** (in Chinese): *President, some members of the logistics industry have relayed to me that the Government's current practice of leasing out logistics sites on short-term tenancies (STTs) (not more than three years) by way of tendering is not conducive to the development of the industry. These people have pointed out that many tenancies are on a fixed term of one year only, and although the tenancies thereafter may be extended on a quarterly or monthly basis, the rents will usually be raised substantially. However, lessees of logistics sites (especially those used as open storage areas or container yards) need to invest heavily on site formation, development of infrastructures and purchase of operation tools and equipment before they can do business. Since the term of the tenancies is fixed at one year only, the lessees often find it difficult to recoup the costs on infrastructures; and upon the expiry of the tenancy term, once they are informed that the tenancies will not be extended, they must move out of the sites within one month, but they find it difficult to find suitable sites for relocation in such a hasty manner. In this connection, will the Government inform this Council:*

- (a) *of the following information on each logistics site leased out on a STT in the past five years (set out in table form):*
  - (i) *site location;*
  - (ii) *land use;*
  - (iii) *site area;*
  - (iv) *the date on which the existing lessee was first granted the tenancy, and the cumulative duration of the tenancy to date; and*
  - (v) *the commencement date and fixed term of each tenancy, and the rate of rent increase (%) as compared to the preceding tenancy, as well as the reasons for termination of tenancy (if applicable);*
- (b) *whether the authorities will consider leasing out logistics sites on a longer fixed term (for example, five to seven years) so that the*

*lessees can have the opportunities to recoup the costs on infrastructure investment; if they will, of the details; if not, the measures put in place by the authorities to reduce the financial loss suffered by the lessees due to non-renewal of STTs; whether they will, in re-tendering a logistic site, consider giving priority to the former lessee who has invested substantially on that site in leasing the site, and determining the new rent based on the rent of the former tenancy adjusted by the cumulative inflation rate, instead of determining the new rent in accordance with the change in land value of the sites nearby; and*

- (c) *of the details of the logistics sites to be leased out by the authorities on STTs in the coming three years, and set out the information in the following table?*

<i>Expected commencement date of the tenancy</i>	<i>Location</i>	<i>Land use</i>	<i>Area</i>	<i>Tenancy term</i>	<i>Anticipated rent</i>

**SECRETARY FOR TRANSPORT AND HOUSING** (in Chinese): President, the port back-up and logistics sites made available by the Government are mainly in the Kwai Tsing District in order to provide direct support to the operation of the Kwai Tsing Container Terminals. Up to now, the Government has provided over 100 hectares of STT sites in Kwai Tsing for uses including container storage, cargo handling and container vehicle parking. Over the years, these port back-up sites have been released through STT to maintain flexibility in land use so as to cope with the latest operational needs of the port/logistics industries. The STT arrangements also allow small and medium enterprises interested in running related business to bid for suitable STT sites at different times.

The Lands Department (LandsD) leases the sites through open tender in line with the principle of fair competition. When determining the fixed term of the STT concerned, the LandsD will consider factors such as the proposed use and its nature of operation, and whether the Government needs to allow flexibility for the land to be used shortly for other purposes. Information including the term of tenancy will be explicitly listed out in the tender document. People or corporations who are interested in operating port back-up business may, having

regard to their business considerations and in accordance with the terms of the land and its STT open for tender from time to time, bid the land concerned by means of tender.

Currently, the fixed term of STT granted through open tender for logistics use is three years in general. When the three-year fixed term expires, the District Lands Office (DLO) will arrange for re-tendering of the site if the site does not need to be used for other purposes in the short term. The existing lessee and other parties who are interested in the site may take part in the tender exercise. If the site is not suitable for re-tendering in cases where, for example, the land needs to be used for other purposes in the near future, its tenancy will be renewed according to the terms concerned, normally on a quarterly basis.

The logistics industry has commented that STT with a fixed term of only three years is unable to meet their operational needs. In view of their comments, the Transport and Housing Bureau has requested the LandsD that when they handle STT sites for port back-up and logistics uses in Kwai Tsing, they should consider increasing the fixed term from three years to five years for the container storage and cargo handling sites when such sites are re-tendered and where the circumstances permit (such as where the sites are suitable for a longer STT use). The tenancy of four STT sites, involving about 6.6 hectares of land, has now been increased to five years<sup>(1)</sup>.

On rent adjustment, the DLO concerned will, upon expiry of the three-year fixed term, assess the rent on the basis of the prevailing market rent and in accordance with the tenancy agreement and the existing applicable procedures. If the market rent assessed is higher than the existing rent, a notice of adjustment will be issued to the lessee. Generally speaking, when reviewing the rent of a STT, the DLO will use the market rent of the subject STT site as the benchmark and assess the new rent taking into account factors such as the prevailing comparable market rent; the use, location and size of the STT; and any special condition(s) and remaining term of the tenancy. If the lessee objects to the level of the adjusted rent, he/she can lodge an appeal to the DLO concerned. The lessee should set out their proposal on the rental level and provide justifications supplemented by rental assessment information to support the appeal. The DLO will process the appeal according to the established mechanism and inform the lessee of the outcome upon completion of the process. If the lessee does not

(1) One of the STTs has been terminated due to contravention of the tenancy terms by the lessee.

accept the rent as adjusted after an appeal, he/she can lodge an appeal again, and the DLO will refer the appeal, together with relevant justifications, to the Valuation Section of the LandsD for consideration.

Our reply to different parts of the question raised by Mr Frankie YICK is as follows:

- (a) With respect to the port back-up and logistics sites released by the Government which are concentrated in the Kwai Tsing District, detailed information on the STT of port back-up sites leased out over the past five years are provided at Annex.

(b) and (c)

On the term of tenancy, as mentioned above, the Transport and Housing Bureau has asked the LandsD to extend the fixed term of sites involving container storage and cargo handling in the Kwai Tsing District from three years to five years when circumstances allow in view of the logistics industry's comments. Moreover, the industry has recently raised with us a number of comments on the use and term of tenancy as well as the lease arrangement for the port back-up sites. Since the industry views are diversified, we will conduct a review with the LandsD and other relevant departments on the subject matters concerned. The review will look into better ways to manage and allocate the Kwai Tsing port back-up sites in the longer term in order that they can be more effectively used to support the operation of the Kwai Tsing Container Terminals. We will consult the industry on the outcome of the review and the recommended measures. During the review, we will maintain the *status quo* of the port back-up sites as far as possible.

When conducting the review, we will consider the views and suggestions put forward by the industry, including the feasibility of suggestions mentioned in Mr YICK's question, that is, to extend the tenancy term to seven years, to give priority to the former lessee who has made substantial investment to renew the tenancy and to calculate the rent based on cumulative inflation rate. On the suggestion to give priority to the former lessee who has made

substantial investment to renew the tenancy, the Government would have difficulties in verifying the amount of investment made. The suggestion may also affect fair competition by creating a barrier to new operators who are interested in submitting a tender. As such, there are practical implementation difficulties and the suggestion requires careful consideration. With respect to the suggestion on rent, it should be examined in the context of the Government's overall fiscal policy. Nevertheless, we will give careful and comprehensive consideration to all of the views when conducting the review.

Regarding Mr YICK's question on the detailed arrangements for releasing port back-up and related logistics sites in the next three years including their area, use and tenancy term, as explained above, the Government will conduct a review on the long-term arrangements for the management and allocation of port back-up sites in Kwai Tsing. The future arrangements will be subject to results of the review and consultation with the industry. Before the review is completed and the way forward determined, the Government will maintain the existing tenancy renewal arrangements through established mechanism. In other words, except for individual cases, the existing lease arrangements of STT sites in Kwai Tsing (see Annex) would be maintained in general.

Annex

Details of the Port Back-up Sites Leased on STT in Kwai Tsing District  
over the Past Five Years

<i>Initial award date</i>	<i>Number of STT and location</i>	<i>User</i>	<i>Area (sq m; about)</i>	<i>Accumulated term (Initial fixed term)</i>
August 2006	3622 (Tsing Yi Road, Tsing Yi)	- handling of cargoes - loading, unloading and storage of containers from land or sea - logistics and freight forwarding activities	102 000	7 years 3 months (7 years)



<i>Initial award date</i>	<i>Number of STT and location</i>	<i>User</i>	<i>Area (sq m; about)</i>	<i>Accumulated term (Initial fixed term)</i>
February 2007	3655 (Junction of Mei Ching Road and Container Port Road South, Kwai Chung)	- handling of cargoes - storage of containers - fee-paying public car-park - weigh-bridge	58 300	6 years 9 months (3 years)
March 2007	3646 (Container Port Road South, Kwai Chung)	- handling of cargoes - storage of containers - fee-paying public car-park - weigh-bridge - for the trade of receipt and despatch of delivery orders in relation to containers transportation	52 600	6 years 8 months (3 years)
April 2007	3648 (Container Port Road South, Kwai Chung)	- handling of cargoes - storage of containers - fee-paying public car-park - weigh-bridge - for the trade of receipt and despatch of delivery orders in relation to containers transportation	44 500	6 years 7 months (3 years)
September 2007	3677 (Mei Ching Road, Kwai Chung)	- handling of cargoes - storage of containers - fee-paying public car-park - weigh-bridge	41 300	6 years 2 months (3 years)
August 2008	3704 (Container Port Road South, Kwai Chung)	- handling of cargoes - storage of containers - fee-paying public car-park - weigh-bridge - vehicle repairing	14 500	5 years 3 months (3 years)
February 2009	3678 (Tsing Yi Hong Wan Road, Tsing Yi)	- handling of cargoes - storage of containers - weigh-bridge - for the trade of receipt and despatch of delivery orders in relation to containers transportation	13 200	4 years 9 months (3 years)

<i>Initial award date</i>	<i>Number of STT and location</i>	<i>User</i>	<i>Area (sq m; about)</i>	<i>Accumulated term (Initial fixed term)</i>
February 2009	3684 (Tsing Yi Road, Tsing Yi)	- handling of cargoes - storage of containers - weigh-bridge - for the trade of receipt and despatch of delivery orders in relation to containers transportation	12 500	4 years 9 months (3 years)
May 2009	3702 (Junction of Tsing Yi Road and Tsing Hung Road, Tsing Yi)	- handling of cargoes - storage of containers - for the trade of receipt and despatch of delivery orders in relation to containers transportation - vehicle repairing	23 000	4 years 6 months (3 years)
May 2009	3701 (Container Port Road South, Kwai Chung)	- fee-paying public car-park	31 600	4 years 6 months (1 year)
March 2010	3716 (Tsing Hung Road, Tsing Yi)	- fee-paying public car-park	17 900	3 years 8 months (1 year)
April 2010	3726 (Kwai Fuk Road, Kwai Chung)	- fee-paying public car-park	7 270	3 years 7 months (1 year)
May 2010	3713 (Ching Cheung Road, Kwai Chung)	- handling of cargoes - fee-paying public car-park - for the trade of receipt and despatch of delivery orders in relation to containers transportation	12 600	3 years 6 months (1 year)
June 2010	3717 (Tsing Yi Hong Wan Road, Tsing Yi)	- handling of cargoes - storage of containers - weigh-bridge - for the trade of receipt and despatch of delivery orders in relation to containers transportation	34 800	3 years 5 months (3 years)

<i>Initial award date</i>	<i>Number of STT and location</i>	<i>User</i>	<i>Area (sq m; about)</i>	<i>Accumulated term (Initial fixed term)</i>
June 2010	3674 (Junction of Tsing Yi Road and Tsing Yi Hong Wan Road, Tsing Yi)	- handling of cargoes - storage of containers - weigh-bridge - for the trade of receipt and despatch of delivery orders in relation to containers transportation	25 600	3 years 5 months (3 years)
August 2010	3748 (Kwai Fuk Road, Kwai Chung)	- fee-paying public car-park	3 500	3 years 3 months (1 year)
September 2010	3744 (Tat Yeung Road, Kwai Chung)	- handling of cargoes - storage of containers - fee-paying public car-park - weigh-bridge - for the trade of receipt and despatch of delivery orders in relation to containers transportation	12 800	3 years 2 months (1 year)
October 2010	3733 (Container Port Road South, Kwai Chung)	- for the trade of receipt and despatch of delivery orders in relation to containers transportation	1 100	3 years 1 month (3 years)
October 2010	3734 (Container Port Road, Kwai Chung)	- for the trade of receipt and despatch of delivery orders in relation to containers transportation	452	3 years 1 month (3 years)
January 2011	3741 (Sai Tso Wan Road, Tsing Yi)	- fee-paying public car-park	30 010	2 years 10 months (1 year)
February 2011	3706 (Container Port Road, Kwai Chung)	- fee-paying public car-park - vehicle repairing	27 000	2 years 9 months (1 year)

<i>Initial award date</i>	<i>Number of STT and location</i>	<i>User</i>	<i>Area (sq m; about)</i>	<i>Accumulated term (Initial fixed term)</i>
February 2011	3727 (Container Port Road South, Kwai Chung)	- handling of cargoes - storage of containers - fee-paying public car-park - weigh-bridge - for the trade of receipt and despatch of delivery orders in relation to containers transportation	11 000	2 years 9 months (1 year)
March 2011	3738 (Kwai Tsing Road, Kwai Chung)	- handling of cargoes - fee-paying public car-park	15 300	2 years 8 months (3 years)
April 2011	3753 (Tsing Yi Road, Tsing Yi)	- fee-paying public car-park	5 140	2 years 7 months (1 year)
April 2011	3758 (Junction of Tsing Yi Hong Wan Road and Tsing Ko Road, Tsing Yi)	- handling of cargoes - storage of containers - weigh-bridge - for the trade of receipt and despatch of delivery orders in relation to containers transportation	73 300	2 years 7 months (3 years)
June 2011	3778 (Sai Tso Wan Road, Tsing Yi)	- storage of cargoes - fee-paying public car-park - weigh-bridge - vehicle repairing	23 500	2 years 5 months (3 years)
August 2011	3750 (Kwai Hei Street, Kwai Chung)	- fee-paying public car-park	10 450	2 years 3 months (1 year)
September 2011	3751 (Tsing Keung Street, Tsing Yi)	- handling of cargoes - storage of containers - fee-paying public car-park - weigh-bridge - vehicle repairing	16 900	2 years 2 months (3 years)
October 2011	3756 (Tat Yeung Road, Kwai Chung)	- handling of cargoes - storage of containers - fee-paying public car-park - weigh-bridge	15 200	2 years 1 month (3 years)

<i>Initial award date</i>	<i>Number of STT and location</i>	<i>User</i>	<i>Area (sq m; about)</i>	<i>Accumulated term (Initial fixed term)</i>
January 2012	3757 (Container Port Road South, Kwai Chung)	- storage of cargoes - fee-paying public car-park - weigh-bridge	1 790	1 year 10 months (3 years)
February 2012	3776 (near Tsuen Tsing Interchange, Kwai Chung)	- fee-paying public car-park - weigh-bridge	33 800	1 year 9 months (1 year)
February 2012	3787 (Tsing Ko Road, Tsing Yi)	- handling of cargoes - storage of containers - fee-paying public car-park	10 600	1 year 9 months (3 years)
February 2012	3784 (Tsing Ko Road, Tsing Yi)	- handling of cargoes - storage of containers - fee-paying public car-park - weigh-bridge - for the trade of receipt and despatch of delivery orders in relation to containers transportation	66 200	1 year 9 months (3 years)
March 2012	3783 (Kwai Wo Street, Kwai Chung)	- handling of cargoes - storage of containers - fee-paying public car-park - vehicle repairing	23 700	1 year 8 months (3 years)
March 2012	3780 (Tsing Yi Road, Tsing Yi)	- handling of cargoes - storage of containers - weigh-bridge - for the trade of receipt and despatch of delivery orders in relation to containers transportation	7 910	1 year 8 months (5 years)
March 2012	3764 (Tsing Sheung Road, Tsing Yi)	- loading, unloading and storage of containers from land or sea - handling of cargoes - storage of cargoes - weigh-bridge	15 100	1 year 8 months (5 years)

<i>Initial award date</i>	<i>Number of STT and location</i>	<i>User</i>	<i>Area (sq m; about)</i>	<i>Accumulated term (Initial fixed term)</i>
April 2012	3782 (Container Port Road South, Kwai Chung)	- fee-paying public car-park	10 900	1 year 7 months (1 year)
June 2012	3789 (Shing Yiu Street, Kwai Chung)	- fee-paying public car-park	1 480	1 year 5 months (1 year)
July 2012	3765 (Ngong Wan Road, Kwai Chung)	- fee-paying public car-park - weigh-bridge - for the trade of receipt and despatch of delivery orders in relation to containers transportation - vehicle repairing	4 220	1 year 4 months (3 years)
October 2012	3788 (Junction of Container Port Road and Kwai Tai Road, Kwai Chung)	- fee-paying public car-park - open storage of licensed or unlicensed motor vehicles	3 090	1 year 1 month (1 year)
December 2012	3781 (Cheung Fai Road, Tsing Yi)	- loading, unloading and storage of containers from land or sea - handling of cargoes - storage of cargoes - weigh-bridge	12 800	11 months (5 years)
March 2013	3818 (Tsing Yi Hong Wan Road, Tsing Yi)	- fee-paying public car-park	17 600	8 months (1 year)
March 2013	3791 (Tsing Hung Road, Tsing Yi)	- fee-paying public car-park	13 500	8 months (1 year)
March 2013	3754 (Tat Yeung Road, Kwai Chung)	- fee-paying public car-park - vehicle repairing	9 120	8 months (1 year)

<i>Initial award date</i>	<i>Number of STT and location</i>	<i>User</i>	<i>Area (sq m; about)</i>	<i>Accumulated term (Initial fixed term)</i>
May 2013	3767 (Wing Kin Road, Kwai Chung)	- storage of cargoes	3 710	6 months (1 year)
June 2013	3795 (Junction of Kwai Tai Road and Container Port Road, Kwai Chung)	- fee-paying public car-park	2 520	5 months (1 year)
June 2013	3821 (Container Port Road South, Kwai Chung)	- fee-paying public car-park	17 200	5 months (1 year)
July 2013	3810 (Junction of Hing Fong Road and Tsuen Wan Road, Kwai Chung)	- fee-paying public car-park	4 600	4 months (1 year)
August 2013	3761 (Ngong Wan Road, Kwai Chung)	- handling of cargoes - storage of containers - weigh-bridge - fee-paying public car-park - for the trade of receipt and despatch of delivery orders in relation to containers transportation - vehicle repairing	10 400	3 months (3 years)

## Notes:

- (1) This table shows the existing STT of port back-up sites in Kwai Tsing District. Since the information on tenancy arrangements and rent adjustment of individual STTs involves individual lessees (that is, third party information), such information would not be released without the consent of individual lessees.
- (2) As for terminated tenancy, in general, the reasons for termination of tenancies include: (i) the site should be re-tendered according to mechanism; (ii) the site must be used for long-term development or other uses; and (iii) the lessee contravenes the tenancy terms such as not paying the rent.

**Alleged Environmental and Health Hazards Caused by a Factory in Fanling**

9. **MS EMILY LAU:** *President, I have received a request for assistance from villagers in Fanling who claimed that they had been affected for more than 20 years by the pollution and stench emitted from a lard boiling factory (the factory) in Tai Tong Wu Village. At least nine nearby villages were affected. The factory was built on Government land under Short Term Tenancy (STT) with permitted land use for cow bone crushing activities, but it switched to lard production. The villagers said that the factory's lard production gave off stench every day, causing headache, nausea and vomiting among residents of nearby villages and thus endangering their health. The villagers consider that both the Lands Department (LandsD) and the Environmental Protection Department (EPD) are to blame for the decade-long problem. Apart from sending several warning letters to the factory operator between 1992 and 2012, the LandsD had neither prosecuted the operator nor terminated its land lease for violating the permitted land use. Moreover, the EPD issued a specified process licence (the licence) to the factory operator in 1999, which was subsequently renewed for several times, and in 2011, the EPD extended the licence to April 2016. However, the LandsD, in its reply to the Legislative Council Secretariat in 2012, indicated that the EPD's Environmental Assessment Division had stated that it "does not support" the application for change of land use on account of factory's operation violating the Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites. Subsequently, the factory operator commissioned the Hong Kong Productivity Council (HKPC) to prepare an environmental assessment (EA) report for submission to the EPD in respect of its application for change of permitted land use from cow bone crushing to lard production. However, villagers said that the HKPC had sent their staff only twice to the neighbourhood of the factory to measure emissions when the factory emission was low and no odour was detected. They also said that while the standard practice of HKPC's staff was to measure emissions when a factory was running in "full load capacity", such staff of HKPC had to rely on the factory concerned to tell them what was the "best time" to go there for measurement. Until now, despite repeated requests from the villagers, the EPD has refused to disclose the EA report on the premise that the report is regarded as "third party information" under the Code on Access to Information (CoA). In this connection, will the executive authorities inform this Council:*

- (a) *as the EPD has pointed out that the aforesaid EA report is not a statutory report under the Environmental Impact Assessment Ordinance (Cap. 499), whether the EPD has considered this report*



*before giving comments to the LandsD on the aforesaid application by the factory operator for changing the permitted land use;*

- (b) whether the EPD has measured the levels of emissions, sewage and other pollutants from the factory; if so, of the findings;*
- (c) as the factory operator had been fined nine times for violating the Air Pollution Control Ordinance (Cap. 311) between 2000 and 2002, why the EPD still renewed the licence to the factory for several times;*
- (d) as the LandsD has stated that the EPD had "no objection" to the operator's application for changing the permitted land use under STT from cow bone crushing to lard production, of the justifications for the EPD making the "no objection" comment; whether, in view of the pollution and stench concerns expressed by the residents, the EPD will withdraw its "no objection" comment;*
- (e) as I was told that the EPD officials had said at a rural committee meeting held earlier this year that the EPD had reservations about the factory's application for changing the permitted land use under STT from cow bone crushing to lard production, whether such reservations still stand;*
- (f) as the villagers have told me that the aforesaid EA report is public information based on which the Government has made decisions affecting them, whether the EPD will make public the report; if so, when the EPD will do so; if not, of the justifications for that;*
- (g) given that The Ombudsman indicated in 2012 that the LandsD had failed to enforce the conditions in the land lease concerned and allowed the factory operator to violate the permitted land use, why the LandsD did not enforce the conditions in the land lease and terminate the STT for the factory; and*
- (h) whether the LandsD has decided to renew STT for the factory despite the evidence submitted by the villagers, The Ombudsman's report, and the opinion of the Environmental Assessment Division of the EPD?*

**SECRETARY FOR THE ENVIRONMENT:** President, the subject lard production factory has been in operation since the 1990s. It is located uphill to the north of Tai Tong Wu Village in Ta Kwu Ling, at a distance of about 160 m from the nearest village house cluster. Its operation involves cooking pig fat from local sources to produce lard and dried fat residue for export as animal and fish feed products. The factory is subject to the regulatory requirements of the pollution control legislation, including a licence for operating a specified process under the Air Pollution Control Ordinance and a wastewater discharge licence under the Water Pollution Control Ordinance. The factory has adopted a number of pollution control measures, including enclosure of the production area, installation of water scrubbing system and activated carbon filter for cleaning of the air emissions before discharge at the chimney, and the installation of a series of grease traps and septic tank for treatment of the washing wastewater for disposal at a soakaway pit within the site. Field inspections to the factory and the nearby village areas conducted by the EPD in the past months indicated that the factory operations and their pollution control measures were in line with the statutory requirements.

- (a) In connection with the renewal of STT for the factory site, the LandsD sought comments on the application from concerned government departments, including the EPD, in August 2012. The EPD pointed out that the factory vehicles using the existing village road might cause possible noise and dust problems and there was no assessment information to show that these problems would be properly managed. The factory commissioned a consultant HKPC to address the issues and submitted an EA report to the LandsD in support of their STT application in September 2013. The EA report demonstrated that with additional mitigation measure of restricting all factory vehicles to an alternative access road instead of going through the village, the factory vehicles would not cause unacceptable noise and dust impacts to the nearby residents. The EA report also presented monitoring and assessment results at the nearest sensitive receivers, which showed that the factory operation would comply with relevant environmental requirements. In addition, since our field inspections showed that the factory's operation complied with the pollution control legislation, the EPD advised the LandsD that the EPD had no objection to the STT application from the environmental perspective.

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- (b) The EA report submitted by the consultant HKPC included collection of field and measurement data. The EPD had carefully reviewed the EA report and was satisfied that the assessment conducted on the dust and noise impacts was professionally sound. The EPD did not conduct separate measurements.
- (c) Between 2000 and 2002, the factory operator was prosecuted nine times due to failure in meeting the air pollution control requirements of the Air Pollution Control Ordinance. Because of the EPD's enforcement actions, the factory operator had implemented pollution control measures to clean up its oily fume and odour emissions from the factory. Given the improvements made, the factory has been meeting the requirements under the Air Pollution Control Ordinance. Hence a Specified Process Licence was issued under the Ordinance in 2003 and renewed in subsequent years.
- (d) The response as provided in part (a) above.
- (e) As explained in part (a) above, the EPD had expressed reservations on the factory's STT application submitted in August 2012 because the factory vehicles might cause possible noise and dust problems and there was no assessment information to show that these problems would be properly managed. Since the EA report submitted to the LandsD in September 2013 had adequately addressed the issue, the EPD did not further object to the STT application from environmental perspective and advised the LandsD accordingly.
- (f) The EA report was prepared by the lard factory and submitted to the LandsD for purpose of the STT application. On the recent request from a villager to obtain a copy of the report under the CoA, the EPD is in the course of processing the request in accordance with the provisions of the CoA and will reply to the villager accordingly.
- (g) The STT was granted in 1983 for the purpose of a bone crushing factory. The LandsD issued a warning letter to the tenant in 1992 after discovering a breach of the user clause. The tenant, in response, submitted an application for modification of the STT as a

means of regularization. The tenant applied in parallel to the relevant authorities for planning approval, offensive trade licence and licences required under the Air Pollution Control Ordinance and Water Pollution Control Ordinance. In the meantime, local objections were received against the tenant's application for modification of the STT.

In the course of taking forward the application with regard to this particular case, departments concerned have specified various technical requirements and the tenant has been taking proactive actions to comply with these requirements. Having regard to such steps taken by the tenant, the LandsD has withheld for the time being further tenancy enforcement pending completion of the processing of the various other applications in relation to the operation of the established concerned.

The Ombudsman concluded in his findings in 2012 that there had been delay on the part of the LandsD in processing the regularization application, and urged the LandsD to liaise with the relevant departments to resolve the issues and reach a prompt decision on the regularization application. The LandsD agreed with The Ombudsman's findings and recommendations.

Subject to no further objection from departments concerned, the LandsD would continue to process the STT regularization application, and in the process take into consideration local views. Each case is considered on its own merit, and the LandsD will consider whether any objection raised is substantiated, and if so ensure that they are properly addressed. The application, if approved, would be subject to such terms and conditions as considered appropriate including payment of retrospective market rental for the user to be permitted under the STT. The tenant would also be clearly informed that the Government reserves the right to terminate the STT if the case is not rectified, or to refuse renewal if there is any further breach under the lease and/or other regimes.

- (h) Please refer to part (g).

**Supply of and Demand for International School Places**

10. **MR JEFFREY LAM** (in Chinese): *President, some members of the business sector have relayed to me that the shortage of international school places in the Hong Kong, in particular primary school places on Hong Kong Island and in Kowloon, has deterred quite a number of talents interested in developing their career in Hong Kong from doing so as they are worried of being unable to find suitable schools in Hong Kong for their children. In this connection, will the Government inform this Council:*

- (a) *whether it knows the average fill-up rate of international schools in Hong Kong in the past five years, the numbers of students waiting for admission to various international schools in Hong Kong at present and their longest waiting time;*
- (b) *although the Education Bureau has reportedly said that international school places are currently sufficient overall, given that the business sector has pointed out that places in international primary schools on Hong Kong Island and in Kowloon are particularly in short supply, whether the Government has studied if there is a problem of imbalance between the supply of and demand for school places in various districts; if there is such a problem, of the solution;*
- (c) *whether the Education Bureau has assessed if the children born to Mainland women whose spouses are not Hong Kong permanent residents (commonly known as "doubly non-permanent resident children") coming to Hong Kong for studies will aggravate the problem of insufficient international school places; if so, whether the authorities have studied corresponding solutions;*
- (d) *whether the authorities will consider expediting the vetting and approval of applications of school sponsoring bodies (SSBs) for conversion of vacant school premises into international schools, in order to solve the problem of insufficient international school places; if they will, of the details; if not, the reasons for that; and*

- (e) *apart from allocating vacant school premises to SSBs for opening and operating international schools, whether the Government has other measures to solve the problem of insufficient international school places; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR EDUCATION** (in Chinese): President, the Administration is committed to developing a vibrant international school sector mainly to meet the demand for international school places from overseas families living in Hong Kong and families coming to Hong Kong for work or investment. Our response to the five parts of the question is as follows:

- (a) Based on the annual student enrolment survey conducted by the Education Bureau, the average fill-up rate of schools operated by the English Schools Foundation (ESF) and private international schools from the 2008-2009 to 2012-2013 school years is 88.9%. According to the findings of a consultancy study completed at the end of last year, the number of students on the waiting lists for these schools places<sup>(1)</sup> were 3 918 at primary level and 452 at secondary level in the 2011-2012 school year. The number of students on the waiting lists of international schools may be over-reported as some schools did not take out the entries on the waiting list following the subsequent admission of students to other schools. Furthermore, some may apply for more than one school and their applications are covered by the waiting list of different schools. In view of the above, the number of students on the waiting list in the study has been adjusted to take into account the possible over-reporting. We are unable to provide the number of students on the waiting list of individual international schools. In addition, with reference to the Thematic Household Survey conducted by the Census and Statistics Department in 2011, of those studying in schools operated by the ESF, private international schools and private independent schools, over 70% had waited for less than six months from submission of application to successful admission to the school. We have not compiled statistics on the waiting time for admission to individual international schools.

(1) These include the provision of primary and secondary school places of the ESF schools, private international schools and private independent schools.

- (b) Provision of international school places to meet community demand is planned on a territory-wide basis. In view of the expansion plan of the business community, the increase in student population from overseas families coming to Hong Kong, the local demand for international school places, and the unmet demand as derived from the waiting list of international schools, it is projected under the findings of the abovementioned study that the demand for international school places will increase in the coming five years, resulting in a shortfall of around 4 200 primary places in the 2016-2017 school year.

Findings of the consultancy study show that, 54.3% of the international school places were on Hong Kong Island, 25.1% in Kowloon and 20.6% in the New Territories in the 2011-2012 school year. Despite the concentration of international school places on Hong Kong Island and in Kowloon, only 31.6% and 15.4% of the total international school student population resided respectively on Hong Kong Island and in Kowloon. The proportion of students residing in the New Territories (about 28.6%)<sup>(2)</sup> is higher than that enrolled in schools in the same area (around 20.6%). In other words, a number of students residing in the New Territories have to go to schools on Hong Kong Island or in Kowloon. In view of the above, developing international schools in the New Territories would address the above needs.

Furthermore, the study also finds that the majority of international schools considered that apart from the provision of capital loan for the construction of school premises and the allocation of greenfield sites/vacant school premises close to existing school premises on the Hong Kong Island, the allocation of greenfield sites/vacant school premises in the New Territories is more helpful than allocating greenfield sites/vacant school premises in Kowloon. Given that there are no greenfield sites available on Hong Kong Island for international school development, we will first proceed with the allocation of vacant school premises and greenfield sites in the New Territories in the coming school allocation exercise to increase the supply of international school places.

(2) The location of residence of the remaining students (around 25%) is unknown.

- (c) Demand for international school places projected in the abovementioned study is based on, amongst others, data collected from the Thematic Household Survey on provision of international school places. The Thematic Household Survey is a territory-wide survey. Children born in Hong Kong to Mainland women whose spouse are non-Hong Kong permanent residents are considered as local residents. The study did not separately assess the demand for international school places from this group of children.
- (d) One of our facilitation measures to support the development of the international school sector is to allocate vacant school premises to international school operators such that they can renovate the school premises for operation of international schools. We have allocated seven vacant school premises for the purpose of expansion or reprovisioning of existing international schools, or establishment of new international schools between the 2007-2008 and 2012-2013 school years. Of which, three vacant school premises were allocated in April this year. They are expected to provide 1 150 additional primary places and 210 secondary places by the 2016-2017 school year. We are now consulting the District Councils in respect of two vacant school premises in Tai Po and Southern District for international school development. Should we secure support from the District Councils, we target to launch an Expression of Interest exercise within this year.

On the other hand, processing applications for conversion of vacant school premises depends on a number of factors, including whether the school premises applied for are suitable and available for international school use, whether the plans for expansion or redevelopment require approval from other departments or authorities (such as the Town Planning Board, Buildings Department and Housing Department), whether the applications involve modifying the use of land or buildings as well as the views of the local community. We will continue to provide support and assistance on applications for using vacant school premises for international school development.

- (e) Based on findings of the consultancy study and our experience in implementing facilitation measures, we plan to implement various



measures in the next few years with a view to effectively addressing the shortage of international school places. Apart from allocating vacant school premises, we will also allocate greenfield sites for development of international schools, enlist support from international schools to better utilize their existing campuses and land to increase school places, and enhance online resources to facilitate expansion or redevelopment projects. In addition, we have written to international schools, appealing to them to utilize the maximum class size so as to ensure effective use of land resources and premises, to accord higher priority to children from overseas families who come to Hong Kong with their parents and to accept children from overseas families whose mother-tongue are not English. We also suggest international schools consider devising an allocation mechanism such that certain proportion of places in the schools would be earmarked for children whose parents are recruited or relocated from outside Hong Kong. We are now consulting relevant District Councils on the use of vacant school premises and greenfield sites in Sai Kung, Tai Po and Sothern districts for international school development. If the District Councils support our proposals, we target to launch an Expression of Interest exercise within this year.

### **Infertility Treatment Using Assisted Reproductive Technologies**

11. **PROF JOSEPH LEE** (in Chinese): *President, as stated in the consultation document on population policy released recently, to cope with the low birth rate situation in Hong Kong, the Government intends to explore various measures to encourage childbirth, including subsidizing treatment using assisted reproductive technologies. In this connection, will the Government inform this Council whether:*

- (a) *it knows the number of couples seeking assistance from infertility treatment service units in public hospitals, their age distribution, the number of such couples who received reproductive technology (RT) treatment, as well the success rate, waiting time and average unit cost of the treatment services concerned, in each of the past five years;*

- (b) *it has assessed the demand for RT treatment services in the coming 10 years; if it has, of the details; if not, whether it will conduct such an assessment;*
- (c) *it has assessed the expenditure required to enhance public hospitals' RT treatment services to meet the demand mentioned in part (b); if it has, of the details; if not, whether it will conduct such an assessment; and*
- (d) *it knows the current numbers of RT experts and relevant professionals in public hospitals; whether the authorities have assessed if there is adequate manpower at present to extend the said services to meet the demand mentioned in part (b); if the assessment result is in the negative, whether it will train up additional manpower; if it will, of the details?*

**SECRETARY FOR FOOD AND HEALTH** (in Chinese): President, under Hong Kong's public healthcare system, infertility treatment falls under the specialty of gynaecology. Couples with fertility issues should first approach the Hospital Authority (HA)'s General Out-patient Clinics, private medical practitioners or the Family Planning Association of Hong Kong. Where necessary, patients will be referred to HA's Gynaecology Specialist Out-patient Clinics (SOPC) to follow up.

My reply to Prof LEE's question is as follows:

- (a) The HA provides RT services at nine public hospitals<sup>(1)</sup> with gynaecology specialty for infertile couples under the age of 40 (for females aged below 40 only). Between October 2012 and September 2013, the waiting time for the first gynaecology SOPC consultation ranged from 23 to 129 weeks. The two local universities also offer private RT services at Queen Mary Hospital and Prince of Wales Hospital. Attending doctors provide treatments and referrals in accordance with individual patients' situations. As the HA's current statistics on SOPC patients do not provide further breakdown by reasons for seeking treatment, details

(1) They are: Pamela Youde Nethersole Eastern Hospital, Princess Margaret Hospital, Queen Elizabeth Hospital, Tseung Kwan O Hospital, Tuen Mun Hospital, United Christian Hospital, Kwong Wah Hospital, Prince of Wales Hospital and Queen Mary Hospital.

on the waiting time of couples seeking infertility treatment are not available.

In 2012, the HA conducted 1 632 government-subsidized and 1 827 private treatment cycles, involving 1 345 and 1 413 patients respectively<sup>(2)</sup>. The waiting time for government-subsidized treatments range from one to 18 months, depending on the types of treatment required. The HA cannot provide statistical figures for 2007 to 2011 owing to the complexity of the data collection process.

Regarding success rates, according to information released by the Council on Human Reproductive Technology, the total number of live births through RT procedures in Hong Kong was 1 231 in 2010. The overall success rates in terms of live birth were 20.4% for in-vitro fertilization (IVF) and 8.0% for artificial insemination by husband (AIH). A breakdown of the data by age is at Annex. The cost per SOPC attendance of the HA is about \$1,110. The HA is not able to provide the average unit cost for RT treatment. The fees for IVF service range from \$4,000 to \$12,000 per treatment cycle, mainly to cover drugs and laboratory costs.

(b) and (c)

It is difficult for the Administration to estimate demand for RT treatment as it depends on various factors including marriage rate, marriage age and childbearing tendency that are affected by economic and social changes. It is however envisaged that there will be an increase in demand in the coming 10 years *vis-a-vis* the trend of late marriage and rising number of people receiving RT treatments. The Administration will closely monitor community demand for RT services. Apart from strengthening the provision of RT services in the public sector, we will disseminate more information about local RT services through the HA, the Department of Health, the Council on Human Reproductive Technology and other relevant organizations, as well as encourage couples to start family planning early and to seek medical help promptly as necessary.

(2) Couples may receive more than one treatment cycle/type of treatment.

- (d) Specialists in obstetrics and gynaecology can perform intrauterine RT treatments for female patients, while IVF procedures are performed by Subspecialists in Reproductive Medicine. At present, there are nine Subspecialists in Reproductive Medicine and 15 embryologists providing RT services at HA's hospitals.

The Administration will keep in view community demands for RT services and enhance public RT services through training more specialists and procuring additional equipment and facilities. The Administration will also review the current level of fees to make the services accessible to more couples in need.

Annex

Live birth rate of RT treatment by age in 2010

<i>Age of female treated</i>	<i>Live birth rate (live birth/treatment cycle)</i>	
	<i>IVF</i>	<i>AIH</i>
18-20	*100.0% (1/1)	NIL
21-25	*20.0% (4/20)	*7.7% (2/26)
26-30	33.5% (77/230)	11.8% (49/417)
31-35	29.3% (316/1 078)	10.2% (210/2 061)
36-40	20.9% (378/1 806)	6.7% (141/2 114)
41-45	5.3% (43/811)	1.8% (8/457)
46-50	2.9% (2/70)	0% (0/50)
Total	20.4% (821/4 016)	8% (410/5 125)

Note:

- \* The live birth rate is of limited reference value due to the small number of treatment cycles.

## Provision of Columbarium Facilities

12. **DR LAM TAI-FAI** (in Chinese): *President, with an ageing population in Hong Kong, it is anticipated that the demand for columbarium niches will continue to increase. The Government has identified 24 potential sites across the 18 districts of the territory for columbarium development to meet the demand. Moreover, the Private Columbaria Bill (the Bill) to be introduced by the Government into the Legislative Council in the second quarter of next year will propose a statutory licensing scheme for private columbaria. On the other hand, it has been reported that some unauthorized private columbaria have illegally occupied Government land for many years. Despite the long expiry of the deadlines specified in the removal orders issued by the Government, the Government has procrastinated in taking law-enforcement actions, causing dissatisfaction among the local residents. In this connection, will the Government inform this Council:*

- (a) *of the respective numbers of niches currently provided by all public and private columbarium facilities in Hong Kong, broken down by District Council (DC) district;*
- (b) *whether it has projected the demand for columbarium niches as well as the number of niches that can be provided by public and private columbarium facilities in the territory in the coming five years; if it has, of a breakdown of such numbers by DC district; if not, the reasons for that;*
- (c) *of the current total number of columbaria which are illegally occupying Government land, or are operated illegally in private, commercial and industrial buildings, as well as the number of niches provided by such columbaria, broken down by DC district; the respective numbers of law-enforcement actions taken and removal orders issued by the authorities against such illegal columbaria in each of the past three years; the grace period generally given in such removal orders, and the number of illegal columbaria cleared in compliance with the removal orders;*
- (d) *of the respective numbers of niches expected to be provided by the columbarium facilities to be developed at the aforesaid 24 potential sites as well as their completion timetables, broken down by DC district;*

- (e) *given that by 2041, according to the consultation document on population policy recently published by the Government, about one in three persons of Hong Kong's population will be aged 65 or above, of the number of years that the authorities anticipate the needs can be met by the existing niches and those under planning, and whether such niches will be able to meet the demand arising from the ageing population;*
- (f) *of the conditions to be met by the 96 private columbaria (the number as at September this year) listed in Part B of the Government's Information on Private Columbaria (that is, those columbaria that do not fall under Part A which sets out the columbaria that are "compliant with the user restrictions in the land leases and the statutory town planning requirements and are not illegally occupying government land") for them to be allowed by the Government to operate legally;*
- (g) *as the demand for niches is very keen, whether the Government will regulate the prices of private niches to prevent speculative activities; if it will, of the details; if not, the reasons for that;*
- (h) *whether the authorities will consider granting exemption from compliance with the new licensing scheme to those private columbaria which meet certain conditions (such as being operated by charitable organizations, funeral parlours or undertakers, or providing niches up to a certain specified number, or having been operated for a long period of time); if they will, of the details; if not, the reasons for that;*
- (i) *as the authorities have, in response to some private columbaria offering members of the public guarantees for "full refund" or "replacement niches", reminded the public that "they should pay due attention to the risks inherent in purchasing niches from columbaria that do not comply with the relevant statutory and Government requirements. Members of the public are advised to make enquiries with the operators concerning the details of any guarantee, and how such guarantees would be honoured", whether the authorities have taken law-enforcement actions against such columbaria that do not comply with the relevant statutory requirements so as to avoid*

*members of the public from being misled into believing their guarantees; if they have, of the details; if not, the reasons for that;*

- (j) as the authorities have indicated that they will actively explore various new measures, including (i) the designation of different worship periods for different blocks of niches so as to divert traffic and visitor flows; and (ii) the introduction of time-limited occupation of new niches, with post-occupation re-use through renewal or re-allocation, so as to increase the supply of niches, whether the authorities have conducted any feasibility study on such measures; if they have, of the details, and if the outcome of such study is that they are feasible, of the anticipated implementation time; if they have not conducted such study, the reasons for that;*
- (k) as I have learnt that some members of the Sha Tin DC have demanded that when the authorities implement the construction of public columbarium facilities on the two selected sites in Sha Tin, they should at the same time make improvements to the ancillary transport facilities of the district, whether the authorities will accede to such demand; if they will, of the details and timetable; if not, the reasons for that; and*
- (l) as the Government is conducting a feasibility study on the project for the construction of a public columbarium facility on the selected site in Tai Po, of the latest progress of the study, and whether it has assessed the difficulties it may encounter?*

**SECRETARY FOR FOOD AND HEALTH** (in Chinese): President, the Legislative Council Panel on Food Safety and Environmental Hygiene (the Panel) discussed the paper submitted by the Food and Health Bureau at the meeting held on 19 November 2013 on issues relating to the regulation of private columbaria and the supply of public niches.

My reply to the question raised by the Member is as follows:

- (a) Currently, there are about 213 300 niches in the eight public columbaria under the management of the Food and Environmental Hygiene Department (FEHD). Most of the niches have been

allocated, except for some 30 500 new niches that are currently open for allocation. In addition, about 300 niches that may be re-used are available each year for allocation to applicants on the waiting list.

Apart from public niches, there are 18 columbaria within the private cemeteries specified in Schedule 5 to the Public Health and Municipal Services Ordinance (Cap. 132). These columbaria are mainly operated by religious or ethnic bodies on a non-profit-making basis. Among them, the Board of Management of the Chinese Permanent Cemeteries (BMCPC), established under the Chinese Permanent Cemeteries Ordinance (Cap. 1112), operates four cemeteries cum columbaria and provides some 224 800 niches. Other than the availability of a small number of niches that may be re-used, all the niches have been allocated. In addition, the private cemeteries operated by religious bodies such as the Catholics, Christians and Buddhists provide about 126 700 niches in total. Of these, some 28 400 niches have yet to be allocated.

For details on the aforesaid supply of niches, please refer to Annex 1. The Government does not keep statistics on the number of niches provided on premises that are outside private cemeteries and operated by other private organizations.

- (b) According to the Census and Statistics Department, the number of deaths in the next five years (that is, 2014 to 2018) is estimated to be around 233 600. The number of cremations in the same period is projected to be 215 875. Based on past experience, the demand for niches provided by the Government and the BMCPC is equivalent to about 40% of the number of cremations, which accordingly would amount to some 86 350 niches.

For the next five years, the stock of confirmed supply under the FEHD's disposal includes some 30 500 niches now under allocation (as mentioned in part (a) above) and the 1 000 new niches that will become available in the Cheung Chau Cemetery extension soon to be completed. For the 24 potential sites identified in 18 districts, apart from the confirmed supply, the Government is actively following up the columbarium development in the remaining



projects. Over the same five-year period, the BMCPC will provide some 34 400 new niches.

In the next five years, the private cemeteries operated by the religious bodies (including the Catholics, Christians and Buddhists) are expected to provide, in total, about 50 260 new niches, on top of some 28 400 niches that are yet to be allocated (as mentioned in part (a) above).

For details on the aforesaid supply of niches over the next five years, please refer to Annex 2. The Government does not keep statistics on the number of niches provided on premises that are outside private cemeteries and operated by other private organizations for the next five years.

- (c) To help the public make informed choices, the Development Bureau has published, with updates on a quarterly basis, "Information on Private Columbaria", containing the relevant land/lease (user restrictions) and planning information relating to those private columbaria that are known to the Lands Department (LandsD) or Planning Department (PlanD) and believed to be operating as columbaria (hereinafter referred to as "the List"). Part A of the List sets out those private columbaria which are compliant with the user restrictions in the land leases, statutory town planning requirements, and are not illegally occupying Government land. Part B of the List sets out other private columbaria which are not included in Part A. The breakdown of private columbaria on Part B of the List (as per the version published on 30 September 2013) by district is set out in Annex 3.

Enforcement actions taken by the Government in the past three years are set out below:

*Buildings Department (BD)*

The number of removal orders issued by the BD in relation to unauthorized building works (UBWs) in the past three years is two in 2011, one in 2012 and one in 2013 (involving one private columbarium each year). In the past three years, in respect of the

removal orders served, no demolition works on UBWs served with such orders have been completed, but the operators of two private columbaria have appointed building professionals to take follow-up actions in response to the removal orders. Generally, the owner needs to complete the required demolition works within 60 days from the date of the removal order. If the owner, without reasonable excuse, fails to comply with the removal order, the BD may bring prosecution against the owner under the Buildings Ordinance. In the past three years, the BD brought prosecutions against five private columbaria for non-compliance with six removal orders (including the aforementioned removal orders issued between 2011 and 2013, as well as removal orders issued before 2011).

#### *PlanD*

The Town Planning Ordinance empowers the Planning Authority to take enforcement actions against unauthorized developments in areas in the rural New Territories within Development Permission Areas Plans or subsequently covered by Outline Zoning Plans. The Planning Authority may issue enforcement notices under section 23(1) to a land owner, an occupier or a person who is responsible for the relevant matters, requiring the parties concerned to discontinue the unauthorized developments by a specified date. Anyone who fails to comply with the requirement of the enforcement notices may be subject to prosecution.

In the past three years, the Planning Authority took enforcement actions against three private columbaria for unauthorized developments and issued enforcement notices to the persons concerned, requiring them to discontinue the relevant unauthorized developments within six or nine months of the date of the enforcement notices. In one case, the persons concerned have removed the unauthorized developments as required. As regards the other two cases, enforcement actions are being carried out.

#### *LandsD*

According to the updated List as at 30 September 2013, there are 12 private columbaria that involve illegal occupation of Government

land. In the past three years, the LandsD posted two notices in 2011; 21 notices in 2012; and 12 notices in 2013 under section 6(1) of the Land (Miscellaneous Provisions) Ordinance, requiring the relevant occupiers to cease the occupation of the land concerned before a specified date (depending on the cases, the time allowed ranged from a few days to four months). By now, three private columbaria have completely ceased the occupation of Government land, while some other private columbaria have ceased the occupation of part of the Government land. The LandsD has successfully prosecuted three private columbaria for failure to comply with the notices or failure to seek regularization.

In general, depending on the actual circumstances (including whether ashes of the deceased are stored on the land concerned and the sets of ashes involved, and so on), the LandsD would allow a reasonable period of time for the relevant occupiers to relocate the ashes and make arrangements for other related matters. If the concerned columbarium applies for regularization, the LandsD will consider the application in accordance with the applicable procedures.

- (d) The Government has identified 24 potential sites in all 18 districts for developing columbarium facilities. Whether these sites could eventually be used for the purpose will depend on the results of technical feasibility studies and traffic impact assessments (where applicable). Upon completion of the relevant studies, the FEHD will consult the DCs concerned before confirming the use of the sites for columbarium development. Subject to the support of DCs and the Legislative Council for the projects in the pipeline, the cumulative supply of new niches will amount to hundreds of thousands by 2031. Details are set out in Annex 4.
- (e) The Government will adopt a multi-pronged approach to tackle the issue, including promoting "green burial", pressing ahead with sustainable public columbarium development, following up on enforcement actions, strengthening public education and the regulation of private columbaria.

To increase the supply of columbarium facilities, the Government is forging ahead with the initiatives mentioned in item (d) above. We will continue to identify suitable sites for columbarium development, and study the feasibility of various options, including setting limits on worship periods during the Ching Ming and Chung Yeung Festivals; and introducing time-limited (but renewable) occupation of newly allocated niches.

In addition, the Government is striving to promote "green burial" by encouraging the public to use more environmentally friendly and sustainable means of disposal of human ashes. Key initiatives in this respect include building more gardens of remembrance, providing free ferry service for scattering ashes at sea, launching a memorial website to encourage people to pay tribute online and enhancing public education to foster the necessary mindset change. Through such initiatives, it is hoped that "green burial" could in time become one of the mainstream burial modes.

- (f) For the 96 private columbaria on Part B of the List, they have to comply with the user restrictions in the land leases as detailed in the land/lease information, as well as the statutory town planning requirements in the town planning information, and must not be illegally occupying Government land before they can be moved to Part A of the List. At the same time, the operation of all trades in Hong Kong, including the columbarium trade, must be compliant with the statutory and other requirements of the Government, such as building safety and fire safety, and so on.

The Government is drafting the Bill to implement a statutory licensing scheme. Under the Bill, we propose that no person may be engaged in the operation of a private columbarium in Hong Kong, unless such operation is covered by a licence, an exemption or temporary suspension of liability.

- (g) Operating a private columbarium is a commercial act. The Government has no intention to regulate the prices concerned. We will endeavour to spruce up the supply of public niches, in the interest of serving those members of the public who do not intend to patronize private columbaria.

- (h) In our submission to the Panel, we propose that the following categories of private columbarium operations be exempted from the licensing scheme:
- (i) columbaria located within private cemeteries listed in Schedule 5 to the Public Health and Municipal Services Ordinance (Cap. 132); or columbaria managed by the BMCPC outside its private cemeteries, with such columbaria still being subject to the regulation of the Private Cemeteries Regulation (Cap. 132BF);
  - (ii) the operations of 81 existing undertakers of burials whose licences do not debar temporary storage of ashes within their premises, subject to application and conditions; and
  - (iii) private columbaria that meet the following criteria, subject to application and conditions:
    - they do not pose obvious hazard or imminent danger in terms of building and fire safety;
    - they have commenced columbarium operation before a specified cut-off date; and
    - they have ceased the sale of niches before another specified cut-off date.
- (i) The operation of all trades in Hong Kong, including the columbarium trade, must be in compliance with the statutory and other requirements of the Government. Subject to the requirements of relevant legislation and administrative measures, government departments concerned will continue to take enforcement actions under their respective mandate against unauthorized private columbaria.

Consumer education has been enhanced. Announcements in the Public Interest have been broadcast on television and radio over the past two years, and a pamphlet has also been published on the Government's websites and distributed through various channels

since mid-2011, giving advice to consumers, highlighting areas that they should watch out for, and reminding them to consider seeking advice from professionals should there be any doubt or uncertainty. In various updated versions of the pamphlet, we have reminded consumers to refrain from making any purchase rashly.

- (j) The Government is actively exploring various options to increase the supply of niches and considering the implementation of new systems to alleviate the shortage in niche supply. These include setting limits on worship periods during the Ching Ming and Chung Yeung Festivals, and introducing time-limited (but renewable) occupation of newly allocated niches, with a view to reducing the constraints in transport and traffic capacity, easing the process of gaining local support, and developing the potential of the sites identified to the full. Rising to the challenges posed by the scarcity of land resources, we see a case for encouraging public deliberations over the question of whether we should bring in new and unconventional measures to sustain the supply of niches and meet the demand in a manner that gives due regard to local traditions.

On the proposal to set a time limit for occupation of niches, the Government notes that some niches have been left unattended after a certain period of time due to various reasons, such as migration of the descendants. This is particularly apparent when it comes to the third and fourth generations. For efficient use of land resources while taking into account the sentiment of the descendants, the Government is considering whether or not we should set a reasonable time limit for occupation of newly allocated niches (which may be renewed). The Government will vacate the niches for re-allocation if renewal application is not received upon the expiry of the time limit. Such a practice is being adopted in Mainland China and Singapore, for the purpose of ensuring that a sizeable number of niches would remain in circulation and available for sustainable use.

As regards the proposal to limit worship periods, the number of niches that may be provided in various selected sites is more often than not capped by constraints in terms of the transport and traffic capacity of the road networks near the sites. The Government is

therefore considering whether, as a requirement applicable to new niches for allocation in the future, we should confine the worship periods for designated niches to either the Ching Ming or Chung Yeung Festivals. This would help reduce both vehicular and pedestrian flows during the grave-sweeping seasons, and bring the traffic impacts to within an acceptable level, thereby allowing more niches to be built.

The Government is keeping an open mind on the above proposals and will listen to the views of the public before finalizing the details and reaching any decisions.

- (k) Regarding the site on On Hing Lane in Shek Mun, Sha Tin which is next to the Sha Tin Refuse Transfer Station, the Government has completed the relevant assessments, including the one on traffic impact. The result of the traffic impact assessment shows that if road access restrictions are implemented in On Hing Lane during the Ching Ming and Chung Yeung Festivals, no significant impact will be exerted on the road network and pedestrian network in the vicinity. It is expected that a three-storey building may be built on the potential site to provide about 40 000 niches. The Government plans to consult the Sha Tin DC in 2014.

As for the potential site at the Fu Shan Columbarium extension in Sha Tin, the Government has completed the initial traffic impact assessment and is planning to carry out a further traffic impact assessment, with a view to developing the potential of the site to the full. The results are pending.

- (l) Since the site at Tai Po is adjacent to and located on a landfill, an engineering feasibility study has to be conducted. The study covers technical assessments of transportation, drainage system, sewerage system, utilities, geotechnical investigation, environment, vision and landscape. The Civil Engineering and Development Department has commissioned an engineering consultant in August 2012 to conduct the engineering feasibility study, which is scheduled for completion around February 2014. Once the site is confirmed to be suitable for columbarium development, the relevant DC will be consulted. Subject to the support of the DC, the Government will in due course seek approval and funding from the Public Works

Subcommittee/Finance Committee of the Legislative Council to commence the works.

## Annex 1

Number of niches in public columbaria and  
columbaria within private cemeteries in Hong Kong

	<i>District</i>	<i>Public columbarium/ private cemetery</i>	<i>Number of niches</i>	<i>Remarks</i>
1	Eastern	Cape Collinson Columbarium	61 615	
		Hong Kong Buddhist Cemetery	4 718	
		Cape Collinson Chinese Permanent Cemetery, Chai Wan	74 434	
		Chai Wan Catholic Cemetery	27 686	
		Sub-total:	168 453	
2	Wong Tai Sin	Diamond Hill Columbarium	63 351	About 500 new niches still under allocation
		New Kowloon Cemetery No. 1 (Christian Chinese Cemetery)	14 125	
		Sub-total:	77 476	
3	Sha Tin	Fu Shan Columbarium	9 625	
		Tao Fong Shan Christian Cemetery	26	
		Sub-total:	9 651	
4	North	Wo Hop Shek Columbarium	66 150	About 30 000 new niches still under allocation
		Sung Him Tong Sung Chan Wui Kei Tuk Kau Fan Cheung	574	
		Sub-total:	66 724	
5	Tuen Mun	Nil		
6	Kwai Tsing	Kwai Chung Columbarium	9 276	
		Tsuen Wan Chinese Permanent Cemetery	52 901	
		Sub-total:	62 177	



	<i>District</i>	<i>Public columbarium/ private cemetery</i>	<i>Number of niches</i>	<i>Remarks</i>
7	Islands	Cheung Chau Columbarium	2 335	
		Lamma Island Columbarium	490	
		Peng Chau Columbarium	490	
		Cheung Chau Catholic Cemetery	672	
		Cheung Chau Christian Cemetery	526	
		Sub-total:	4 513	
8	Central and Western	Chiu Yuen Cemetery at Mount Davis	50	
9	Wan Chai	Happy Valley Roman Catholic Cemetery	5 702	
10	Sham Shui Po	Cheung Sha Wan Roman Catholic Cemetery	28 775	
11	Kwun Tong	Nil		
12	Yau Tsim Mong	Nil		
13	Southern	Carmelite Cemetery	20	
		Aberdeen Chinese Permanent Cemetery	10 401	
		Pok Fu Lam Road Christian Chinese Cemetery	42 494	
		Sub-total:	52 915	
14	Kowloon City	Nil		
15	Tsuen Wan	Chuen Yuen Church Cemetery	336	
16	Yuen Long	Nil		
17	Tai Po	Nil		
18	Sai Kung	Junk Bay Chinese Permanent Cemetery	87 101	
		Sai Kung Catholic Cemetery	1 002	
		Sub-total:	88 103	

New columbarium facilities to be provided in  
public columbaria and private cemeteries in Hong Kong

	<i>District</i>	<i>Public columbarium/ private cemetery</i>	<i>Number of niches</i>	<i>Remarks</i>
1	Eastern	Hong Kong Buddhist Cemetery	3 220	
		Cape Collinson Chinese Permanent Cemetery, Chai Wai	16 923	
		Sub-total:	20 143	
2	Wong Tai Sin	Diamond Hill Columbarium	525	New niches still under allocation
		New Kowloon Cemetery No. 1 (Christian Chinese Cemetery)	10 053	
		Sub-total:	10 578	
3	Sha Tin	Nil		
4	North	Wo Hop Shek Columbarium	29 983	New niches still under allocation
5	Tuen Mun	Nil		
6	Kwai Tsing	Tsuen Wan Chinese Permanent Cemetery	2 093	
7	Islands	Cheung Chau Columbarium	1 000	
8	Central and Western	Nil		
9	Wan Chai	Happy Valley Roman Catholic Cemetery	66	
10	Sham Shui Po	Nil		
11	Kwun Tong	Nil		
12	Yau Tsim Mong	Nil		
13	Southern	Aberdeen Chinese Permanent Cemetery	15 426	
		Pok Fu Lam Road Christian Chinese Cemetery	36 928	
		Sub-total:	52 354	

	<i>District</i>	<i>Public columbarium/ private cemetery</i>	<i>Number of niches</i>	<i>Remarks</i>
14	Kowloon City	Nil		
15	Tsuen Wan	Nil		
16	Yuen Long	Nil		
17	Tai Po	Nil		
18	Sai Kung	Nil		

## Annex 3

Number of private columbaria under Part B of the List  
published by the Development Bureau on 30 September 2013  
(Breakdown by district)

	<i>District</i>	<i>Number of private columbaria</i>
1	Eastern	0
2	Wong Tai Sin	2
3	Sha Tin	19
4	North	6
5	Tuen Mun	15
6	Kwai Tsing	2
7	Islands	5
8	Central and Western	0
9	Wan Chai	0
10	Sham Shui Po	0
11	Kwun Tong	1
12	Yau Tsim Mong	2
13	Southern	1
14	Kowloon City	19
15	Tsuen Wan	7
16	Yuen Long	6
17	Tai Po	10
18	Sai Kung	1

Current state of play on the 24 sites identified  
in 2010 and 2011 for columbarium development

	<i>District</i>	<i>Potential sites number of niches of projects already put to District Councils (DCs)</i>	<i>Studies</i>	<i>Consulting DCs and seeking funding approval from the Finance Committee (FC)</i>
1	Eastern	A site on Cape Collinson Road, opposite the Chai Wan Chinese Permanent Cemetery Columbarium and next to Wan Tsui Estate Park	Initial traffic impact assessment (TIA) and technical feasibility study (TFS) completed. Further TIA to address departments' concern near completion.	Consultation with DC scheduled for 2014 tentatively.
2	Wong Tai Sin	Diamond Hill Columbarium extension 1 540 niches	The project was completed in 2012 and new niches are put to allocation in phases.	
3	Sha Tin	A site on On Hing Lane, Shek Mun, next to Shatin Refuse Transfer Station	TIA and TFS completed.	Consultation with DC under planning.
4	Sha Tin	Fu Shan Columbarium extension	Initial TIA completed. Follow-up actions for the next step under planning.	Consultation with DC under planning.
5	North	Surplus coffin burial grounds and other land within the Wo Hop Shek Cemetery Phase 1: 44 000 niches Phase 2: 35 000 niches Phase 3: 25 000 niches	TIA completed. TFS for Phase 1 completed. TFS for Phases 2 and 3 underway.	North DC consulted on 12 April 2012, and blessing obtained to proceed with Phase 1 development (44 000 niches).

	<i>District</i>	<i>Potential sites number of niches of projects already put to District Councils (DCs)</i>	<i>Studies</i>	<i>Consulting DCs and seeking funding approval from the Finance Committee (FC)</i>
6	North	Undeveloped areas within the Sandy Ridge Cemetery at least 200 000 niches	<p>Stage I: Site formation and associated infrastructural works</p> <p>Engineering feasibility study (EFS), including TIA and TFS, completed.</p> <p>Stage II: Building works for the crematorium and columbarium developments</p> <p>We will set in train follow-up actions, with the aim of commencing the building works upon the handover of the formed land in 2019.</p>	<p>North DC consulted on 11 October 2012.</p> <p>Funding approval obtained from the FC on 8 February 2013 to proceed with detailed design and site investigation works for Stage I.</p>
7	Tuen Mun	Part of the Tsang Tsui ash lagoon next to Black Point Power Station at least 110 000 niches	Initial TIA and TFS completed, and further TIA near completion.	Tuen Mun DC consulted on 8 May and 6 November 2012.
8	Kwai Tsing	Ex-Kwai Chung Incineration Plant on Kwai Yu Street	TIA completed.	Consultation with DC under planning.
9	Kwai Tsing	A site on Kwai Tai Road, southeast of ex-Kwai Chung Incineration Plant	TIA completed.	Consultation with DC under planning.

	<i>District</i>	<i>Potential sites number of niches of projects already put to District Councils (DCs)</i>	<i>Studies</i>	<i>Consulting DCs and seeking funding approval from the Finance Committee (FC)</i>
10	Kwai Tsing	A site on Tsing Tsuen Road near the Tsuen Wan Chinese Permanent Cemetery 20 000 niches	TIA and TFS completed.	Kwai Tsing DC consulted on 20 June 2012 and 10 January 2013. Relevant information provided to Tsuen Wan DC on 31 January 2013.
11	Islands	Cheung Chau Cemetery extension 1 000 niches	The project will be completed before end of 2013.	
12	Islands	Mui Wo Lai Chi Yuen extension	Environment impact assessment and traffic review to be conducted.	Consultation with DC under planning.
13	Central and Western	A site on Mount Davis Road, east of Chiu Yuen Cemetery	EFS, including TIA, at an advanced stage.	Consultation with DC scheduled for 2014 tentatively.
14	Wan Chai	The Food and Environmental Hygiene Department's Hong Kong Cemeteries and Crematoria Office (part thereof) at Wong Nai Chung Road	TIA not required and TFS completed.	Consultation with DC under planning.
15	Sham Shui Po	A site north of Ching Cheung Road near the Roman Catholic Cemetery	EFS, including TIA, at an advanced stage.	Consultation with DC scheduled for 2014 tentatively.
16	Kwun Tong	A site next to the Ex-Ma Yau Tong Central Landfill Site	EFS, including TIA, at an advanced stage.	Consultation with DC scheduled for 2014 tentatively.
17	Yau Tsim Mong	Former school within Tin Hau Temple on Temple Street	TIA not required and TFS underway.	Consultation with DC under planning.

	<i>District</i>	<i>Potential sites number of niches of projects already put to District Councils (DCs)</i>	<i>Studies</i>	<i>Consulting DCs and seeking funding approval from the Finance Committee (FC)</i>
18	Southern	A site adjoining the Chinese Christian Cemetery at Pok Fu Lam	EFS, including TIA, at an advanced stage.	Consultation with DC scheduled for 2014 tentatively.
19	Kowloon City	Vacant staff quarters (part thereof) inside a funeral parlour at 6 Cheong Hang Road, Hung Hom	TIA not required and TFS completed.	Consultation with DC under planning.
20 and 21	Tsuen Wan	Two sites located at the eastern and western ends of Sham Shui Kok Drive, Siu Ho Wan, North Lantau	EFS, including TIA, at an advanced stage.	Consultation with DC scheduled for 2014 tentatively.
22	Yuen Long	A site between San Tam Road and Mai Po Lung Road, San Tin	EFS, including TIA, at an advanced stage.	Consultation with DC scheduled for 2014 tentatively.
23	Tai Po	A site at the southwestern corner of the Shuen Wan Ex-Landfill, near Tai Po Industrial Estate	EFS, including TIA, at an advanced stage.	Consultation with DC scheduled for 2014 tentatively.
24	Sai Kung	A site at Area 132, Tsueng Kwan O, near the Tseung Kwan O Chinese Permanent Cemetery	EFS, including TIA, at an advanced stage.	Consultation with DC scheduled for 2014 tentatively.

### **Treatment of Patients Suffering from Chronic Obstructive Pulmonary Disease**

13. **MR ALAN LEONG** (in Chinese): *President, in reply to my question on 10 July this year concerning chronic obstructive pulmonary (COP) disease, the Secretary for Food and Health indicated that since 2011-2012, the Government*

*had provided additional recurrent funding of \$44 million for the Hospital Authority (HA) to expand the clinical application of long-acting bronchodilators for treatment of COP disease. Yet, some members of the public have relayed to me that only those receiving treatments at the specialist out-patient (SOP) clinics under the Respiratory Medicine Division (RMD) had been prescribed with that drug, whilst those receiving treatments at the general out-patient (GOP) clinics and the out-patient clinics under the General Medicine Division (GMD) had not benefited from the measure. In this connection, will the Government inform this Council whether it knows:*

- (a) the criteria adopted by the HA for referring patients diagnosed to be suffering from COP disease (COP patients) to the SOP clinics under the RMD;*
- (b) the respective numbers of COP patients at the SOP clinics under RMD in various hospital clusters at present;*
- (c) if the HA has collected data on COP patients at the GOP clinics; if the HA has, of the details; if not, the reasons for that; and*
- (d) the respective amounts out of the aforesaid funding currently allocated by the HA to the SOP clinics under RMD, GOP clinics and the out-patient clinics under GMD?*

**SECRETARY FOR FOOD AND HEALTH** (in Chinese): President, since 2011-2012, the Government has provided additional recurrent funding of \$44 million for the HA to expand the scope of the clinical application of long-acting bronchodilators. About 7 500 patients suffering from COP disease benefit from the measure each year. The HA will prescribe appropriate medication and provide appropriate treatment for patients according to their clinical conditions. The long-acting bronchodilators mentioned in the question is a special drug in the Drug Formulary and is usually prescribed by respiratory medicine specialists.

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



- (a) The HA will, having regard to a patient's clinical conditions, including clinical history and major signs and symptoms, smoking habit, chest X-ray film and pulmonary function, make an integrated diagnosis and provide follow-up treatment as appropriate. In general, COP patients in stable condition and without the need for frequent in-patient treatment will be followed up by the GOP clinics, while those in more critical condition and with the need for frequent in-patient treatment will be followed up by the SOP clinics.
- (b) The SOP clinics of the Medicine Division under the HA provided services for around 627 000 patients in 2012-2013. As the HA does not assign codes to the SOP patients by disease type, statistics on COP patients receiving treatment at SOP clinics are not available.
- (c) The GOP clinics under the HA provided services for around 14 500 COP patients in 2012-2013.
- (d) As mentioned in the above paragraphs, the HA will make assessment and diagnosis according to the clinical needs of individual patients at different stages and refer them to the appropriate SOP and GOP clinics for follow-up treatment. The HA does not compile statistics on medical consultations and referral cases and the related resources deployment at SOP and GOP clinics, hence a breakdown of the respective funding is not available.

### **Promoting Use of Electric Vehicles**

14. **MR CHAN HAK-KAN** (in Chinese): *President, according to the reply of the Environment Bureau to my question in March this year regarding the Estimates of Expenditure 2013-2014, there were more than 430 units of electric vehicles (EVs) in use on the roads in Hong Kong at that time and, among them, only 75 units belonged to the government fleet, while there were about 150 units to be delivered within this year for use by various government departments. On the other hand, although the Hong Kong Housing Authority (HA) provides at five of its car parks parking concessions of free parking up to two hours for EVs undergoing electricity charging, it has been reported that the utilization rate of such charging facilities last year was rather low, being about 175 times only.*

*Regarding the promotion of the use of EVs, will the Government inform this Council:*

- (a) of the difficulties it has encountered in using more EVs in the government fleet; whether the Government will consider further increasing the proportion of EVs in the government fleet so as to take the lead; if it will, of the details; if not, the reasons for that;*
- (b) whether it has assessed if the existing some 1 000 charging facilities in Hong Kong (including more than 500 installed in government public car parks) are sufficient to cope with the demand; if the assessment result is in the affirmative, of the justifications; if the assessment result is in the negative, the improvement measures to be implemented;*
- (c) given that the utilization rate of the charging facilities at the HA's car parks was on the low side last year, whether the authorities have taken measures to improve the utilization rate; if they have, of the details; if not, the reasons for that;*
- (d) as the reasons for some members of the public not purchasing EVs are that major vehicle dealers do not sell EVs and the exterior design of EVs is not as attractive as that of ordinary vehicles, whether, apart from continuing to provide economic incentives (including the waiver of First Registration Tax and the Pilot Green Transport Fund) to those who use EVs, the Government will consider implementing in the coming decade policies to encourage vehicle dealers to introduce more EVs into Hong Kong so as to increase the choices available for members of the public; and whether the Government will implement measures to facilitate vehicle dealers to introduce into Hong Kong EVs manufactured on the Mainland; and*
- (e) of the number of meetings that the Steering Committee on the Promotion of Electric Vehicles, established by the Government in April 2009 and chaired by the Financial Secretary, has held and its major achievements so far?*

**SECRETARY FOR THE ENVIRONMENT** (in Chinese): President,

- (a) The Financial Secretary announced in the 2011-2012 Budget that subject to the availability of suitable models in the market and the operational needs of bureaux and departments, we will give priority to EVs when replacing government vehicles in the two financial years of 2011-2012 and 2012-2013. We expect an intake of some 200 EVs of various types in these two years. The Chief Executive also announced in the 2013 Policy Address that the Government will continue to take the lead in using more EVs. It is clear that the Government has already set its policy in using EVs and will continue to take lead by giving priority to EVs as long as they meet the operational requirements of departments. We now have 147 EVs in the government fleet, and another 74 units of EVs will be delivered to various departments from now on until early next year.

In general, user departments provided positive feedback on the performance of EVs presently in use. However, the proportion of EVs in the government fleet remains small mainly because the market does not yet have suitable EV models to replace the vehicle types that form the majority in the government fleet such as refuse collection vehicles, street cleaning vehicles and ambulances.

- (b) and (c)

A comprehensive public charging network is essential to promoting the wider use of EVs. In this regard, the Government has been working jointly with the private sector to expand the charging network. We now have some 1 000 public charging facilities to serve the EVs, including 500 standard charging facilities in 18 public car parks managed by the Transport Department and Government Property Agency, and another 500 charging facilities installed by other sectors. Among them are the charging facilities installed for public use by the two power companies in different premises. Besides the standard charging facilities, Hong Kong now has 10 quick chargers set up at Eastern, Southern, Central and Western, Yau Tsim Mong, Kwun Tong, Sha Tin, North, Yuen Long and Islands Districts. There is one quick charger within around 20 km.

Regarding the utilization rate of the charging facilities, based on the electricity consumption of the 500 standard chargers in government

car parks, we estimated that on average about 93 charging operations take place per month per car park. For those standard charging facilities provided by the power companies, including those in car parks managed by the HA, on average about 12 charging operations take place per month per car park. We do not have the utilization record of charging facilities provided by private organizations. Each quick charger is used about 61 times per month. Although the utilization rates of these chargers are not high for the time being, establishing a charging network is vital to promoting the use of EVs. With this "infrastructure-led" approach in mind, we will closely monitor the growth in the number of EVs and the usage of charging facilities, and will consider the need to further expand the charging network in a timely manner.

(d) and (e)

Since the use of EVs will give rise to energy efficiency improvement, environmental benefits as well as creating business opportunities, the Government has been actively promoting the wider use of EVs and has set up the Steering Committee on the Promotion of Electric Vehicles in 2009 chaired by the Financial Secretary. Members of the Steering Committee come from relevant sectors, including property developers, transport trades, power companies, research and development institutions and green groups. The Steering Committee has held eight meetings since its establishment and has recommended strategies and specific measures to promote the use of EVs in Hong Kong. The key measures include: encouraging the public and the transport sector to try using EVs by providing financial incentives; the Government taking lead to procure more EVs; liaising closely with vehicle suppliers and manufacturers to encourage them to introduce EVs to Hong Kong and promote their use; and providing charging facilities and technical support, and so on. Details of these measures are in the Annex.

There is no EV production in Hong Kong; all EVs are imported. EV suppliers may apply to the Transport Department for type approval. Once type approval is obtained and vehicle examination is passed, the EV can be registered for use in Hong Kong. Currently, 24 EV models from seven countries have been obtained

type approval from the Transport Department. They include 14 models of private cars/motorcycles and 10 models of public transport/commercial vehicles. As the development of EVs is still at an early stage, the number of EV models available cannot be compared directly with that of conventional vehicles. The Government will continue to support the introduction of more EV models to Hong Kong to provide more choices to the public.

As at end October 2013, there were 552 EVs in use on the roads in Hong Kong. Comparing the only 74 in end 2010 and 242 in end 2011 respectively, the increase is encouraging, which also shows that the number of EVs is gradually increasing with the relevant government promotion policies.

Annex

### Measures to Promote the Use of Electric Vehicles

#### *Financial Incentives*

- (i) The First Registration Tax for EVs has been waived since 1994 and will continue till the end of March 2014.
- (ii) Enterprises procuring environment-friendly vehicles, including EVs, can enjoy a 100% profits tax deduction for the capital expenditure in the first year of procurement.
- (iii) A \$300 million Pilot Green Transport Fund was set up in March 2011 to support trials of green and innovative transport technologies by transport operators. It has since approved the trials of 59 EVs including electric vans, taxis, buses and light buses.
- (iv) \$180 million are allocated for the franchised bus companies to purchase 36 electric buses for trial.

#### *Government Procurement*

- (v) The Government will continue to take the lead in using EVs, taking into account the operational needs of government departments. As at end

October 2013, there were 147 EVs in the government fleet. Another 74 EVs will be delivered to various departments later.

*Liaison with Vehicle Suppliers*

- (vi) On the supply of EVs, the Government has been liaising closely with EV manufacturers to encourage them to introduce EVs into Hong Kong. At present, 24 EV models from seven countries are running in Hong Kong.

*Provision of Charging Facilities and Technical Support*

- (vii) The Government has been working with the private sector to expand the charging network. There are some 1 000 public charging facilities in Hong Kong to serve the EVs. They include 500 standard charging facilities installed by the Government in 18 public car parks managed by the Transport Department and the Government Property Agency, and some 500 charging facilities installed by the private sector. Besides the standard charging facilities, 10 quick chargers are installed in different districts in Hong Kong. On average, one quick charger can be found within around 20 km.
- (viii) In respect of new buildings, through granting concessions on gross floor areas of car parks, the Government has been encouraging developers to put in place at the building construction stage the basic infrastructure (including switch boards, electrical wiring and ducts) of EV chargers to facilitate the future installation of EV charging facilities having regard to the needs of car park users.
- (ix) In respect of existing buildings, the Government has written to more than 7 400 owners' corporations and owners' committees in Hong Kong to appeal for their support in installing EV chargers upon EV users' requests at premises under their management.
- (x) The Environment Bureau and the Electrical and Mechanical Services Department (EMSD) have issued a set of guidelines on the arrangements and technical requirements in setting up EV chargers. The EMSD has also set up a hotline to provide information and technical support to parties interested in setting up EV chargers.

**Acquiring Copyright Licences for Use of Copyright Works in Performances**

15. **MR CHRISTOPHER CHUNG** (in Chinese): *President, some members of civil organizations have relayed to me that if they need to use copyright works (including musical products and film clips, and so on) when staging public performances at hired venues in the community halls and community centres (halls and centre) under the Home Affairs Department (HAD), they have to apply on their own to the licensing bodies concerned for copyright licences to use the relevant copyright works and to pay copyright royalty charges. They have also pointed out that the organizations hiring such venues are mostly non-profit making bodies with limited funding, and since these bodies do not have professional knowledge in handling copyright matters, they may easily incur legal liabilities arising from copyright infringement. On the other hand, as the Leisure and Cultural Services Department (LCSD) has already collectively acquired copyright licences from the Composers and Authors Society of Hong Kong Limited (CASH), persons hiring venues in the city halls, civic centres or theatres under the LCSD are authorized, without the need to apply on their own, to use the relevant copyright works in their public performances. In this connection, will the Government inform this Council:*

- (a) *of the reasons why the LCSD and the HAD have adopted different approaches in dealing with matters of acquiring copyright licences;*
- (b) *of LCSD's expenses on acquiring music copyright licences from CASH, and whether the licences are valid for one year or for good;*
- (c) *whether the HAD will consider following LCSD's practice and acquiring collective copyright licences for the public performances staged in its halls and centres; if it will not, whether HAD will offer assistance to organizations hiring its halls and centres on matters of acquiring copyright licences; and*
- (d) *whether, apart from CASH, the LCSD will acquire from the other two copyright licensing bodies (namely the Phonographic Performance (South East Asia) Limited and the Hong Kong Recording Industry Alliance Limited) the copyright licences for their relevant works, so that venue hirers will have a wider choice of musical works and film clips for their performances?*

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

(a) and (c)

There is a difference in the nature and usage between the community halls/community centres (CHs/CCs) spread over the 18 districts under the HAD and the performing arts venues under the LCSD. The CHs/CCs under the HAD are multi-purpose venues for hiring by local organizations to hold various activities, including gatherings, community building activities, civic education activities, recreation, culture and sports activities, and meetings, and so on. While individual hirers may use copyright works in their activities, the copyright works that may be involved are not confined to audio-visual works. It is therefore in the best interests of the activity organizers and the relevant copyright owners for the organizers to identify the types of copyright involved and obtain licences from the copyright owners.

The HAD understands that individual hirers may encounter difficulties when applying for copyright licences for audio-visual works. In this connection, the HAD has relayed the matter to the copyright licensing bodies concerned so that applications for copyright licences by hirers of CHs/CCs may be facilitated as much as possible. District Offices also endeavor to provide relevant information and all possible assistance to hirers of CHs/CCs in their districts. Furthermore, the HAD is discussing with the relevant licensing bodies on the proposal of acquiring bulk copyright licences.

(b) and (d)

The annual expenses of the LCSD on acquiring music copyright licences from CASH for the 14 performing arts venues under its purview (namely the Hong Kong Cultural Centre, Hong Kong City Hall, Ngau Chi Wan Civic Centre, Sheung Wan Civic Centre, Sai Wan Ho Civic Centre, Ko Shan Theatre, Yau Ma Tei Theatre, Sha Tin Town Hall, Tuen Mun Town Hall, Kwai Tsing Theatre, Tsuen Wan Town Hall, Yuen Long Theatre, North District Town Hall and Tai Po Civic Centre) are approximately HK\$1.5 million.



The LCSD has entered into an agreement with the three licensing bodies to use, by paying an annual royalty, music, films and karaoke videos of member record companies as well as music composition and lyrics of members at the 14 performing arts venues under LCSD's purview.

### **Chinese Temples Ordinance**

16. **DR KENNETH CHAN** (in Chinese): *President, the authorities indicated in March this year that the review of the Chinese Temples Ordinance (Cap. 153) (the Ordinance) was near completion, but so far they have not yet proposed any legislative amendment to the Ordinance or conducted public consultation. Some members of the public have relayed to me that in recent years, the private columbarium businesses operated by quite a number of temples registered under the Ordinance (registered temples) have irregularities. However, the authorities have neither taken law-enforcement actions to rectify such irregularities nor monitored the financial situations of such temples. In this connection, will the Government inform this Council:*

- (a) *whether it can provide information on the revenues and expenditures of various registered temples in the past three years; if it cannot, of the reasons for that;*
- (b) *whether it knows the registered temples that are currently operating the business of selling columbarium niches or other commercial activities and the revenues so derived by each of these temples in the past three years, broken down in table form by revenue item; whether the authorities will consider exercising the powers conferred by the Ordinance to require the temples concerned to transfer their surplus to the Chinese Temples Fund; if they will, of the details; if not, the reasons for that;*
- (c) *whether the authorities received any complaint in the past three years about malpractices in the administration or financial management of registered temples; if they did, of the number and contents of the complaints, the names of the temples involved, as well as the relevant follow-up actions taken; and*

- (d) *when the authorities will complete the review of the Ordinance, and whether they have drawn up work plans and timetables for amending the Ordinance and the relevant consultation procedures; if they have, of the details; if not, whether they will draw up such plans shortly; if they will, of the details; if not, the reasons for that?*

**SECRETARY FOR HOME AFFAIRS** (in Chinese): President, the Ordinance was enacted in 1928 in the light of the social needs at that time. Due to social changes, some of the powers conferred by the Ordinance to the Chinese Temples Committee (the Committee), including that the revenues, investments and properties of all Chinese temples shall be under the control of the Committee, and that the Committee may require any person in possession of any property held by any Chinese temple to transfer any such property to the Secretary for Home Affairs Incorporated, and so on, no longer meet prevailing community expectations of protecting private property rights. The SAR Government respects the autonomy of religious organizations. Upon review of the Ordinance, the Administration is of the view that amendments have to be made to the Ordinance with an aim to better serve prevailing social needs by removing outdated regulation over Chinese temples.

- (a) and (b)

Twenty-five temples are directly under the administration of the Committee. The accounts of these temples are prepared by the Secretariat of the Committee. In accordance with the Chinese Temples Fund Regulations (Cap. 153A), revenue from these 25 directly-administered temples shall be transferred to the Chinese Temples Fund (CT Fund). The overall accounts of the CT Fund are audited by the Commissioner of Audit and then submitted to the Legislative Council every year. The revenues and expenditures of the 25 directly-administered temples in the past three years are at Annex I. The 25 temples under the direct administration of the Committee do not operate any columbaria or engage themselves in other commercial activities.

The Committee does not exercise the powers conferred by the Ordinance to require registered temples not under its administration to provide financial information in the past three years. Nor does it require such temples to transfer their surplus to the CT Fund.

The Committee does not require temples registered under the Ordinance to submit information concerning any of their operation of private columbaria or other commercial activities.

The land/lease and town planning information on the private columbaria that is known to the Lands Department and/or Planning Department is regularly released by the Development Bureau. While such information is by no means exhaustive in listing out all private columbaria within the territory, it is hoped that such information could be made available to the public in a more systematic manner. For details, please refer to the Development Bureau's relevant webpage <[http://www.devb.gov.hk/tc/issues\\_in\\_focus/private\\_columbaria](http://www.devb.gov.hk/tc/issues_in_focus/private_columbaria)>. Same as all other industries in Hong Kong, any registered or unregistered temple engaging in the operation of columbaria shall abide by the law and comply with the Government's requirements. Government departments concerned will within their ambit continue to take enforcement actions against irregularities in private columbaria in accordance with relevant legislation and administrative measures. A bill to regulate private columbaria by means of a licensing scheme is underway.

- (c) Over the past three years, the Committee received a total of 46 complaint cases pertaining to the 25 directly-administered temples mainly involving the work conducted by the organizations responsible for temple operation or that conducted by the temple keepers, such as the procurement of products or services from temple keepers (22 cases in total) as well as the operation, charges and opening hours of the temples or the arrangements of altar displays in the temples (24 cases in total). Upon receipt of a complaint, the Committee shall conduct investigations in light of the information furnished by the complainant. If the complaint is substantiated, the Committee shall make suggestions or issue warnings to, or discipline the parties concerned, or require the temple to improve its services. Also, a reply shall be given to the complainant. Details are at Annex II. In addition, the Committee received 14 complaint cases in connection with other registered temples over the past three years, mainly involving temple operation or the internal management of the organizations responsible for temple operation. There were no complaint cases concerning columbaria or other commercial

activities under their charge. The Committee will refer complaints relating to these temples to them for action.

- (d) The administration is reviewing the Ordinance. We are currently seeking legal advice, with a view to reporting the outcome and recommendations to the Legislative Council in 2014.

## Annex I (Table 1)

Revenues and Expenditures of the Chinese Temples Committee's 25 Directly Administered Temples for the Past Three Years

(Unit: Hong Kong Dollars)

	2010-2011	2011-2012	2012-2013 <sup>#</sup>
(I) Revenues of Temples			
Worshippers' Donations	16,221,903.41	13,017,743.63	13,693,940.22
Temple Management Contract Fees	16,579,442.33	17,594,252.86	16,935,252.06
Other Revenues (Sale of Souvenirs, and so on)	678,735.00	709,285.00	775,395.00
Total Revenue	33,480,080.74	31,321,281.49	31,404,587.28
(II) Expenditures			
Expenditure of the CT Fund on Customary Ceremonies	515,625	1,330,150	398,571
Expenditure of the CT Fund on Maintenance of Temples	20,152,342	4,702,223	4,414,582
Expenditure of the CT Fund on Operating Expenses	8,321,425	4,724,816	7,036,153
Amount of money transferred to the General Chinese Charities Fund	3,897,687	5,115,053	4,357,800
Total Expenditure	32,887,079	15,872,242	16,207,106
(III) Surplus*	593,001.74	15,449,039.49	15,197,481.28

Notes:

- \* The annual surplus will be allocated for investment purposes in accordance with the CT Fund Regulations with a view to increasing the revenues of the CT Fund. Decisions on investment will be made and supervised by the independent Finance and Management Working Group pursuant to the provisions of the Regulations.

- # Unaudited figures

## Annex I (Table 2)

## Revenue of each of the 25 Temples Directly Administered by the Chinese Temples Committee over the Past Three Years\*

	<i>Name of Temple</i>	<i>2010-2011</i>	<i>2011-2012</i>	<i>2012-2013<sup>#</sup></i>
1	Che Kung Temple, Sha Tin	14,283,861.91	13,397,163.49	14,116,349.77
2	Hung Shing Temple, Ap Lei Chau	176,529.35	196,005.16	191,013.71
3	Hung Shing Temple, Cheung Chau	5,422.40	6,198.00	6,483.00
4	Hau Wong Temple, Junction Road	60,133.90	68,571.90	63,651.30
5	Hau Wong Temple, Tai O	30,980.72	64,986.80	39,168.63
6	Kwun Yum Temple, Ap Lei Chau	269,430.85	277,702.66	251,341.86
7	Kwun Yum Temple, Hung Hom	6,923,381.99	6,846,903.66	6,864,401.50
8	Lin Fa Kung, Tai Hang	3,179,859.10	3,045,622.59	3,271,126.13
9	Mo Tai Temple, Sham Shui Po	1,729,483.50	105,684.70	106,714.70
10	Pak Tai Temple, Cheung Chau	240,159.50	244,634.20	269,327.30
11	Pak Tai Temple, Hok Un Kok	313,205.44	550,006.28	249,785.91
12	Pak Tai Temple, Wan Chai	441,391.45	530,828.94	395,222.51
13	Sam Tai Tze and Pak Tai Temples, Sham Shui Po	68,232.80	220,606.81	259,472.21
14	Shing Wong Temple, Shau Kei Wan	241,169.74	836,193.97	853,319.68
15	Tin Hau Temple, Aberdeen	891,603.03	633,895.96	627,124.92

	<i>Name of Temple</i>	<i>2010-2011</i>	<i>2011-2012</i>	<i>2012-2013<sup>#</sup></i>
16	Tin Hau Temple, Cha Kwo Ling	579,006.97	279,085.08	287,399.17
17	Tin Hau Temple, Ha Heung Road	253,637.62	470,028.14	347,415.85
18	Tin Hau Temple, Peng Chau	759,573.96	619,917.12	526,864.77
19	Tin Hau Temple, Joss House Bay	400,599.10	138,313.98	99,371.17
20	Tin Hau Temple, Shau Kei Wan	94,111.82	656,252.65	901,856.88
21	Tin Hau Temple, Sham Shui Po	816,079.41	921,787.88	688,503.40
22	Tam Kung Temple, Shau Kei Wan	915,720.32	969,489.25	784,367.30
23	Tam Kung and Tin Hau Temples, Wong Nai Chung	644,861.20	220,833.47	184,772.81
24	Yuk Wong Kung Din, A Kung Ngam	161,644.66	20,568.80	19,532.80
25	Tai Wong Ye Temple, Tong Po Chau**	0.00	0.00	0.00
		33,480,080.74	31,321,281.49	31,404,587.28

## Notes:

\* Revenues of the temples mainly include temple management contract fees and worshippers' donations. Resources and services required for the operation of the temples are collectively managed and provided by the Secretariat of the Chinese Temples Committee for the sake of economic efficiency. Breakdowns of expenditure for individual temples are therefore not available. The total expenditure of these 25 temples is at Annex I (Table 1).

\*\* This temple is an altar of several dozens square feet on the island of Tong Po Chau. Being remote with no residents and few visitors, it has been closed since April 2004 pursuant to the decision of the Committee. As such, there was neither revenue nor expenditures for the past three years.

# Unaudited figures

## Annex II

Number of complaints received in respect of the 25 temples directly administered by the Chinese Temples Committee in the past three years (November 2010 to October 2013)

	Name of temples	Types of complaints received		Total number of complaints received	Number of substantiated or partially substantiated complaint cases
		Procurement of products or services from temple keeper	Temple operation, fees charged, opening hours or display of objects		
1	Che Kung Temple, Sha Tin	2	6	8	2
2	Hung Shing Temple, Ap Lei Chau`	5	1	6	1
3	Hung Shing Temple, Cheung Chau	0	0	0	0
4	Hau Wong Temple, Junction Road	0	0	0	0
5	Hau Wong Temple, Tai O	0	0	0	0
6	Kwun Yum Temple, Ap Lei Chau	0	0	0	0
7	Kwun Yum Temple, Hung Hom	1	1	2	2
8	Lin Fa Kung, Tai Hang	1	0	1	1
9	Mo Tai Temple, Sham Shui Po	0	0	0	0
10	Pak Tai Temple, Cheung Chau	2	1	3	1
11	Pak Tai Temple, Hok Un Kok	0	0	0	0
12	Pak Tai Temple, Wan Chai	0	5	5	4
13	Sam Tai Tze and Pak Tai Temples, Sham Shui Po	0	0	0	0
14	Shing Wong Temple, Shau Kei Wan	2	2	4	0
15	Tin Hau Temple, Aberdeen	0	1	1	0
16	Tin Hau Temple, Cha Kwo Ling	0	0	0	0
17	Tin Hau Temple, Ha Heung Road	3	1	4	2
18	Tin Hau Temple, Peng Chau	0	3	3	1

	Name of temples	Types of complaints received		Total number of complaints received	Number of substantiated or partially substantiated complaint cases
		Procurement of products or services from temple keeper	Temple operation, fees charged, opening hours or display of objects		
19	Tin Hau Temple, Joss House Bay	0	0	0	0
20	Tin Hau Temple, Shau Kei Wan	1	1	2	0
21	Tin Hau Temple, Sham Shui Po	4	1	5	4
22	Tam Kung Temple, Shau Kei Wan	1	1	2	2
23	Tam Kung and Tin Hau Temples, Wong Nai Chung	0	0	0	0
24	Yuk Wong Kung Din, A Kung Ngam	0	0	0	0
25	Tai Wong Ye Temple, Tong Po Chau	0	0	0	0
	Total	22	24	46	20

### Overcharging of Service Fees by Telecommunications Service Operators

17. **MR ALBERT CHAN** (in Chinese): *President, in reply to my question on 28 November 2012 on the issue of telecommunications service operators (TSOs) overcharging service fees, the Government said that where there was evidence indicating that a TSO might have breached the Telecommunications Ordinance (Cap. 106) (TO) or the licensing conditions, the Office of the Communications Authority (OFCA) would conduct an investigation and penalize the TSO if the case was substantiated. Yet, I have still received complaints recently from a number of members of the public that TSOs had charged them for services that they had not applied for, or overcharged telecommunications service fees, thus causing them to suffer huge losses. In this connection, will the Government inform this Council:*

- (a) *whether it knows the numbers of complaints, received in the past 12 months by the OFCA and the Consumer Council (CC) respectively,*



*which involved overcharging by TSOs and the names of TSOs in substantiated cases, broken down by type of telecommunications services (for example, fixed-line phones, mobile phones, external telecommunications and broadband Internet access, and so on) and content of the complaints;*

- (b) whether it knows, among the cases in part (a), the number of those in which the complainants succeeded in getting compensation, as well as the names of TSOs which were prosecuted and the number of times they had been prosecuted; and*
- (c) apart from continuing to implement the existing measures to regulate TSOs, whether the authorities will adopt new regulatory measures to better protect consumers' rights and interests; if they will, of the details; if not, the reasons for that?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Chinese): President, the telecommunications market in Hong Kong has been developing rapidly and is highly competitive. The OFCA and the CC receive complaints from consumers in respect of the billing of telecommunications services from time to time and have always endeavoured to help resolve such disputes between consumers and operators. Normally, such complaints will, with the consent of the complainants, be referred to the service operators concerned direct for follow up. The Communications Authority (CA) is empowered under the TO to regulate the telecommunications sector. Where there is evidence indicating that an operator may have breached the TO or the licence conditions, the CA will conduct an investigation and penalize the operator if there is sufficient evidence to substantiate the case. In addition, the amended Trade Descriptions Ordinance (Cap. 362) (TDO) has come into effect on 19 July 2013. Traders are prohibited from deploying the unfair trade practices prescribed under the Ordinance against consumers. The Customs and Excise Department (C&ED) is the principal agency responsible for enforcing the TDO. Concurrent jurisdiction is conferred on the CA to enforce the provisions of the TDO in relation to the commercial practices of licensees under the TO and the Broadcasting Ordinance (Cap. 562) that are directly connected with the provision of a telecommunications or broadcasting service under the relevant Ordinances.

The Administration's reply to the Member's question is as follows:

- (a) The number of complaints on billing disputes<sup>(1)</sup> in relation to telecommunications services received by the OFCA from November 2012 to October 2013, broken down by the type of services, is set out below:

	November 2012 to October 2013
Fixed services	98
Mobile services	761
Internet access services	100
Others (for example, external communications services)	20
Total	979

The number of complaints on billing disputes<sup>(1)</sup> in relation to telecommunications services received by the CC over the same period, broken down by the type of services, is set out below:

	November 2012 to October 2013
Fixed services	330
Mobile telephone services	1 170
Mobile data services	650
Internet access services	855
Others (for example, external communications services)	553
Total	3 558

The above figures include complaints cases that are ultimately unsubstantiated or categorized as enquiries. Moreover, the numbers of complaints against individual operators may be affected by the size of their customer bases. Therefore, in line with the established practice of handling consumer complaints, the OFCA and the CC will not disclose the names of individual operators involved in the complaints.

- (b) Among the complaint cases set out in part (a) from November 2012 to October 2013, the OFCA referred to the operators and mediated in

(1) While some complaints on billing disputes involve overcharging, some may involve other billing disputes such as consumers not being clear about the details of their tariff plans. As such, the figures in part (a) are not limited to complaints about overcharging. Neither the OFCA nor the CC further categorizes complaints on billing disputes received.

818 cases with the consent of the complainants, and 513 (63%) of these cases have been settled. The CC referred to the operators and mediated in 3 416 cases with the consent of the complainants, and 2 420 (71%) of them have been settled. The OFCA and the CC have also requested the operators to handle the remaining cases properly.

Over the past year, the CA has issued advice to the concerned operator in respect of two billing error incidents. Given that the problem is not serious and the concerned operators have taken immediate action to rectify the errors, the CA decided to remind the concerned operators, by way of advice, to comply strictly with the licence conditions and requirements under the Code of Practice in Relation to Billing Information and Payment Collection for Telecommunications Services. The CA has also requested the operators to take appropriate remedial measures to prevent similar incidents from happening again.

- (c) The Administration attaches great importance to enhancing consumer protection. The amended TDO has come into effect on 19 July 2013, with its scope expanded to cover services. It prohibits the traders from deploying the following unfair trade practices against consumers, including false trade descriptions of services, misleading omissions, aggressive commercial practices, bait advertizing, bait-and-switch and wrongly accepting payment. Any person convicted of committing an offence against the unfair trade practices specified above is liable to a maximum fine of \$500,000 and imprisonment for five years. The amended TDO also introduces a compliance-based mechanism under which civil enforcement options can be drawn on to deal with infringements. The Enforcement Agencies may, with the consent of the Secretary of Justice, seek an undertaking from a trader suspected of deploying an unfair trade practice to stop and not to repeat that practice instead of lodging criminal prosecutions and, where necessary, seek an injunction from the court for the purpose. The CA will, as it has been the case all along, closely monitor the developments in the telecommunications market, investigate cases involving any unfair trade practices, and where circumstances warrant, exercise the powers conferred on the CA under the TDO. Since the unfair trade

practices specified under the Ordinance are criminal offences, of which the penalties include fines and imprisonment, this has a significant deterrent effect on all telecommunications service licensees.

Moreover, licences issued by the CA to the TSOs also include provisions for protecting consumers. For instance, the licensee is required to ensure the accuracy and reliability of its metering equipment and billing system related to service usage.

Besides, with a view to enhancing the transparency of pricing in respect of chargeable items in the provision of telecommunications services, the CA issued in October 2011 the Code of Practice in Relation to Billing Information and Payment Collection for Telecommunications Services, which provides guidelines on the information to be included in bills and on the arrangements for payment collection, for compliance by operators on a voluntary basis. Seven local fixed network operators and five mobile network operators have pledged compliance with the Code of Practice, effective from 1 July 2012.

For the period of the past 12 months ending October this year, the number of complaints on billing disputes received by the OFCA has dropped by nearly 10% as compared to the corresponding period of last year while the number of such complaints received by the CC has increased by about 11% as compared to the same period of last year. Despite the respective changes in the two sets of complaint figures, the overall situation has improved significantly since the implementation of the Code of Practice. The OFCA will continue to maintain close communication with the operators and urge them to observe closely the requirement of the Code of Practice in order to enhance the transparency of pricing of chargeable items in telecommunications services, as well as to take reasonable steps to ensure accuracy of billing and collection of payment.

On the other hand, the CA, through its close collaboration with the telecommunications industry, has also introduced a variety of schemes for the voluntary participation of the industry to strengthen the protection of consumer interests. The Industry Code of Practice

for Telecommunications Service Contracts (Industry Code) is formulated to improve the transparency of the process of drawing up contracts. The Industry Code was issued by the Communications Association of Hong Kong (CAHK), an industry organization, in collaboration with the major TSOs after active discussions between the OFCA and the industry. It has been implemented since July 2011. The Industry Code provides guidelines on drawing up fair and reasonable telecommunications service contracts in order to modify the content of the contract and improve the arrangements for contract termination and renewal. During the two years since the implementation of the Industry Code, the OFCA has always been closely monitoring its implementation and effectiveness. So far, no breach of the Industry Code is found.

We believe that the Industry Code can effectively improve the transparency of the process of drawing up contracts and increase customer satisfaction, as well as reducing the number of contractual disputes. To further protect consumer interests, the OFCA has put forward some suggestions to the CAHK in May this year for improving the Industry Code. The CAHK is now working with the operators to discuss the proposal.

Moreover, the OFCA supports the two-year pilot run of the Customer Complaint Settlement Scheme (CCSS) launched by the telecommunications industry in November 2012 to resolve billing disputes in deadlock between the telecommunications service providers and their customers through mediation. During the pilot run, the OFCA sponsors the operation of the CCSS by contributing the necessary funding, it also plays an active role in monitoring the governance and effectiveness of the scheme, as well as providing other administrative support.

The OFCA will continue to closely monitor the implementation and effectiveness of the above measures, and consider enhancing existing measures or introducing new measures to protect the right and interest of consumers, in the light of operators' experience and consumers' views.

## **Appointment and Accountability Systems for Commissioner of Independent Commission Against Corruption**

18. **MR PAUL TSE** (in Chinese): *President, it has been reported that the last Commissioner of the Independent Commission Against Corruption (the Commissioner) was alleged to have often violated the relevant regulations on expenditure during his term of office (for example, buying hard liquor and gifts with public money for entertainment and bestowal of gifts for guests and Mainland officials), which are acts that should not have been done by the head of an organization devoted to fighting corruption and promoting integrity. Some comments have attributed the cause of this incident to the fact that the current system of appointment of the Commissioner by the Chief Executive (the Commissioner's appointment system) has no objective selection criteria and lacks transparency. Besides, the Independent Commission Against Corruption (ICAC) has spent much time in the investigation into the corruption complaint against Chief Executive of the last term but the case is yet to conclude, and some people have conjectured that such a situation is unusual. There are comments that such conjecture was caused by the fact that the Commissioner is only accountable to the Chief Executive (the Commissioner's accountability system) at present. In this connection, will the Government inform this Council:*

- (a) *whether it will, in the light of the aforesaid situations, consider afresh conducting a study on and making improvements to the Commissioner's appointment system, such as introducing more objective criteria in the selection of candidates for the Commissioner, refraining from appointing a candidate who has not yet left or may in future return to the Civil Service, and enhancing the transparency of the appointment process;*
- (b) *whether it has assessed if the Commissioner's accountability system should be reviewed and improved, so as to ensure that the ICAC can effectively investigate complaints in relation to allegations of corruption or dereliction of duty against Chief Executive; if it has assessed, of the results; if not, whether it will do so immediately; and*
- (c) *whether it has examined if the current Commissioner's appointment and accountability systems will lead or has led the public to query if the ICAC is able to investigate impartially complaints about alleged dereliction of duty by a former or the incumbent the Chief Executive;*

*if it has examined, of the results; if not, whether it will do so immediately?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Chinese): President, the way in which the former Commissioner of ICAC handled expenses on official entertainment, bestowal of gifts and duty visits during his term of office has caused public concerns. I wish to take this opportunity to reiterate that the ICAC has, since its establishment, devoted itself to anti-corruption work and it has successfully upheld Hong Kong's core value of fairness and probity. We understand that the public attaches great importance to the work of the ICAC and has a very high expectation of the personal integrity of the ICAC personnel, in particular that of the senior staff. To this end, the Administration attaches great importance to the incident and handles it seriously in order to maintain public confidence in the ICAC.

The Independent Review Committee (IRC) appointed by the Chief Executive released its report on 12 September this year, which reviewed the ICAC's regulatory systems and procedures for handling expenses on official entertainment, gifts and duty visits, including arrangements for application, reimbursement and approval; reviewed the compliance of the ICAC staff of all ranks with the regulatory systems and procedures during the term of the former Commissioner of ICAC; and made a number of recommendations for improving the aforesaid systems and procedures. The incumbent Commissioner of ICAC had expressed on the date of the release of the IRC report that the ICAC accepted all recommendations made by the IRC and would put them in place as soon as possible.

My response to the three parts of the question raised by Mr Paul TSE is as follows:

- (a) Pursuant to Article 57 of the Basic Law, a Commission Against Corruption shall be established in the Hong Kong Special Administrative Region (HKSAR). It shall function independently and be accountable to the Chief Executive.

Pursuant to Article 48 of the Basic Law, the Chief Executive nominates and reports to the Central People's Government for appointment of all principal officials, including the Commissioner of ICAC. Article 61 of the Basic Law stipulates that the principal

officials of HKSAR shall be Chinese citizens who are permanent residents of HKSAR with no right of abode in any foreign country and have ordinarily resided in Hong Kong for a continuous period of not less than 15 years. We consider that it is not necessary to have other requirements in addition to those set out under the Basic Law.

Consistent with the appointment of other principal officials, the Chief Executive handles the appointment of the Commissioner of ICAC by strictly adhering to the requirements under the Basic Law; and on the bases of credentials, experiences, abilities and personal integrity so that the ICAC can exercise its statutory functions effectively and uphold Hong Kong's core value of probity and fairness. Excluding serving civil servants from consideration for appointment will restrict the pool of talents. We therefore do not consider it appropriate.

(b) and (c)

By virtue of section 12(b)(ii) of the Independent Commission Against Corruption Ordinance (ICACO) (Cap. 204), it shall be the duty of the Commissioner of ICAC to investigate any suspected offence under the Prevention of Bribery Ordinance (POBO) (Cap. 201) as committed by any person (including the Chief Executive).

The ICAC has established procedures in handling corruption complaints, including complaints against Chief Executive. Upon receiving a corruption complaint, regardless of the target of the complaint, as long as there is sufficient information for follow-up, the Commissioner of ICAC is required to investigate the complaint independently and impartially, in strict accordance with the ICACO and established procedures. Legal advice will also be sought from the Department of Justice during the process when necessary.

The progress and outcome of all investigations conducted by the ICAC will be reported to the independent Operations Review Committee and subject to its scrutiny. Under the existing checks and balances which have proven to be effective, no person, including the Commissioner of ICAC, will take the liberty of terminating an investigation.



The ICAC is prohibited by law from disclosing to the Chief Executive the presence of, or details about, a corruption complaint/investigation against Chief Executive. If the Commissioner of ICAC disclosed to the Chief Executive that the Chief Executive was subject to an investigation being conducted by the ICAC or any details about the investigation without lawful authority or reasonable excuse, the Commissioner of ICAC would commit an offence under section 30(1) of POBO.

### **Confidentiality System of Executive Council**

19. **MR KENNETH LEUNG** (in Chinese): *President, earlier on, the Government has, on the ground that the long-standing system of confidentiality of the Executive Council (ExCo) should make no exception for any individual incident, declined to disclose the entire process of the vetting and approval of the domestic free television programme service licence applications by ExCo, and refused to further disclose the reasons for rejecting the application of Hong Kong Television Network Limited. The incident has aroused public concern about the confidentiality system of ExCo and there is also a view that the confidentiality system has been reduced to a tool for the Government to cover up its black box operation. In this connection, will the Government inform this Council:*

- (a) *of the historical background of the confidentiality system of ExCo;*
- (b) *of the legal basis for the current confidentiality system of ExCo, and whether it has ever been revised; and*
- (c) *given the view that ExCo has failed to strike a balance between its confidentiality system and the public's right to know, whether the authorities will consider afresh to review and revise the confidentiality system of ExCo to allow the Chief Executive, the Convenor of ExCo and the Secretaries of Department or Bureau Secretaries responsible for the policies concerned to give the public a detailed account of the justifications for various major policy decisions made by ExCo?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Chinese): President, my reply to the three parts of the question is as follows:

(a) and (b)

The ExCo is an organ that assists the Chief Executive in policy-making. Its constitutional status is provided under Article 54 of the Basic Law of the Hong Kong Special Administrative Region (HKSAR). In order to perform its function in a fully competent manner, the ExCo has been adhering to the long-established principle of confidentiality before and after the Handover, with the purpose of ensuring that ExCo Members can, as in the past, speak freely and honestly without any pressure when giving advice to the Chief Executive. It also enables the Chief Executive to listen to different views when assessing the pros and cons of policies.

In other words, the confidentiality principle of ExCo proceedings is an essential cornerstone of the decision-making and operation of the HKSAR Government. It must be sternly upheld and respected and should in no way be violated. The principle of confidentiality enables ExCo to take into account various aspects of the policies concerned when making decisions, so that the policies eventually formulated will be more comprehensive. It is also the basis on which the integrity of the ExCo system relies. Therefore, protecting the integrity of the ExCo system is a matter of significant public interest.

It is the duty of ExCo Members to abide by the principle of confidentiality. According to section 18 of the Oaths and Declarations Ordinance, a Member of ExCo shall take the Oath of Fidelity after his or her appointment, pledging that, "I will not, except with the authority of the Chief Executive, reveal the agenda or proceedings of the Executive Council, or any document communicated to me or any matter coming to my knowledge in my capacity as a Member of the Executive Council; that I will not seek to make or assist others to make any personal gain through the exercise of my official duties and I will be bound by and be collectively accountable for the decisions of the Executive Council."

- (c) In line with the principle of confidentiality of ExCo, the Government does not disclose the content of ExCo discussion, but will explain the major points of the decision and the relevant principles leading to the decision by means of press releases and Legislative Council Briefs. Besides, the relevant Policy Bureau will, on a need basis, convene press conference to explain to the public the decision made and respond direct to media enquiries. The Chief Executive will also explain the decision to the public if needed. The purpose of this established practice is to strike a balance between the principle of confidentiality and the right to know of the public. The same approach has been adopted in the deliberation of the free television programme service licence applications. Both the Chief Executive and the Secretary for Commerce and Economic Development have explained the major points of the decision and the relevant principles leading to the decision on many different occasions. There is no question of using the confidentiality system as a cover-up.

### **Problems Caused by Unlicensed Restaurants**

20. **DR HELENA WONG** (in Chinese): *President, some District Council members have relayed to me that many restaurants (including quite a number of unlicensed restaurants) in Yuen Long Town and Tin Shui Wai extend their business area illegally at night. They occupy the walkways with more than a thousand dining tables, creating obstruction, noise and environmental hygiene problems, and so on, as well as blocking the emergency accesses. As a result, the daily lives of the residents nearby are seriously disturbed. In addition, in its Direct Investigation Report published in May this year on illegal extension of business area by restaurants, the Office of The Ombudsman put forth to the Food and Environmental Hygiene Department (FEHD) and Lands Department (LandsD) 17 recommendations for improvement, including exercising more stringent control on the unlicensed restaurants concerned. In this connection, will the Government inform this Council:*

- (a) *whether the authorities have compiled statistics on the number of unlicensed restaurants; if they have, of the number of unlicensed restaurants in the past three years, and among them, the number of restaurants which had continued to operate without a licence despite their licences having been suspended after their accumulated*

*demerit points had exceeded the limit under the FEHD's Demerit Points System for restaurants; of the number of prosecutions instituted against the unlicensed restaurants by the authorities in the past three years;*

- (b) whether the authorities will make public the list of unlicensed restaurants so that consumers can identify them; if they will, of the time to do so; if not, the reasons for that;*
- (c) whether the Director of the FEHD is authorized to order unlicensed restaurants to cease operation immediately; if so, of the details; if not, the relevant restrictions;*
- (d) whether, in the past three years, there were cases of food poisoning of members of public allegedly caused by their dining in unlicensed restaurants; if so, of the details, and whether it knows if the punishment imposed by the Court on unlicensed restaurants convicted for selling food unfit for human consumption is heavier than that imposed on licensed restaurants;*
- (e) of the short-term and long-term measures put in place to address the problem caused by extension of business area to walkways by restaurants in Yuen Long Town and Tin Shui Wai; and*
- (f) regarding the 17 recommendations for improvement put forth by The Ombudsman, of the recommendations which have been implemented, are planned to be implemented and will not be implemented respectively; of the implementation details of the recommendations which have been implemented, as well as the time to implement the to-be-implemented ones?*

**SECRETARY FOR FOOD AND HEALTH** (in Chinese): President, the FEHD has been vigilant in combating unlicensed restaurant operations and the illegal extension of business area by restaurants. Stringent enforcement actions are taken by the FEHD against unlicensed restaurants, including those operating without a licence issued by the FEHD and those which carry on with their business after their licences have been cancelled. Apart from conducting regular inspections and enforcement actions against these premises, the FEHD would

consider, where necessary, enhancing the frequency of instituting prosecutions, arresting the offenders and seizing the articles used, as well as applying for a closure order from the Court to close the premises.

In recent years, the FEHD has adopted a multi-pronged approach and implemented targeted measures to strengthen its actions against illegal extension of business area by restaurants. The measures include stepping up inspections and enforcement actions, speeding up the prosecution process and providing additional information to the Court for consideration when passing sentences. These measures are pursued to enhance deterrence and the effectiveness of enforcement actions taken to curb the irregularities.

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

- (a) The number of unlicensed restaurants, the number of restaurants which continued to operate after their licences had been suspended under the FEHD's Demerit Points System, and the number of prosecutions instituted against unlicensed restaurants by the FEHD in the past three years (between 2011 and the end of September 2013) are set out in Table 1.
- (b) The FEHD keeps a list of licensed restaurants (including those with provisional and full licences) on its website and updates the information on a daily basis so as to provide the public with accurate information. Licensed restaurants are also required to display their licences and a sign indicating that the premises are licensed at a conspicuous place on the premises. With these measures in place, members of the public will be able to tell whether a food premise is licenced. The Administration does not intend to prepare a separate list of unlicensed restaurants, as it may cause confusion including possible misunderstanding that all restaurants not on the list are licensed.
- (c) Any person operating an unlicensed restaurant may be prosecuted by the FEHD under section 31(1)(b) of the Food Business Regulation (Cap. 132X). The FEHD may also apply to the Court for a closure order under section 128B of the Public Health and Municipal Services Ordinance (Cap. 132) (the Ordinance) to close an unlicensed restaurant. In addition, if the Director of Food and

Environmental Hygiene has sufficient reasons to believe that an unlicensed restaurant poses a serious threat to public health, he may order the immediate closure of the unlicensed restaurant under section 128C of the Ordinance. The closure will enable necessary investigations and cleansing, disinfestation, deratting, disinfection and other rectification measures to be taken immediately.

- (d) In 2011, four unlicensed restaurants were involved in suspected food poisoning incidents. The corresponding number in 2012 and 2013 (up to September) was three and nine respectively. After investigation, the FEHD found that these 16 suspected food poisoning cases were mainly caused by bacteria. There is no material difference in the cause of poisoning between these cases and those involving licensed restaurants.

Under the Ordinance and the relevant subsidiary legislation, all food that is sold for human consumption must be fit for human consumption and meet the requirements relating to food safety standards. Section 54 of the Ordinance provides that any person selling food unfit for human consumption commits an offence and is liable on conviction to a maximum fine of \$50,000 and imprisonment for six months. The FEHD will submit to the Court information about the background of the offender as well as the circumstances of the case, including the hygiene condition, licensing status and prosecution records of the premises selling the food in question. It is for the Court to take such information into account as it deems fit when considering whether a heavier sentence should be imposed. The FEHD does not keep information on whether or not the Court has as a result imposed heavier punishment on unlicensed restaurants.

- (e) The FEHD is mindful that some restaurants in Yuen Long Town and Tin Shui Wai occupy public areas and operate beyond the designated areas of their licences. To combat illegal extension of business area by restaurants, the FEHD conducts regular as well as surprise inspections and institutes prosecution on the spot from time to time in various districts (including Yuen Long). In addition, the FEHD may suspend or cancel a licence for illegal extension of business area under the Demerit Points System or for breach of licensing

conditions under the Warning Letter System, as appropriate. The number of prosecutions instituted against restaurants in Yuen Long District for illegal extension of business area and the number of licences suspended or cancelled in the past three years are set out in Table 2.

To enhance the effectiveness of enforcement actions and deterrence, the FEHD will, along the lines stated in part (f) below, implement the recommendations made by the Office of The Ombudsman in its direct investigation report, as measures to combat the problem of persistent illegal extension of business area by restaurants in various districts (including Yuen Long), with a view to enhancing compliance.

- (f) Among the 17 recommendations put forth in The Ombudsman's direct investigation report, 14 are related to the FEHD. The FEHD has by and largely implemented eight of the recommendations as follows:
- (i) In May 2013, the FEHD set up, on a pilot basis, a task force comprising health inspectors to pursue enhanced enforcement action in a selected district, namely Tsuen Wan. The task force monitors the restaurants for irregularities throughout the peak business hours during weekdays and holidays, and takes stringent prosecution actions against persistent illegal extension of business area by restaurants. With the work of the task force in Tsuen Wan bearing fruit, the situation has improved significantly. The FEHD is considering setting up similar task forces in other districts fraught with illegal extension of business area by restaurants, with a view to taking forceful actions against such irregularities.
  - (ii) Subject to the availability of resources, the FEHD will consider increasing the frequency of prosecuting recalcitrant restaurants, arresting the offenders and seizing the articles used as well as providing the Court with conviction records so that the Court may consider a heavier sentence.

- (iii) The FEHD will apply for a closure order from the Court against food premises which persistently operate without a licence. After a closure order is made by the Court, the FEHD will close the premises in question and publicize, through the media, details of the unlicensed restaurant thus closed.
- (iv) The FEHD has extended the observation period prior to the issue of a provisional licence. A licence will be issued only after the Department is satisfied that the food premises concerned have all along complied with the relevant requirements without being prosecuted for illegal encroachment of common passageway outside the premises.
- (v) In respect of an applicant whose restaurant licence has previously been cancelled due to repeated illegal extension of business area, his/her application, or an application made by his/her representative/business partner, for any licence in relation to the same premises will not be processed within 12 months from the date of cancellation of the licence.
- (vi) In 13 districts where the problem of illegal extension of business area by restaurants exists, the FEHD has consulted the District Councils concerned on enhanced enforcement measures and proposals to designate spots for al fresco dining in suitable areas. Whilst all these District Councils support the FEHD's enhanced enforcement measures, most of them have indicated that there are no suitable spots for al fresco dining in their districts.

A summary of the follow-up actions that are being pursued by the FEHD in respect of the remaining six recommendations is given below. The Department is:

- (i) reviewing the effectiveness of the existing measures and, based on the situation of each district, would set objectives and formulate strategies for tackling illegal extension of business area by restaurants;



- (ii) considering the case for applying the non-standard licensing requirement which prohibits encroachment on Government land or common passageways to all premises for which a restaurant licence is being sought, including putting restrictions on applications from recalcitrant offenders for restaurant or related licences in relation to other premises;
- (iii) considering the case for legislative amendments to delay the mechanism for appeal against suspension or cancellation of licences from three to two tiers as well as the case for refraining from withholding the suspension or cancellation of licences pending the appeal results, except under very special circumstances; and
- (iv) deliberating with the Home Affairs Department on how to balance stakeholders' interests when consulting the public on applications from restaurants for setting up outside seating accommodation.

The other three recommendations mentioned in The Ombudsman's direct investigation report are being followed up by the LandsD. They are namely Recommendation (15) (that is, "Study with the Department of Justice how to more effectively exercise statutory powers to deal with illegal occupation of Government land by restaurants, in fulfillment of its responsibility as land administrator"); Recommendation (16) (that is, "Subject to the outcome of their study, actively support the FEHD in taking rigorous actions against recalcitrant offenders"); and Recommendation (17) (that is, "Subject to the outcome of the study, review with the Steering Committee on District Administration the arrangement whereby the LandsD only deals with illegal occupation of Government land involving structures of a "more permanent nature"). For the relevant Recommendations, the LandsD and the Department of Justice have agreed to set up a working group to review the existing procedures for land control action under the Land (Miscellaneous Provisions) Ordinance (Cap. 28) with a view to more effectively addressing the problem of prolonged or repeated unlawful occupation of Government land. Subject to the findings of the review, the LandsD will take follow-up actions as appropriate.

Table 1

Number of unlicensed restaurants and prosecutions instituted by the FEHD

	<i>2011</i>	<i>2012</i>	<i>2013 (up to September)</i>
Monthly average number of unlicensed restaurants	208	248	265
Number of prosecutions against unlicensed restaurants	1 419	2 250	2 319
Number of restaurants which continued to operate after their licences had been suspended under the FEHD's Demerit Points System	1	3	1

Table 2

Number of prosecutions instituted by the FEHD against restaurants in Yuen Long District for illegal extension of business area

<i>Year</i>	<i>2011</i>	<i>2012</i>	<i>2013 (up to September)</i>
	<i>Number of prosecutions under the relevant provisions</i>		
Under section 34C of the Food Business Regulation(Cap. 132X) (illegal extension of business area)	114	126	79
Under section 31(1)(b)of the Food Business Regulation (Cap. 132X) (unlicensed food business)	94	269	256
Under section 4A of the Summary Offences Ordinance (Cap. 228) (obstruction of public places)	185	221	227
Total	393	616	562

Number of licences suspended or cancelled by the FEHD for illegal extension of business area by restaurants in Yuen Long District

<i>Year</i>	<i>2011</i>	<i>2012</i>	<i>2013 (up to September)</i>
Licences suspended	17	23	18
Licences cancelled	1	15	19
Total	18	38	37

### Statistics on Transactions of Private Residential Properties

21. **MR ABRAHAM SHEK:** *President, will the Government inform this Council of the respective numbers and total values of the transactions of private residential properties acquired by non-Hong Kong permanent residents and those acquired in the name of a company in each month between January and October this year, with a breakdown by transaction price of property (set out separately in tables of the same format as the following)?*

*(Month) 2013*

<i>Transaction price of residential properties</i>	<i>(a) Private residential properties acquired by non-Hong Kong permanent residents</i>		<i>(b) Private residential properties acquired in the name of a company</i>		<i>(a+b) Total number of transactions</i>	<i>(a+b) Total value of transactions</i>
	<i>Number of transactions</i>	<i>Total value of transactions</i>	<i>Number of transactions</i>	<i>Total value of transactions</i>		
<i>Below \$4 million</i>						
<i>\$4 million to \$8 million</i>						
<i>Over \$8 million to \$20 million</i>						
<i>Over \$20 million</i>						

### SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY:

President, the relevant number of residential property transactions and total value of consideration involved are now set out in Tables 1 to 10 below. The

information is taken from applications for stamping of agreements for sale of residential properties received by the Inland Revenue Department (IRD) during the relevant months. Currently, applicants are only required to state in their applications whether buyers are Hong Kong Identity Card (HKIC) holders but not whether they are Hong Kong permanent residents. Thus, the IRD can only provide relevant information on buyers who are non-HKIC holders.

Table 1: January 2013

<i>Transaction price of residential properties</i>	<i>(a) Private residential properties acquired by non-Hong Kong permanent residents</i>		<i>(b) Private residential properties acquired in the name of a company</i>		<i>(a+b) Total number of transactions</i>	<i>(a+b) Total value of transactions (in million)</i>
	<i>Number of transactions</i>	<i>Total value of transactions (in million)</i>	<i>Number of transactions</i>	<i>Total value of transactions (in million)</i>		
Below \$4 million	23	\$63	97	\$274	120	\$337
\$4 million to \$8 million	26	\$148	112	\$569	138	\$717
Over \$8 million to \$20 million	22	\$272	25	\$299	47	\$571
Over \$20 million	3	\$82	10	\$371	13	\$453

Table 2: February 2013

<i>Transaction price of residential properties</i>	<i>(a) Private residential properties acquired by non-Hong Kong permanent residents</i>		<i>(b) Private residential properties acquired in the name of a company</i>		<i>(a+b) Total number of transactions</i>	<i>(a+b) Total value of transactions (in million)</i>
	<i>Number of transactions</i>	<i>Total value of transactions (in million)</i>	<i>Number of transactions</i>	<i>Total value of transactions (in million)</i>		
Below \$4 million	23	\$61	53	\$145	76	\$206
\$4 million to \$8 million	40	\$226	77	\$423	117	\$649
Over \$8 million to \$20 million	25	\$265	37	\$475	62	\$740
Over \$20 million	2	\$56	12	\$821	14	\$877

Table 3: March 2013

<i>Transaction price of residential properties</i>	<i>(a) Private residential properties acquired by non-Hong Kong permanent residents</i>		<i>(b) Private residential properties acquired in the name of a company</i>		<i>(a+b) Total number of transactions</i>	<i>(a+b) Total value of transactions (in million)</i>
	<i>Number of transactions</i>	<i>Total value of transactions (in million)</i>	<i>Number of transactions</i>	<i>Total value of transactions (in million)</i>		
Below \$4 million	35	\$102	51	\$101	86	\$203
\$4 million to \$8 million	38	\$212	31	\$192	69	\$404
Over \$8 million to \$20 million	25	\$303	20	\$243	45	\$546
Over \$20 million	8	\$222	6	\$487	14	\$709

Table 4: April 2013

<i>Transaction price of residential properties</i>	<i>(a) Private residential properties acquired by non-Hong Kong permanent residents</i>		<i>(b) Private residential properties acquired in the name of a company</i>		<i>(a+b) Total number of transactions</i>	<i>(a+b) Total value of transactions (in million)</i>
	<i>Number of transactions</i>	<i>Total value of transactions (in million)</i>	<i>Number of transactions</i>	<i>Total value of transactions (in million)</i>		
Below \$4 million	22	\$55	42	\$100	64	\$155
\$4 million to \$8 million	21	\$116	64	\$365	85	\$481
Over \$8 million to \$20 million	25	\$305	19	\$196	44	\$501
Over \$20 million	4	\$137	7	\$205	11	\$342

Table 5: May 2013

<i>Transaction price of residential properties</i>	<i>(a) Private residential properties acquired by non-Hong Kong permanent residents</i>		<i>(b) Private residential properties acquired in the name of a company</i>		<i>(a+b) Total number of transactions</i>	<i>(a+b) Total value of transactions (in million)</i>
	<i>Number of transactions</i>	<i>Total value of transactions (in million)</i>	<i>Number of transactions</i>	<i>Total value of transactions (in million)</i>		
Below \$4 million	33	\$91	52	\$125	85	\$216
\$4 million to \$8 million	33	\$181	80	\$437	113	\$618
Over \$8 million to \$20 million	17	\$210	15	\$181	32	\$391
Over \$20 million	3	\$133	7	\$331	10	\$464

Table 6: June 2013

<i>Transaction price of residential properties</i>	<i>(a) Private residential properties acquired by non-Hong Kong permanent residents</i>		<i>(b) Private residential properties acquired in the name of a company</i>		<i>(a+b) Total number of transactions</i>	<i>(a+b) Total value of transactions (in million)</i>
	<i>Number of transactions</i>	<i>Total value of transactions (in million)</i>	<i>Number of transactions</i>	<i>Total value of transactions (in million)</i>		
Below \$4 million	20	\$53	33	\$75	53	\$128
\$4 million to \$8 million	30	\$164	27	\$161	57	\$325
Over \$8 million to \$20 million	8	\$90	13	\$142	21	\$232
Over \$20 million	1	\$23	3	\$294	4	\$317

Table 7: July 2013

<i>Transaction price of residential properties</i>	<i>(a) Private residential properties acquired by non-Hong Kong permanent residents</i>		<i>(b) Private residential properties acquired in the name of a company</i>		<i>(a+b) Total number of transactions</i>	<i>(a+b) Total value of transactions (in million)</i>
	<i>Number of transactions</i>	<i>Total value of transactions (in million)</i>	<i>Number of transactions</i>	<i>Total value of transactions (in million)</i>		
Below \$4 million	31	\$93	53	\$147	84	\$240
\$4 million to \$8 million	25	\$148	56	\$319	81	\$467
Over \$8 million to \$20 million	23	\$310	31	\$313	54	\$623
Over \$20 million	2	\$44	4	\$174	6	\$218

Table 8: August 2013

<i>Transaction price of residential properties</i>	<i>(a) Private residential properties acquired by non-Hong Kong permanent residents</i>		<i>(b) Private residential properties acquired in the name of a company</i>		<i>(a+b) Total number of transactions</i>	<i>(a+b) Total value of transactions (in million)</i>
	<i>Number of transactions</i>	<i>Total value of transactions (in million)</i>	<i>Number of transactions</i>	<i>Total value of transactions (in million)</i>		
Below \$4 million	26	\$75	94	\$259	120	\$334
\$4 million to \$8 million	25	\$148	21	\$118	46	\$266
Over \$8 million to \$20 million	16	\$184	8	\$86	24	\$270
Over \$20 million	5	\$112	9	\$539	14	\$651

Table 9: September 2013

<i>Transaction price of residential properties</i>	<i>(a) Private residential properties acquired by non-Hong Kong permanent residents</i>		<i>(b) Private residential properties acquired in the name of a company</i>		<i>(a+b) Total number of transactions</i>	<i>(a+b) Total value of transactions (in million)</i>
	<i>Number of transactions</i>	<i>Total value of transactions (in million)</i>	<i>Number of transactions</i>	<i>Total value of transactions (in million)</i>		
Below \$4 million	28	\$88	179	\$447	207	\$535
\$4 million to \$8 million	42	\$231	25	\$146	67	\$377
Over \$8 million to \$20 million	18	\$229	10	\$123	28	\$352
Over \$20 million	6	\$278	2	\$77	8	\$355

Table 10: October 2013

<i>Transaction price of residential properties</i>	<i>(a) Private residential properties acquired by non-Hong Kong permanent residents</i>		<i>(b) Private residential properties acquired in the name of a company</i>		<i>(a+b) Total number of transactions</i>	<i>(a+b) Total value of transactions (in million)</i>
	<i>Number of transactions</i>	<i>Total value of transactions (in million)</i>	<i>Number of transactions</i>	<i>Total value of transactions (in million)</i>		
Below \$4 million	22	\$69	31	\$77	53	\$146
\$4 million to \$8 million	43	\$233	25	\$141	68	\$374
Over \$8 million to \$20 million	14	\$175	11	\$149	25	\$324
Over \$20 million	6	\$180	11	\$486	17	\$666



**Involvement of Mainland Officials in Hong Kong in Vetting and Approval of Domestic Free Television Programme Service Licence Applications**

22. **MR FREDERICK FUNG** (in Chinese): *President, at the Legislative Council meeting on the 6th of this month, a Member of this Council moved a motion under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) to authorize the Panel on Information Technology and Broadcasting to order the Government to produce relevant documents involved in the vetting and approval of domestic free television programme service licence (licence) applications. It has been reported that prior to this, some officials of the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region (LOCPG) had exerted pressure on some Members of this Council and asked them to vote against the motion. Some Members have admitted that some LOCPG officials had contacted them on the matter, while some Members of the Executive Council and some pro-establishment newspapers have commented that officials of the LOCPG are entitled to express to Members their views on the matter. However, Articles 13, 14, 16 and 22 of the Basic Law stipulate respectively that the Central People's Government (CPG) shall be responsible for foreign affairs and defence, while the Hong Kong Special Administrative Region (HKSAR) shall be vested with executive power, and no department, and so on, of the CPG may interfere in the affairs which the SAR administers on its own. In this connection, will the Government inform this Council:*

- (a) *of the criteria based on which the authorities at present define the scope of affairs which the SAR "administers on its own" in accordance with the Basic Law as stipulated in Article 22 of the Basic Law; whether the authorities have formulated any mechanism and criteria to assess if there have been contraventions to such Article; if they have, of the details; if not, the reasons for that, and whether the authorities have assessed if, in the absence of such a mechanism and criteria, the Chief Executive and officials of bureaux will beckon or allow departments of the CPG to interfere in the affairs which the SAR administers on its own for certain reasons (for example, to garner support from various parties when there are difficulties in governing, to curry favour with officials of the Central Authorities or to pander to the will of the Central Authorities); whether the authorities had uncovered any case of such interference in the past five years; if they had, of the details and follow-up actions taken by the authorities;*

- (b) *whether the Chief Executive, the Executive Council Members and officials of the relevant bureau, and so on, had, during the process of the vetting and approval of licence applications, directly or indirectly received views from officials of the Central Government or the LOCPG, and so on, on the vetting and approval of licence applications; if they had, of the views received and the response and follow-up actions of the authorities, and whether the authorities have assessed if such an action of the Mainland officials involved had contravened the Basic Law (including the policy of "one country, two systems" and the principle of "Hong Kong people ruling Hong Kong" and "a high degree of autonomy" being implemented in Hong Kong); and*
- (c) *whether the Chief Executive, officials of the Office of the Chief Executive, the Executive Council Members and officials of the relevant bureaux have requested assistance from the LOCPG in persuading Members of this Council to vote against the aforesaid motion; if they have, of the details and justifications for doing so; if not, whether they have assessed if the LOCPG had acted in contravention of the Basic Law (including the policy of "one country, two systems" and the principle of "Hong Kong people ruling Hong Kong" and "a high degree of autonomy" being implemented in Hong Kong) in making contacts with some Members of this Council; if the assessment outcome is in the affirmative, whether the authorities will express dissatisfaction to the CPG; if they will not, of the reasons for that?*

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

- (a) According to Article 12 of the Basic Law, the HKSAR shall be a local administrative region of the People's Republic of China, which shall enjoy a high degree of autonomy and come directly under the CPG. Since the establishment of the HKSAR, the Central Authorities have been acting in strict accordance with the fundamental principles and policies of "one country, two systems", "Hong Kong people ruling Hong Kong" and "a high degree of autonomy", as well as the provisions of the Basic Law in support of the Chief Executive and the HKSAR Government in administering Hong Kong in accordance with law. All along, the HKSAR

Government has also been handling the affairs of Hong Kong in strict accordance with the Basic Law and the "one country, two systems" principle.

- (b) On 15 October 2013, the Government announced that, under the gradual and orderly approach in introducing competition into the domestic free television programme service (free TV) market, the Chief Executive in Council had decided to grant approval-in-principle to the applications of Fantastic Television Limited and HK Television Entertainment Company Limited for a free TV licence, and reject Hong Kong Television Network Limited's application (the Decision). Subsequently, the Government has on different occasions publicly explained the assessment criteria and the reasoning leading to the Decision, and has elucidated the 11 relevant factors considered by the Chief Executive in Council. The 11 factors are: the three applications for a free TV licence; the recommendation submitted by the Communications Authority (CA); the statutory requirements under the Broadcasting Ordinance (Cap. 562); the assessment criteria in the CA's "Guidance Note for Those Interested in Applying for Domestic Free Television Programme Service Licences in Hong Kong"; sustainability of the free TV market as a whole; the consultant's reports on the impact of introducing new competitors on the competition environment of the free TV market (including the consultant's assessment of the relative competitiveness of each applicant); all representations/responses by relevant parties, and all relevant documents; all relevant latest developments; all public views received; the Government's prevailing broadcasting policy; and public interest. As indicated in the relevant Legislative Council Brief issued on 15 October 2013, the Decision is in conformity with the Basic Law.
- (c) One of the responsibilities of the LOCPG is to liaise, on behalf of the CPG, with various sectors in the society of Hong Kong, including Legislative Council Members. Offices set up by the CPG in Hong Kong, including the LOCPG, shall comply with the basic principles of "one country, two systems", "Hong Kong people ruling Hong Kong" and "a high degree of autonomy" in discharging their responsibilities.

**MOTIONS**

**PRESIDENT** (in Cantonese): Motions. Proposed resolution under the Criminal Procedure Ordinance to approve the Legal Aid in Criminal Cases (Amendment) Rules 2013.

Members who wish to speak on the motion will please press the "Request to speak" button.

I now call upon the Secretary for Home Affairs to speak and move the motion.

**PROPOSED RESOLUTION UNDER THE CRIMINAL PROCEDURE ORDINANCE**

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, I move that the motion standing in my name as printed on the Agenda be passed.

The Legal Aid in Criminal Cases Rules (the Rules) made under section 9A of the Criminal Procedure Ordinance set out the fees payable to counsel and solicitors in private practice engaged to represent legally aided persons in criminal cases. The Department of Justice draws reference to the amounts as set out in the Rules when engaging counsel in private practice to appear for the Government in criminal cases. The specified amounts are also referenced for determining the fees payable to duty lawyers providing legal assistance under the Duty Lawyer Scheme.

Pursuant to the decision of the Finance Committee of the Legislative Council in October 1992, the criminal legal aid fees as set out in the Rules are subject to review by the Administration on a biennial basis. In conducting the review, the Administration takes into account the inflation during the reference period, and whether there has been any difficulty in engaging the services of counsel and solicitors. We have completed the latest review of criminal legal aid fees. As the Consumer Price Index (C) has increased by 9.3% during the reference period (that is, July 2010 to July 2012), we therefore propose that the fees should be correspondingly adjusted upward by 9.3%.

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

We have informed the Legislative Council Panel on Administration of Justice and Legal Services and the Legal Aid Services Council of the proposed fee adjustment in June 2013. The Criminal Procedure Rules Committee has made the Legal Aid in Criminal Cases (Amendment) Rules 2013 (2013 Amendment Rules) in accordance with the Criminal Procedure Ordinance to bring the proposed fees into operation. The Committee is chaired by the Chief Judge of the High Court, with members comprising representatives from the Department of Justice, Legal Aid Department, the Hong Kong Bar Association and the Law Society of Hong Kong. The 2013 Amendment Rules requires the approval of the Legislative Council by resolution.

I would like to add that, with the support of the two legal professional bodies, we formulated the Legal Aid in Criminal Cases (Amendment) Rules 2012 (2012 Amendment Rules) last year with a view to clarifying and expanding the scope of legal aid in criminal cases, and improving the payment structure of the criminal legal aid fees system. The 2012 Amendment Rules commenced operation in March 2012. During the formulation process, the Administration had undertaken to review the revised rates of the criminal legal aid fees in two years' time upon implementation of the 2012 Amendment Rules. We will maintain liaison with two legal professional bodies and commence the review next year.

I urge Members to support this motion. Thank you, Deputy President.

**The Secretary for Home Affairs moved the following motion:**

"RESOLVED that the Legal Aid in Criminal Cases (Amendment) Rules 2013, made by the Criminal Procedure Rules Committee on 4 October 2013, be approved."

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Secretary for Home Affairs be passed.

**MR CHRISTOPHER CHUNG** (in Cantonese): Deputy President, on behalf of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB), I support the Legal Aid in Criminal Cases (Amendment) Rules 2013 (2013 Amendment Rules) introduced by the Government. This amendment is made in accordance with the regular mechanism of a biennial review of the criminal legal

aid fees, and after drawing reference to the increase of the Consumer Price Index (C) (CPI (C)), the legal aid fees is adjusted upward by 9.3%. Given the significant increase in inflation over the past two year, the adjustment is basically in line with the actual situation.

However, this amendment only alleviates the impact of inflation but has not reformed the payment structure of the criminal legal aid fees system. Following this year's adjustment, the maximum brief fee of counsel initially undertaking the Court of First Instance cases will be \$24,520, the refresher fee per day will be \$12,260, and the reading fee, preparation fee and court hearing day fee will be \$800 per hour, \$3,230 and \$6,480 respectively. Some individual members of the legal profession have told me that the fees now payable to solicitors for undertaking criminal legal aid cases amount to about 30% of the fees they charge for normal cases. The counsel are slightly better paid, by about 70% of their normal charges. Therefore, most experienced solicitors and counsel are reluctant to undertake legal aid cases. Perhaps only the less experienced lawyers who just enter the profession are willing to provide service at a disadvantage. Moreover, I have also heard that after taking up the case, experienced lawyers would let their assistants handle most of the work and they will only take over the work personally some time before the hearing. To criminal legal aid applicants, this is of course not desirable and it may even jeopardize the best interest of the defendants.

In my view, in order to take care of the interest of eligible legal aid applicants in criminal cases, the Government should, other than adjusting the relevant fees according to the movement of the CPI (C) biennially, consider conducting a comprehensive review of the fee levels of fiat counsel undertaking criminal legal aid cases and raising their relevant remuneration so as to attract more experienced counsel to take up legal aid cases. Of course, a balance must be struck between optimizing the use of public fund and the interest of legal aid applicants. We cannot exhaust all public funds to engage renowned Senior Counsel to undertake litigation work, nor can we let legal aid services become the training ground of legal apprentices.

Furthermore, the DAB is concerned that the present financial eligibility limit of criminal legal aid is the same as that of normal legal aid cases, which is \$269,620. The DAB thinks that both limits should be raised to benefit more middle-class people because even for middle-income people, if they unfortunately get involved in civil or criminal actions, they may, if without any legal assistance,

they can go broke after one or two lawsuits. Even if they win the case in the end, the compensation they get may not make up for their losses. Therefore, for cases of civil or criminal legal aid, we consider that the financial eligibility limits should be raised, so that the middle and lower-class people can seek legal justice.

Deputy President, our discussion on legal aid service today reminds me that many politicians of the opposition camp often abuse this service and use public funds to challenge the Government. In a way, these politicians only pay for "soy sauce" but force the public to pay for "the chicken". Such situations are common under the legal aid scheme. With an increasing number of radical politicians flooding the political arena, they often incite the public and underage students to take to the streets, provoke the police, engage in violent assaults and block the roads; and some academics even advocate the illegal Occupy Central movement, the public may thus be misled by the appeal of these radical politicians and commit criminal offences unknowingly, only to regret when they face criminal charges against them and have to seek legal aid. As such, as our community becomes increasingly politicized, I am worried that there would be a surge in the demand for criminal legal aid. Although the number of applications for criminal legal aid have remained at below 4 000 in each of the past four years, we think that the Government must take note of this trend. If incidents similar to the illegal Occupy Central movement happen, leading to the arrest of large number of people who apply for legal aid, it may become a heavy burden on the legal aid resources and affect other people in need. Of course, if applicants are financially eligible, whether due to political or other reasons, we should accept rather than reject their applications but we should also pay attention whether there will be a trend of such undesirable events. I hope that the authorities will pay attention to this.

With these remarks, Deputy President, I support the Government's motion.

**MR DENNIS KWOK** (in Cantonese): Deputy President, I support the 9.3% upward adjustment of legal aid fees on behalf of the legal profession. I have heard the Secretary say that a review will be conducted soon. The Panel on Administration of Justice and Legal Services expects an early briefing of the Bureau to Members on criminal legal aid fees and how the coverage of criminal legal aid service will be further extended. The legal profession has all along considered that criminal legal aid service is an important means to protect the public's basic human rights and their right to defend themselves in court.

As a matter of fact, very often the criminal legal aid service provides help to the most underprivileged in society. When they are faced with criminal charges but cannot afford to engage a lawyer to defend their rights, it is most important that they can get criminal legal aid service. The provision of such service is important from the perspective of the rule of law, human rights or society. We hope that the Bureau will conduct a comprehensive review of the criminal legal aid fees as soon as possible. It should also expeditiously make a presentation to the Legislative Council, so that Members and the legal sector would learn about the findings. Both criminal and civil legal aid fees should be raised accordingly.

Just now, Mr Christopher CHUNG expressed his views on criminal and civil legal aid, and I very much agree to his views. However, concerning his remarks about the Occupy Central movement and his accusation that some politicians have abused legal aid, I must refute his comments that the public have been incited, exerting great pressure on the legal aid system. All his accusations were arbitrary and groundless.

The lawyers of the Legal Aid Department (LAD) and court officers for processing legal aid applications are both very professional. They will carefully examine the merits and legal grounds of every case to determine whether the relevant legal aid application meets the legal requirement. Take for example civil legal aid. LAB lawyers will thoroughly examine each application. Only those applications which have met certain legal requirements will be approved by LAB lawyers. They handle each case stringently. Any arbitrary accusation of abusing legal aid in lawsuits is a disrespect to LAB lawyers and a lack of understanding of their work. Besides, anyone who has his application turned down by the LAB can appeal to the Court and the Court will follow the established legal principles when dealing with such application. Hence, there is no question of abuse whatsoever.

Deputy President, I so submit.

**DR PRISCILLA LEUNG** (in Cantonese): Deputy President, in the first motion I moved after joining the Legislative Council in 2008, I urged the Government to extend the coverage of legal aid to the middle class. From 2008 onwards, the Panel on Administration of Justice and Legal Services has held numerous



meetings to discuss the coverage of civil and criminal legal aid. The little breakthrough achieved was to raise the basic financial eligibility limit from \$167,000 to \$260,000.

Deputy President, I wish to talk about a recent incident. Yesterday when I attended a ceremony, a kaifong approached me for help. His son had unknowingly carried some stolen goods in his car in the Mainland and was arrested and detained. In the past few years, I have met with persons from different social strata in my capacity as a Member of the Legislative Council and have come to know that legal aid is one of the areas they want to get assistance. At present, Hong Kong residents may get involved in disputes in the Mainland in which different legal provisions of the two places may apply, for example, civil or commercial disputes in the Mainland may constitute criminal acts of fraud according to the Mainland law, and sometimes, failure to repay the money borrowed may also constitute a criminal act. Many Hong Kong residents, being unfamiliar with the Chinese law, may get involved in criminal disputes and are detained. Today, I have no intention to discuss political cases, including the Occupy Central movement that some colleagues have mentioned or other incidents that happened in the Mainland. I am not talking about such issues, what I am talking about are problems that many ordinary Hong Kong residents may encounter.

I had once provided assistance in a case. I still remember in that case, I could provide help in some aspects but not in other aspects. In 2012, I helped a Hong Kong businessman who, being a member of the Hong Kong Gemstone Manufacturers' Association, was naturally ineligible to apply for legal aid. He got entangled in some criminal disputes, involving smuggling and tax evasion, and was detained by the Mainland public security authorities. Consequently, his finances were very tight and when his wife came to me for help, his whole family was in a dire financial situation, and could not afford to hire a lawyer. Being a Hong Kong citizen, he could seek some basic assistance from the Legal Aid Department in Hong Kong but he did not know what to do and was very desperate. After meeting his family and studying his case, I agreed to help. Eventually, after one and a half years and with the assistance provided by members of the Mainland legal profession on a *pro bono* basis, he was finally granted medical parole and got released early. I learned that he had spent all his considerable savings. However, what would ordinary Hong Kong people do? That person had also hired lawyers at the beginning and had spent large sums of

money. As he did not know what to do, he had hired many lawyers to help him, and finally, he had to seek help from Members. Therefore, in this respect, if we can ... As we now encourage Hong Kong people to look for career opportunities in the Mainland and some Hong Kong businessmen have started investing in the Mainland since the late 1970s, there are many Hong Kong residents living in the Mainland. I hope that we do not exclude them from our legal aid system. They are also Hong Kong permanent residents. People who are involved in disputes are usually barred from leaving the Mainland, and hence they cannot seek help from the Legal Aid Department in person. In most cases, they have to rely on their families to seek help; but their family members or spouse may not know the details of their case.

In my view, the Hong Kong Government has not provided sufficient assistance and support to these Hong Kong people in respect of legal aid. Therefore, in the motion I moved then, I urged the Government to extend the scope of the legal aid services to cover, for example, civil cases involving the "compulsory sale". In these cases, many elderly people may not know how to fight for their own rights; neither do they have much cash at hand. As such, can the authorities extend the scope to provide these people with some basic legal assistance?

Apart from extending the coverage and relaxing the threshold of the means test, I also proposed at that time that the Government should adopt a more open attitude and conduct study on how to provide some assistance to Hong Kong residents who got entangled in legal disputes in the Mainland, especially when criminal cases were involved, in various stages of the legal proceedings. I know that at present only the Office of the Hong Kong Government in Beijing, Guangzhou and a few other places in the Mainland would provide some assistance, but what they do is merely to provide a list of lawyers and tell the person concerned to look for a lawyer on his own. They would hardly provide any further assistance as regards analysing the case or telling him what should be done about his case. Concerning these poor people, I hope that the next time when we discuss the legal aid issue and how to assist Hong Kong residents, we can be more open minded to study this issue as most of my work in the past involved providing help to people in such cases. Many Hong Kong residents involved in disputes. They may commit minor offence such as theft or serious offence that can be sentenced to life imprisonment.

Moreover, concerning legal aid, I also thank the Secretary for making a breakthrough in his term of office to extend the legal aid coverage. Of course, we welcome the provision of more assistance. Hence we welcome the Government's proposal today but is that enough? For people who get entangled in legal issues in Hong Kong, many of them are ... I have also helped some mainlanders who come to study or work here. Perhaps owing to cultural difference or other reasons, when they are faced with criminal charges, they are helpless. These are two sides of a coin. One side is Hong Kong residents who get involved in criminal matters in the Mainland, while the other side is mainlanders who come to work or study in Hong Kong and get involved in criminal matters in Hong Kong, and they are all at a loss, not knowing what to do.

Very often, I see that they lack assistance at the first step. Some people do not even realize they should seek help from lawyers and they may be convicted consequently. Because these people do not have a legal representative — the percentage of such cases is high and these people may be among those involved — it is almost certain that they will lose the case, from which they will get a criminal record that will affect the rest of their life.

Therefore, I hope that when we consider the coverage of legal aid, for both civil and criminal cases, we should not only take into account the amount of the fees but also the different kinds of people in need of help, as well as those who get involved in legal disputes under various circumstances. I hope that the Secretary will take on board our views. I believe that Members have plenty of opportunities, at meetings of the Panel on Administration of Justice and Legal Services and this Council, to express their views on the aforesaid situations and issues. Summing up our views over the years, I can conclude that we all find the development of legal aid inadequate. Legal aid applicants cannot have assets worth over the financial limit of just over \$260,000. With significant depreciation of our currency over the years, this amount is very small. Those who meet the definition of the so-called middle class will most unlikely be eligible to apply for legal aid, they are thus unable to seek legal justice if they get entangled in legal problems because they cannot afford to hire good lawyers to assist them.

Therefore, in respect of civil cases, we will continue to strive for extending the coverage of legal aid and relaxing the threshold of the means test and we will also continue to fight for the extension of legal aid to the Hong Kong residents

working in the Mainland. In respect of criminal cases, I hope that the Secretary will learn more about the people who have genuine need, especially the new arrivals who are unfamiliar with the Hong Kong system.

Deputy President, I so submit.

**MS CYD HO** (in Cantonese): Deputy President, I speak in response to the remarks of Mr Christopher CHUNG. I support this amendment of the Government. Although the amendment has extended the coverage and raised the amount of fees, I do not consider it adequate.

I can hardly agree to what Mr Christopher CHUNG has just said. Everyone is equal before the law. The legal aid system allows people who lack the financial means to have a legal representative that they are entitled to have, so that the legal representative can handle the case for the legal aid applicant in complicated judicial proceedings, and the applicant will not make decisions to his disadvantage or forsake his legitimate rights due to his unfamiliarity with the judicial proceedings. The legal aid system also prevents the unfair situation in which those who have a meritorious case may lose a lawsuit on account of procedural problems. From this we can see that the legal aid system is essential. Is there any abuse of the legal aid system? The Government has put in place a vetting and approval mechanism and the Legal Aid Department will examine if a legal aid application has sufficient legal grounds and the prospects of success before deciding whether or not to grant legal aid.

As some Members have said just now, there are more and more inequalities in Hong Kong. Take for example urban renewal and human rights. Because of insufficient protection provided by the Government, in many civil cases, the members of the public concerned must rely on the assistance provided by the legal aid system to contend with the Government which has tremendous financial strength and power.

Deputy President, the law on human rights in Hong Kong does not provide people with due protection. The Government did not follow the advice of the United Nations Commission on Human Rights, so members of the public had to apply for legal aid to litigate against the Government and it was only after the case was won in court did the Government amend the law. Such cases included

the prisoners' voting right and the interception conducted by the last-term Government using the executive power. In both cases, members of the public were granted legal aid to litigate in court and finally it was under the order of the Court that the Government was forced to change its original practice. In respect of equal opportunities for people of different sexual orientations, the Court has recently ruled that the law is unconstitutional and violates the Covenant on International Human Rights and the Government has to amend the law.

The Government is the most financially strong and powerful organization. Without legal aid, members of the public have no channel to lodge complaints. Take the case of human right as an example. The legal aid system allows the public to litigate, which is a manifestation of the spirit of the rule of law in Hong Kong, which is not little remaining now.

Lastly I will respond to the speech of Mr Christopher CHUNG. Just now he said that many politicians incited underage students. We are engaged in politics but the term politico carries a very negative implication. If he wants to put himself in that category, it is his own choice but he should not accuse everyone of "gaining double benefits". When we are engaged in politics, we have to bear a responsibility which is to protect the public's interests. Therefore, it is not a problem that a Member admits that he is a politico but sorry, he does not represent me. I am not a politico. I am someone who is engaged in politics.

Back to the topic, Mr Christopher CHUNG just said that some politicians incited underage students. I ask him not to insult members of Scholarism. Why not simply name the persons concerned? These underage students have independent thinking; they have expectations of Hong Kong's future, they practise what they believe and they are committed to their cause. They also criticize the pro-democratic camp on many occasions. Although I do not 100% agree to their views, I will uphold their right of expression, especially when they are arrested by the police or prosecuted for legally expressing their views. They deserve the protection provided by legal aid.

Thank you, Deputy President.

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

(No Member indicated a wish to speak)

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

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Deputy President, I thank Members for their support of the motion and also for their views. I will make a brief response to the issues expressed by Members.

Both Mr Christopher CHUNG and Mr Dennis KWOK talked about the review of the criminal legal aid fees payable to lawyers. The current system of criminal legal aid fees is the product of the consensus reached by the Administration and the two legal professional bodies after negotiation and we have also taken note that the two legal professional bodies have requested a further increase in the amount of criminal legal aid fees. As I have mentioned just now, the Government has promised to review the payment structure of criminal legal aid fees again in two years' time upon implementation of 2012 Amendment Rules, that is, in March 2014. We will maintain communication with the two professional bodies and embark on the review next year.

The Legal Aid Department (LAD) has put in place a mechanism for assigning criminal legal aid cases to lawyers in private practice and monitoring the quality of their service. Their professional conduct is regulated by the two legal professional bodies. The LAD will continue to monitor the relevant services.

Members have mentioned about adjusting the financial eligibility limits for legal aid applicants and they have also expressed their views on other legal aid issues. I also understand that Members have various aspirations for legal aid and they wish to take this opportunity today to make them known. However, as this motion only concerns a technical adjustment to reflect the change of the Consumer Price Index during the reference period and the adjustment will be put

into effect in accordance with the established system, we will maintain communication with Members and the two legal professional bodies and discuss with them other legal aid issues.

With these remarks, Deputy President, I call upon Members to support this motion.

**DEPUTY PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for Home Affairs be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**DEPUTY PRESIDENT** (in Cantonese): Proposed resolution under the Pharmacy and Poisons Ordinance to approve the Pharmacy and Poisons (Amendment) (No. 6) Regulation 2013 and the Poisons List (Amendment) (No. 6) Regulation 2013.

Members who wish to speak on the motion will please press the "Request to speak" button.

I now call upon the Secretary for Food and Health to speak and move the motion.

**PROPOSED RESOLUTION UNDER THE PHARMACY AND POISONS ORDINANCE**

**SECRETARY FOR FOOD AND HEALTH:** Deputy President, I move that the motion under my name, as printed on the Agenda, be passed.

Currently, we regulate the sale and supply of pharmaceutical products through a registration and monitoring system set up in accordance with the Pharmacy and Poisons Ordinance. The Ordinance maintains several Schedules under the Pharmacy and Poisons Regulations and a Poisons List under the Poisons List Regulations. Pharmaceutical products put under different parts of the Poisons List and different Schedules are subject to different levels of control in regard to the conditions of sale and keeping of records.

For the protection of public health, some pharmaceutical products can only be sold in pharmacies under the supervision of registered pharmacists and in their presence. For certain pharmaceutical products, proper records of the particulars of the sale must be kept, including the date of sale, the name and address of the purchaser, the name and quantity of the medicine and the purpose for which it is required. The sale of some pharmaceutical products must be authorized by prescription from a registered medical practitioner, dentist or veterinary surgeon.

Arising from an application for registration of two pharmaceutical products, the Pharmacy and Poisons Board proposes to add the following substances to Part I of the Poisons List and the First and Third Schedules to the Pharmacy and Poisons Regulations:

- (i) Mirabegron; its salts; its esters; their salts; and
- (ii) Pasireotide; its salts.

Pharmaceutical products containing the above two substances must then be sold in pharmacies under the supervision of registered pharmacists and in their presence, with the support of prescriptions.

For amendment regulations concerning the adding of the above substances to Part I of the Poisons List and the First and Third Schedules to the Pharmacy and Poisons Regulations, we propose them to take immediate effect upon gazettal on 29 November 2013, to allow early control and sale of the relevant medicine.



The two Amendment Regulations are made by the Pharmacy and Poisons Board, which is a statutory authority established under the Ordinance to regulate pharmaceutical products. The Board comprises members engaged in the pharmacy, medical and academic professions. The Board considers the proposed amendments necessary in view of the potency, toxicity and potential side effects of the medicine concerned.

With these remarks, Deputy President, I hope Members could support the motion.

Thank you.

**The Secretary for Food and Health moved the following motion:**

"RESOLVED that the following Regulations, made by the Pharmacy and Poisons Board on 25 October 2013, be approved —

- (a) the Pharmacy and Poisons (Amendment) (No. 6) Regulation 2013; and
- (b) the Poisons List (Amendment) (No. 6) Regulation 2013."

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Food and Health be passed.

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

(No Member indicated a wish to speak)

**DEPUTY PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for Food and Health be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

### **MEMBERS' MOTIONS**

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

First Member's motion: Proposed resolution under the Fugitive Offenders Ordinance to extend the period for repealing the Fugitive Offenders (Czech Republic) Order, which was laid on the table of this Council on 6 November 2013.

I now call upon Mr James TO to speak and move the motion.

### **PROPOSED RESOLUTION UNDER THE FUGITIVE OFFENDERS ORDINANCE**

**MR JAMES TO** (in Cantonese): Deputy President, in my capacity as Chairman of the Subcommittee, I move the motion under my name as printed on the Agenda.

At the House Committee meeting on 8 November 2013, Members formed a subcommittee to study the Fugitive Offenders (Czech Republic) Order submitted to the Legislative Council on 6 November 2013. To allow time for the Subcommittee to study the subsidiary legislation concerned, Members agreed that I should move a motion to extend the period for scrutinizing the subsidiary legislation to the Legislative Council meeting on 8 January 2014.

(THE PRESIDENT resumed the Chair)

President, I urge Members to support this motion.

**Mr James TO moved the following motion:**

"RESOLVED that in relation to the Fugitive Offenders (Czech Republic) Order, published in the Gazette as Legal Notice No. 166 of 2013, and laid on the table of the Legislative Council on 6 November 2013, the period for repealing an order referred to in section 3(3) of the Fugitive Offenders Ordinance (Cap. 503) be extended under section 3(5) of that Ordinance to the meeting of 8 January 2014."

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

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

(No Members indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

**PRESIDENT** (in Cantonese): Second Member's motion: Mr Andrew LEUNG will move a motion under Rule 49E(2) of the Rules of Procedure to take note of four items of subsidiary legislation, which were included in Report No. 5/13-14 of the House Committee laid on the Table of this Council.

According to the relevant debating procedure, I will first call upon Mr Andrew LEUNG to move the motion. The debate will then be divided into two sessions. The first session is to debate the Post Office (Amendment) Regulation 2013; the second session is to debate three items of subsidiary legislation under the Inland Revenue Ordinance.

Each Member may speak only once in each session and for up to 15 minutes each time. In each session, I will first call upon the chairman of the subcommittee formed to scrutinize the relevant subsidiary legislation to speak, to be followed by other Members. Finally, I will call upon the relevant public officer to speak.

The second debate session will start immediately after the relevant public officer has spoken in the first debate session. The debate on this motion will come to a close after the public officer has spoken in the second debate session. The motion will not be put to vote.

I now call upon Mr Andrew LEUNG to move the motion.

### **MOTION UNDER RULE 49E(2) OF THE RULES OF PROCEDURE**

**MR ANDREW LEUNG** (in Cantonese): President, in my capacity as Chairman of the House Committee, I move the motion, as printed on the Agenda, under Rule 49E(2) of the Rules of Procedure, for a debate on the four items of subsidiary legislation as set out in Report No. 5/13-14 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments:

- (1) Post Office (Amendment) Regulation 2013,
- (2) Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Guernsey) Order,

- (3) Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Italian Republic) Order, and
- (4) Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (State of Qatar) Order.

President, I so submit.

**Mr Andrew LEUNG moved the following motion:**

"That this Council takes note of Report No.5/13-14 of the House Committee laid on the Table of the Council on 27 November 2013 in relation to the subsidiary legislation and instrument(s) as listed below:

<u>Item Number</u>	<u>Title of Subsidiary Legislation or Instrument</u>
(1)	Post Office (Amendment) Regulation 2013 (L.N. 147/2013)
(2)	Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Guernsey) Order (L.N. 148/2013)
(3)	Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Italian Republic) Order (L.N. 149/2013)
(4)	Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (State of Qatar) Order (L.N. 150/2013)."

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

**PRESIDENT** (in Cantonese): We now proceed to the first debate session to debate the Post Office (Amendment) Regulation 2013.

Members who wish to speak on this item of subsidiary legislation will please press the "Request to speak" button.

**MR ANDREW LEUNG** (in Cantonese): President, in my capacity as Chairman of the Subcommittee on Post Office (Amendment) Regulation 2013 (the Subcommittee), I now report on the results of the deliberations made by the Subcommittee.

The subsidiary legislation is made by the Chief Executive in Council under section 3 of the Post Office Ordinance to increase certain postal fees under the Post Office Regulations. The fees include postal box and bag rentals, fee for redirection of postal packet, registration and compulsory registration fees and recorded delivery fee. The proposed percentage increases on the abovementioned items range from 13% to 25% and are intended to broadly recover the cumulative inflation since their last adjustments up to the end of December 2012. The increase will take effect from 1 December 2013.

The Subcommittee has held one meeting with the Administration to discuss the subsidiary legislation. The Subcommittee noted that in tandem with the adjustment of the postal fees, the authorities have also increased the principal postage rates by administrative means with effect from 1 October 2013, which include the principal postage rates for Local, Surface and Air Mail.

The Subcommittee noted that the financial performance of the Post Office Trading Fund (POTF) has been deteriorating in the past five years and has started to incur an operating loss in recent years. Some members have expressed concern about the continuing trend of operating deficit of the POTF and urged the department concerned to increase its competitiveness and maintain operational viability by exploring additional sources of revenue and enhancing productivity.

The Hongkong Post (HKP) advised that the POTF has launched a new local mail service called "Smart Post", an e-Express Service between Hong Kong and the United States, a multi-media direct marketing online platform, cross-boundary Direct Mail Service and the personalized "Make My Card"

service. As regards cost saving and enhancing operational efficiency, the HKP has launched the Mechanized Letter Sorting System and the Integrated Postal Services System, and set up a new Central Mail Centre.

Some members noted that the total mail traffic volume has maintained at around 1.3 billion mail items in recent years whilst the manpower establishment of the POTF has reduced from around 7 400 in 2008-2009 to around 7 000 to date. These members held that the cost control of the POTF should not be achieved by unreasonably reducing manpower. The HKP explained that it has achieved the goal of reducing manpower whilst maintaining service quality through the implementation of productivity improvement measures.

Some members considered that the postages and postal fees increases are substantial, and called on the HKP to regularly review these postages and fees in future in line with cumulative inflation, so as to avoid the need for large increases after a long interval. The HKP assured members that it would continue its efforts in controlling costs, enhancing productivity and exploring new sources of revenue, and will review postages rates and postal fees from time to time, taking into account other relevant factors such as the POTF's financial position, the prevailing economic conditions, the business environment and public affordability.

President, the Subcommittee has raised no objection to the Amendment Regulation and the increase in the principal postage rates by administrative means.

President, next, I will talk about my personal views. I do not have any personal views. Thank you, President.

**MR TANG KA-PIU** (in Cantonese): President, I am expressing views on behalf of the trade unions. In fact, the Government Employees Association under the Hong Kong Federation of Trade Unions (FTU) is comprised of over 40 trade unions from various departments. Among them, three are associated with post services and they have specifically stated that it is now time to review the mode of operation of the Post Office Trading Fund (POTF).

As a matter of fact, there are currently five government departments operating under trading funds, namely the Land Registry, the former Telecommunications Authority (now called the Office of the Communications Authority), the Electrical and Mechanical Services Department, the Company Registry and the Hongkong Post (HKP), and these five departments has been operating under trading fund since the 1990s. It is learnt that the Water Supplies Department also wished to operate under trading fund at that time, and luckily it did not. After reading the previous annual reports of these five departments, I noticed that only the HKP has incurred a loss. Worse still, the loss was not caused by a one-off accident, but was the outcome of a continuing downward trend of profits. HKP staff may ask: What would happen if the trend of operating deficit continues? When we discussed the need to generate revenue and save cost just now, Members were also eager to explore new sources of revenue. This is understandable as the HKP is facing increased difficulties in competition. While we used to think that postal services were basically some kind of business services monopolized by the Government, a lawsuit revealed that this is not the case. At present, in some large-scale composite private residential estates, services provided by the HKP are now replaced by those of other operators. For example, property developers have provided delivery services of publicity materials of new projects and charge \$0.5 per mailbox as handling fee, which is much cheaper than that of the HKP. We are aware of these cases and understand that the HKP is facing very intense competition. In view of the high operating costs and the need to deliver posts to remote villages, I have been thinking how the HKP can generate revenue. In particular, in view of the recent changes in non-commercial communication, which means personal communication, I wonder how many people still send love letters or family letters as the majority of people send "WhatsApp" messages instead. Therefore, we do appreciate the difficulties encountered by the HKP in generating revenue.

However, as a member of the trade unions, the FTU or the labour sector is afraid to hear cost control. The failure to generate revenue will necessitate the cutting of controllable costs. We were informed by the trade unions that the mode of operation under trading fund has assumed that all shops in housing estates are managed by the Housing Department, which certainly charges a pretty low rent. But the Link REIT has changed the situation. As the rents have become uncontrollable, there is no alternative but to control labour cost.



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

The HKP sits on the top rank in two respects: Firstly, it has employed the largest number of non-civil service contract (NCSC) staff, exceeding 2 000. Although it has exercised some control in the past few years, it is still ranked number one amongst all departments. The HKP has been very cautious or conservative in the employment of civil servants, and its additional establishment was zero in the last couple of years. As a result, NCSC staff who have worked for more than 10 years cannot be converted into civil servants. The problem still exists.

Secondly, it has the longest working hours, which means overtime work. We are often told by the trade unions that the entire department has accumulated hundreds of thousands of hours of overtime work. What is the actual situation? In a recent written reply by the HKP, it pointed out that after numerous efforts, it is estimated that the workload would return to the reasonable level by mid-2014. But what kind of level is this?

We note that many government departments are operating under trading funds and as their accounts are subject to supervision, cost control is therefore a cause of concern. This is nonetheless not the point. The point is, a failure to generate revenue will necessitate cost control, and when there is a need to save cost, the more controllable cost will be cut, and that is, staff cost. Therefore, as we have said, the three trade unions relating to postal services under the FTU have specifically requested to stop operating the HKP under trading fund. We also consider this an opportune time for the HKP to review the suitability of this operation mode. As clearly stated by the Postmaster General or in the paper submitted to the Legislative Council, even if the proposed increase is approved, the HKP will still have operating deficit, and it is predicted that the reserve will be depleted completely within the term of the current Government.

We must face the reality. Therefore, we do not oppose the proposed increase, but hope that the authorities will look squarely into this big institutional loophole. The HKP can no longer monopolize the relevant services but has to face intense competition. We are worried that the HKP may further reduce its labour costs. To put it simply, the wage earners will be forced to endure poorer working environment and remuneration. We therefore eagerly hope that

Secretary Prof K C CHAN will review if the trading fund operation mode is still suitable for the HKP.

I so submit.

**MS CYD HO** (in Cantonese): Deputy President, the Post Office Trading Fund (POTF) does have a significant impact on people engaging in postal services, which are currently provided by two batches of staff. Staff who have joined at an earlier stage are civil servants, whereas the more junior ones are, as Mr TANG Ka-piu has said, employed on a contract basis. In other words, employees working in the same organization are subject to different employment terms, and undoubtedly, the salaries and remuneration of contract staff are much worse than the civil servants. Furthermore, given that postmen often have to carry heavy bags, if they are injured, the health protection offered is also quite different. Since the staff are doing the same job, they should receive the same remuneration. Therefore, irrespective of the Government's discussion on the trading fund, the Labour Party wants to put forward a longstanding request, and that is, to bring the terms of employment of contract staff on a par with those of the civil servants.

There is no doubt that the mode of mail deliveries nowadays has significantly changed when compared with that of one or two decades ago, and it is true that not many people send letters today. People prefer to send instant messages using emails or mobile phones, which is very convenient. Even for photos or printed matters, they can be sent instantly using the new smart phone programmes. As a result, with the exception of official written correspondences and sales or publicity materials, the need to deliver personal letters has significantly decreased. And yet, such change in service mode is only confined to the urban areas. Mail delivery is still an essential service in the rural areas and should continue. The Government should not include such an essential service into a trading fund and require the HKP to become self-financed. This is because regardless of the service load, mail delivery service is essential to residents living in remote or rural areas. If this basic public service is so essential and cannot be provided by the market, it is more justifiable for the contract staff to enjoy the same terms of employment as the civil servants. Should the situation remain unchanged, more senior civil servants will retire sooner, leaving behind those employed on contract basis, and this is so unfair to them.

Before the handover of sovereignty, the HKP did have its golden days as the authorities had taken advantage of the craze for stamps and issued many memorial stamps at that important juncture in politics. Speculative activities of these memorial stamps were also found in the shopping centres in Mong Kok. Many stamp collectors had even waited in long queues for the first day covers and stamps. However, as the craze for first day covers gradually came down, the amount of profits that the HKP could gain through other channels to support local mail delivery services has reduced. Therefore, Deputy President, we should not leave all postal services to the market and require the HKP to adopt a self-financing mode by operating under trading fund, thereby forcing it to save cost by exploiting the employees. So long as there is a need for basic postal services, the Government should be committed and assign this responsibility to the Treasury. The HKP should not survive by exploiting the contract staff.

Thank you, Deputy President.

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

(No Member indicated a wish to speak)

**DEPUTY PRESIDENT** (in Cantonese): Members have already spoken in this session. I now call upon the Secretary for Commerce and Economic Development to speak. This debate session will come to a close after the Secretary has spoken.

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): Deputy President, first of all, I would like to thank the Chairman of the Subcommittee on Post Office (Amendment) Regulation 2013 (the Amendment Regulation), who is also the Deputy President, and other members for supporting the proposed revision of five postal fees according to the Amendment Regulation, so that the deliberation can smoothly complete. I also thank Members who have spoken for their valuable opinions.

In October this year, the Administration tabled the Amendment Regulation in the Legislative Council for scrutiny. The Amendment Regulation seeks to amend the Post Office Regulation (Cap. 98, Subsidiary Legislation A) to increase

the fees of five postal services, namely postal box and bag rentals, fee for redirection of postal packets, registration and compulsory registration fees and recorded delivery fee. These postal fees have not been adjusted for many years. While the recorded delivery fee was set in March 1997 when the service was first launched, the other four postal fees were last adjusted in June 1995, and all these services are operating at a loss.

To recover the costs, we proposed to adjust the fees of these services and the increase would broadly recover the cumulative inflation since they were set or last adjusted up to the end of December 2012. Take the Kowloon Central Post Office as an example, the annual fee for small box will be increased from \$320 to \$400, the redirection of a postal packet for private user for the first three months will be increased from \$100 to \$125, and registered postal packet will be increased from \$13 to \$15.5. The proposed adjustment in postal fees should not bring great implications on the general public. Despite the adjustments, these services still cannot turn from deficit to profit. As a matter of fact, some services have incurred such heavy losses that they have to rely heavily on subsidies to pay for the costs.

The Hongkong Post (HKP) has been operating under trading fund and must be financially self-sustaining in order to achieve the return prescribed by the Financial Secretary. To achieve this end, the HKP has strived to control cost and generate revenue, with a view to exploring new business income to pay for the ever-increasing operating expenses. However, due to unabated escalation of operating costs, the increased income has nonetheless failed to recover the costs. As a result, the Post Office Trading Fund (POTF) has started to incur an operating loss in 2011-2012. Should the postage rates and postage fees remain unchanged, the financial performance of the POTF will further deteriorate and the quality of service will inevitably be affected.

To help the POTF restore fiscal sustainability and avoid relying too much on its reserve to pay for the day-to-day operating expenses, we have revised the major postal fees from 1 October 2013 onwards, and proposed to adjust a number of principal postage rates under the Post Office Regulation with effect from 1 December 2013. Other postal fees set out in the Regulation remain unchanged.

After an adjustment of the principal postage rates and certain postal fees, the HKP will continue to generate revenue and control cost, enhance productivity

and explore new services that meet users' needs, so as to ensure that the quality of postal services is not only good, but also value for money. Furthermore, we will review the postages rates and postal fees from time to time, taking into account other relevant factors such as the POTF's financial position, the prevailing economic conditions, the business environment and public affordability, so as to recover costs and reduce losses by all means. Also, this would avoid the need for large increases after a long interval.

On the question of civil servant recruitment raised by the Member earlier, the HKP will revert to the Legislative Council Panel on Public Service in December this year.

The fact that the HKP is operating under trading fund has actually provided greater flexibility for the HKP in respect of business operation and financial management. This is different from the operation mode of receiving government funding. Thus, the HKP can provide a large variety of services and enhance service quality in response to market needs.

While the POTF is an independent entity from the financial and accounting perspective, it is a government department after all. If the HKP is converted back into a government funding department, it will have to seek annual funding approval from the Government for its estimated expenditure and all revenue generated will have to be returned to the Treasury. Such mode of operation will drastically reduce the flexibility of the HKP in business development and undermine its service quality. Nor can it use those profitable postal services to subsidize those operating at a loss. Thus, services that are incurring losses will be subject to an immense pressure for fare increase. What is more, under the existing government policy, service fees will generally be set according to the basic principle of full cost recovery. Therefore, even if the HKP is converted back into a government funding department, it still has to revise the postages rates and postal fees from time to time.

I so submit. Thank you, Deputy President.

**DEPUTY PRESIDENT** (in Cantonese): We now proceed to the second debate session to debate the three items of subsidiary legislation under the Inland Revenue Ordinance, that is the Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Guernsey) Order;

the Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Italian Republic) Order, and the Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (State of Qatar) Order.

Members who wish to speak on the three items of subsidiary legislation will please press the "Request to speak" button.

**MR JAMES TO** (in Cantonese): Deputy President, in my capacity as Chairman of the Subcommittee on the Three Orders Made under section 49(1A) of the Inland Revenue Ordinance and Gazetted on 4 October 2013 (the Subcommittee), I report on the deliberations of the Subcommittee.

The three Orders seek to give effect to the agreements for avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income entered between Hong Kong and Guernsey, Italian Republic and State of Qatar. The Subcommittee has held three meetings with the Administration to scrutinize the three Orders.

The Subcommittee has examined the benefits of signing the three agreements to the people and companies of Hong Kong. The Subcommittee noted that the general benefits of the three agreements are to help investors of the contracting parties to better assess their potential tax liabilities from cross-border economic activities, foster closer economic and trade links between them, and provide added incentives for enterprises of the other contracting party to do business with or invest in Hong Kong, and *vice versa*. In particular, the Subcommittee noted that the Italian Agreement would lower the withholding tax currently payable by Hong Kong residents receiving income of interest, royalties and dividends from Italy. For income of interest received from Italy, Hong Kong residents are now subject to a withholding tax of 20%. Under the Italian Agreement, the withholding tax rate will be capped at 12.5%. The Italian withholding tax on royalties will also be reduced from the current rate of 22.5%, and will be capped at 15%. The Italian withholding tax on dividends, which is currently 20%, will be capped at 10%. We noted that as some Italian companies have been listed in Hong Kong, the signing of the Italian Agreement will enable Hong Kong residents and companies investing in these Italian companies to benefit from a lower withholding tax on dividends generated from the companies. Deputy President, although I have not bought any share of Italian companies

listed in Hong Kong, I am aware that many investors, be they large or retail investors, have bought shares of these companies, and Prada is an example. By reducing the tax rate from 20% to 10%, it would mean that more interests will be earned. The Subcommittee welcomed this benefit and suggested the authorities to enhance publicity on the Italian Agreement so as to apprise Hong Kong residents and companies of such benefits and the relevant claiming procedures.

Some members of the Subcommittee were of the view that there are limited benefits for Hong Kong in signing the Guernsey Agreement, as in view of the relative small economy of Guernsey. The Administration advised that the financial sector in Guernsey is reasonably well-developed, which has also been approved by the Stock Exchange of Hong Kong Limited (SEHK) in 2011 to become acceptable overseas jurisdictions for the listing of overseas companies on the SEHK. Furthermore, a considerable number of mutual funds are domiciled in Guernsey, the tax certainty provided by the Guernsey Agreement may attract more Guernsey resident companies and mutual funds to extend their businesses to Hong Kong, thus facilitating the flow of financial capital and services between the two places.

The Administration has confirmed to the Subcommittee that the three agreements have included prudent exchange of information provisions to protect taxpayers' privacy and confidentiality of the information exchanged. The measures are, *inter alia*, the Inland Revenue Department (IRD) will only exchange information with the contracting party upon receipt of requests and no information will be exchanged on an automatic or spontaneous basis; the information sought should be foreseeably relevant, that is, there will be no fishing expedition, and the scope of the exchange of information is confined to taxes covered by the respective agreements.

The Subcommittee also noted that in responding to exchange of information requests from an agreement partner (that is, the requesting jurisdiction), it may be necessary for the IRD to gather information from the relevant third party (commonly known as the information holder) who holds the relevant information or documents. The Subcommittee was concerned that the IRD would not provide information on the identity of the requesting jurisdiction to the third party concerned. Members considered that such information (that is, the identity of the requesting jurisdiction) may be necessary for the third party to identify the required information relating to the subject person of the exchange of information request and to protect its interests. For example, without knowledge

of which jurisdiction has made the request to Hong Kong, the third party concerned would not be able to take appropriate actions with the relevant jurisdiction, such as taking legal action to defend its rights by refusing to produce the information sought by the requesting jurisdiction concerned. Members held that the authorities must protect the interest of the third party information holders, in particular, such parties are legally required to furnish the IRD with the information under the exchange of information request. Therefore, the Subcommittee has requested the Administration to consider disclosing to the relevant third party information the name of the requesting jurisdiction.

The Administration advised that when seeking information from the information holders, the IRD will disclose certain information contained in the exchange of information request to enable the information holders to identify and produce the requested information. And, as stipulated in the Article and Commentary of the Organization for Economic Cooperation and Development Model Tax Convention on Income and on Capital, any information received by a jurisdiction in the context of exchange of information must be treated as confidential or secret, and shall be disclosed only to persons or authorities (including courts and administrative bodies) in the jurisdiction of the Contracting Party concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Agreement. Therefore, the confidentiality rules apply to all types of information received through such exchange, including the letter sent by the requesting jurisdiction for information.

The Administration also advised that it is the Government's policy to strike a balance between agreement partners' expectation in line with the international standards or practices and information holders' interest. After considering the concern of the Subcommittee, the Administration has undertaken to adopt a pragmatic approach to deal with the situation. In the future, if the third party information holder requests to know the name of the requesting jurisdiction, the IRD would approach the competent authority of the requesting jurisdiction and put forward the information holder's request. Should the competent authority of the requesting jurisdiction raise any objection, the IRD will, having considered the circumstances of the case, decline the exchange of information request for reason that it could not disclose to the information holder the name of the requesting jurisdiction, which is considered necessary to facilitate the gathering of the requested information. The Subcommittee welcomed the Administration's new approach and suggested the IRD to include this matter and the relevant



procedures in the Departmental Interpretation and Practice Notes to facilitate implementation by the IRD. Deputy President, this will also facilitate the affected third party (that is, the requested jurisdiction) to learn about its rights. The Administration said that the IRD would update the relevant guideline.

Deputy President, the following are my personal views. I opine that the relevant agreements have enabled the general public to easily understand the benefits of signing so many agreements on the mutual assistance on tax matters, the avoidance of double taxation and the prevention of fiscal evasion pertaining to the Inland Revenue Ordinance. In the past, members of the public found these concepts difficult to understand. Today, at least they know that for foreign companies which have been listed in Hong Kong, dividends will only be distributed to minor shareholders after deducting the withholding tax. Members of the public can immediately benefit from the signing of the relevant agreements. For example, Italian companies which have been listed in Hong Kong, including the abovementioned Prada, used to pay dividend after deducting 20% of withholding tax, but now shareholders can directly benefit from receiving about 10% more dividend. I hope that the Government will enhance publicity on the relevant agreement.

Deputy President, earlier, we said that the report has mentioned the case where the third party is requested to produce information of other relevant people for tax purposes, and this proposal was put forward by me. The Government has conducted a number of meetings with us, and after discussions, I considered the approach ultimately put forward by the Government acceptable. I hope that the updated Commentary and Practice Notes would be complied with by all parties. Why did I highlight this issue? Because if a person receives a letter from the Government, or in particular, a request for information from the IRD, but do not know the name of the requesting country, the situation will often become pretty complicated. This is because the requested company or person may not handle such request as easy as multi-national banks or companies. It may also have tax implications if the Hong Kong people being requested to produce information have business transactions with or set up offices in certain countries or places. Since people who received letters from the IRD often thought that the production of information is mandatory, if the production of information will make the requested party vulnerable to an offence, or subject him to very serious civil or criminal liabilities in another requesting country, I consider it absolutely justified for the requested companies or individuals to protect their own interests. This actually has nothing to do with the Hong Kong Government because if the

requested person seeks to decline the relevant request, he will naturally file a lawsuit elsewhere to protect his own interests. In that case, the Hong Kong Government is just a middleman. Therefore, after balancing the two, we consider it unfair if the requested party is not allowed to file a lawsuit elsewhere to protect his own interests.

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

(No Member indicated a wish to speak)

**DEPUTY PRESIDENT** (in Cantonese): Members have already spoken in this session. I now call upon the Secretary for Financial Services and the Treasury to speak. The debate on this motion will come to a close after the Secretary has spoken.

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Deputy President, first of all, I thank the Chairman of the Subcommittee, Mr James TO, for reporting the deliberations of the Subcommittee just now. I also thank the Subcommittee for its support of the implementation of the three Orders on the Comprehensive Agreements for Avoidance of Double Taxation (CDTAs) entered between Hong Kong and Italy, Hong Kong and Guernsey, and Hong Kong and the State of Qatar.

According to the Inland Revenue Ordinance, all CDTAs entered between Hong Kong and other jurisdictions must be tabled to the Legislative Council for scrutiny in the form of subsidiary legislation before they can be enacted to become the law of Hong Kong. In the paper submitted to the Subcommittee, we have set out the benefits to be brought to Hong Kong by the CDTAs under the three Orders. As an established practice, I affirm that the exchange of information provisions of the three agreements have included safeguard measures to protect taxpayers' privacy and confidentiality of the information exchanged.

In handling the exchange of information request of other jurisdictions under the CDTAs, the Inland Revenue Department (IRD) may be required to gather information from the subject person or a relevant third party (that is, the information holder) who holds the relevant information. The Subcommittee has

conducted in-depth studies on the arrangement adopted by the competent authority (that is, the IRD) to collect information from the third party. As we have highlighted to the Subcommittee, the CDTAs (including the Exchange of Information Article) signed by Hong Kong are modelled on the Organization for Economic Cooperation and Development Model Tax Convention on Income and on Capital (the Model Tax Convention). When the IRD handles the exchange of information request from the agreement partners, it will refer to the Commentary of the Model Tax Convention and perform its treaty obligation to exchange tax information. The confidentiality rules contained in the Exchange of information Article apply to all types of information received through such exchange, including both information provided in an exchange of information request and information transmitted in response to such request.

Under the confidentiality principle, we cannot disclose the competent authority's letters, including the letter requesting information. However, the requested jurisdiction can disclose the minimum information contained in a competent authority's letter necessary for the third party to collect the required information, without frustrating the efforts of the requesting jurisdiction. The formal notice that the IRD issues to the third party generally includes the following information:

- (i) a reference to IRD's access powers provided under the Inland Revenue Ordinance;
- (ii) a general description of the information requested;
- (iii) a detailed list of the information requested;
- (iv) the time limit to produce the information;
- (v) a reference to the sanctions provided under the Inland Revenue Ordinance for failure to comply with the formal notice; and
- (vi) the name of the subject person for identification purposes when the information holder is not the subject person.

The Subcommittee considered that the third party information holder should be provided with information on the identity of the requesting jurisdiction, so that prompt actions can be taken to protect his own interests. In view of the

Subcommittee's concern and after striking a balance between the international standards and practices as well as the information holders' right to know, we will adopt a pragmatic approach to deal with the situation. Specifically:

- (i) where the information holder requests to know the name of the requesting jurisdiction upon receipt of IRD's formal notice for information, the IRD would approach the competent authority of the requesting jurisdiction and put forward the information holder's request;
- (ii) should the competent authority of the requesting jurisdiction raise any objection, the IRD will then let the information holder know accordingly; and
- (iii) if the information holder refuses to provide the information requested as he/she does not know the name of the requesting jurisdiction, the IRD will, having considered the circumstances of the case, decline the exchange of information request for reason that it could not disclose to the information holder the name of the requesting jurisdiction, which is considered necessary to facilitate the gathering of the requested information.

The IRD will set out the relevant arrangement in the Departmental Interpretation and Practice Notes, which will be uploaded to IRD's website for public access. I believe the relevant arrangement can address Members' concern over the protection of interests of the people concerned, while taking into account the rules governing the exchange of information in the international arena.

Lastly, I would like to brief Members that the Global Forum on Transparency and Exchange of Information for Tax Purposes endorsed the Phase 2 peer review report on Hong Kong on 22 November. The Phase 1 peer review report on Hong Kong was completed in October 2011. Both the Phase 1 and Phase 2 reports have affirmed Hong Kong's efforts in enhancing tax transparency to comply with the international standards, and that it has adequate legal and regulatory framework to facilitate effective exchange of information. Our CDTA partners also considered that Hong Kong is an efficient and co-operative partner, and we are very glad about this. So far, Hong Kong has signed 29 CDTAs. In the days to come, we will strive to negotiate with our trading and investment partners, with a view to expanding Hong Kong's CDTA

network. Meanwhile, we will also commence the exchange of information agreements negotiations with jurisdictions requesting to have an exchange of information agreement with Hong Kong, so as to meet the international standard.

Thank you, Deputy President.

**DEPUTY PRESIDENT** (in Cantonese): In accordance with Rule 49E(9) of the Rules of Procedure, I will not put any question on the motion.

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

**DEPUTY PRESIDENT** (in Cantonese): Third Member's motion: Formulating a medical policy to support ethnic minority elderly people.

Members who wish to speak in the motion debate will please press the "Request to speak" button.

I now call upon Prof Joseph LEE to speak and move the motion.

## **FORMULATING A MEDICAL POLICY TO SUPPORT ETHNIC MINORITY ELDERLY PEOPLE**

**PROF JOSEPH LEE** (in Cantonese): Deputy President, I move that the motion, as printed on the Agenda, be passed.

Deputy President, the SAR Government has all along positioned Hong Kong as an Asia's world city, with the most important objective of building a diverse city which is most open and offers abundant opportunities. It was

reported that at one time, people of 120 nationalities had lived in Chungking Mansions, and according to *Time Magazine* of the United States, this was the best example of globalization in Asia.

What then is the truth? While most ethnic minorities in Hong Kong are already Hong Kong residents, can they really integrate into Hong Kong, a so-called international city? Most of the time, the answer is in the negative. Many ethnic minorities, especially elderly people, do not agree that Hong Kong is a diverse place full of opportunities because they receive very little support, or even in many cases, they are being discriminated such that while there are opportunities around, they would be rejected. That is one of the reasons why I propose this motion today.

Let us consider the relevant background information. According to the 2011 Population Census, there were about 450 000 ethnic minorities in Hong Kong. With the passage of two years, the current number may have increased. Of these ethnic minorities, the elderly accounted for about 4%, that is, about 20 000 ethnic minorities were elders aged 60 and over. Why do I say that these elders need special support? Because according to a report published by the World Health Organization more than a decade ago, ethnic minority groups fared worse than ethnic majority groups in terms of psychological and physical well-being as well as health conditions.

Let us look further at overseas examples. According to the findings of various studies conducted in the United States, the United Kingdom, Canada, Singapore, and so on, Indians, Pakistanis and Bangladeshis are more prone to coronary heart disease, stroke and hypertension, while women are more prone to diabetes. One can say that this is a feature of these ethnic groups. Moreover, according to some studies and overseas examples, Pakistanis and Bangladeshis are more prone to mental diseases. Of course, the above studies are not conclusive with strong scientific evidence, but they show that ethnic minority groups may have special health needs due to their cultural and ethnic background.

Regarding Hong Kong's situation, according to a two-month study conducted by the Department of Health (DH) in 2005-2006, most South Asians in Hong Kong were central obese, particularly elderly women. Health risks associated with central obesity are exactly those I mentioned just now, including hypertension, stroke, coronary heart disease and diabetes. I do not have any updated survey data in hand, which is a good proof that the SAR Government has

not paid any particular attention to taking care of the health needs of ethnic minorities, especially elderly people, because no survey has been conducted in this regard.

Let us spend some more time to examine why ethnic minorities, especially elderly people, have higher health risks. First of all, the patterns of health behaviour of ethnic minorities are somewhat different. Generally speaking, these elderly people have lived in Hong Kong for a long time, and many of them may be smokers and without regular exercise. On the other hand, as pointed out by the international survey I mentioned just now, they may be genetically more prone to Type II diabetes mellitus, stroke and coronary heart disease. Of course, eating habit is another problem as these ethnic minorities eat relatively less fruits and vegetables, which is against the "Two plus Three" eating pattern currently advocated by the DH.

Regarding living habits, owing to religious needs, ethnic minorities must often wear clothing which covers most parts of their body. As a result, they get relatively less exposure under the sun, causing less intake of vitamin D, and they may have problems with their bones as they grow older.

Regarding the choice of food, ethnic minorities in Hong Kong, especially elderly people, generally have a lower household income. As pointed out by different surveys, some ethnic minority elderly people who are close to the retirement age must still work to earn a living. Under the current environment of high unemployment rate and low income, they would naturally choose cheaper food. As cheap food may be cooked with inferior ingredients and cooking oil, they may absorb less nutrients but excessive trans fats. Recently, there are also reports in the United States calling for immediate banning of trans fats. The health risks of ethnic minorities might become higher due to restrictions caused by their eating habits and food choices. Of course, their cooking methods may also be different from ours generally.

In addition, they cannot eat certain foods because of their religions. For example, Muslims must not eat pork or drink milk while Hinduists and Sikhs must not eat beef. Their choice of food is restricted due to their religious belief. Even though they are not picky eaters, their nutrient absorption may not be adequate as they do not eat certain food. As they grow older, such eating habits and religious influence may make them more prone to health risks. But so far, no effort has been made to deal with this problem squarely.

Cultural differences have also prevented them from adapting to the current healthcare system of Hong Kong, which is exactly one of the reasons why I propose this motion today as I hope the authorities can face the problem squarely. Even though ethnic minorities have lived in Hong Kong for several decades, they would still adhere to their own culture. Under the circumstances, many of them, especially women, will not seek treatment from doctors or go to public hospitals. Why is that so? Because they cannot choose their doctors if they go to public hospitals. Even if their doctor is Dr KO, they will refuse his treatment because in their culture, men are not allowed to touch women casually, and they would prefer not to be treated if no female doctor is available. As a result, their health risks would be increased.

In case ethnic minorities need to be hospitalized, they may sometimes refuse because apart from feeling estranged in hospital, their prime concern is food as they cannot take certain types of food. Although different meals are provided in hospital, they are concerned whether the foods can actually meet their religious requirements, for example, whether they are halal foods. Some ethnic minority elderly people even dare not take drugs because they think some drugs might contain animal substance, for example, certain capsules or insulin medication. Given such resistance, they would rather opt for alternative therapies which might affect their treatment.

There are even cases where ethnic minority elderly people are unwilling to die in hospital because according to their religious beliefs such as Islam, patients must drink holy water when dying, or their face must face the holy city of Mecca after they passed away. As they cannot do all these things in hospital, they would prefer not stay in hospital, and they will be more resistant to seek medical treatment.

Separately, under the existing public healthcare or even private healthcare system, language barrier is another major problem. Given the language barrier, they cannot communicate with the doctor effectively. Ethnic minorities do not know to describe their health conditions appropriately, such as feeling dizzy in case of a stroke, or feeling thirsty all the time if suffering from diabetes. Even if the patients can aptly describe their conditions, the interpreters may not be able to convey their meaning accurately. When they consult a private doctor, there is a breakdown in communication as the doctor does not have any clue of the problems with the patient. As there are no interpreters, they just resist the idea of visiting a doctor.



Of course, the Secretary would defend by saying that interpreters are provided under the public healthcare system for both the DH and the Hospital Authority (HA). But I would explain later that interpreters are in short supply. For ethnic minorities who cannot afford treatment from private doctors, they must resort to public healthcare services, and if no interpreter is available, they would just refrain from seeking treatment. Under the existing public healthcare policy, this is an area that cannot meet or adapt to their needs.

Perhaps the Secretary would say that at present, there is a Multilingual Phrasebook for Emergencies which has recorded the correct expressions for medical emergency, just like a travel handbook which teaches us how to bargain in a foreign language when shopping. However, the question is not that simple. When administering medical treatment, a doctor needs to employ the four diagnostic methods of inspection, auscultation and olfaction, inquiry, as well as pulse-taking and palpation, together with the use of body language and oral descriptions before he can communicate with the patient effectively, and it is not practical if the patient only knows a couple of simple expressions. If no interpreter is available, how can ethnic minority elderly people make good use of the services provided under the existing public healthcare system? That is indeed a major question.

Imagine if a Pakistani woman rushes to the accident and emergency department and she can only describe her condition with one or two simple English words such as "pain", and then she says something in Pakistani which nobody can understand. Under such circumstances, the medical personnel only know that she is in pain, yet she looks quite alright. Hence, she is classified as a category IV patient under the triage system, and is told to wait, perhaps for two hours. But apart from the pain, she may have other symptoms which may be overlooked. Evidently, the existing healthcare system and policy cannot take care of ethnic minorities, especially elderly people, because it is indeed difficult to change their inherent culture.

Given the above situations, we have some suggestions. First, I hope that the Secretary or other Policy Bureaux would conduct an assessment on the number and distribution of ethnic minority elderly people in the territory, in order to understand their health needs and formulate the corresponding measures. Second, according to existing statistics, many ethnic minority elderly people are living in districts such as Wan Chai, Kwai Tsing, Yuen Long and Kwun Tong; in that case, will the Secretary consider providing additional interpretation and

translation services in health centres, out-patient clinics and day-time care centres in these districts, and providing leaflets drafted in ethnic minority languages, so that they can have a better idea on how to use the services and will not have the feeling of being ignored, discriminated against or rejected?

As we already know that the incidence rates of stroke, hypertension, diabetes and coronary heart disease are generally higher among ethnic minority elderly people, can the Secretary formulate targeted and clear policies and guidelines in this regard and instruct personnel in the public healthcare sector to help ethnic minority elderly people resolve their health problems taking into account their culture and health risks, for example, formulating suitable menu for them or conveying the relevant messages to them either in writing in their languages or verbally through interpreters? That is exactly what we mean by primary education and health promotion work, and we hope that they can obtain the necessary support from such work.

Moreover, we also hope that different groups of elderly people can be provided with targeted and gender-specific services so as to help them cultivate a healthy eating habit. Through professional nutritionists, we can design suitable menus for them, which would of course entail the provision of translation services as appropriate. Hence, at present, it is very important to enhance the support of interpreters.

According to the explanation currently given by the Government, the service contractor commissioned by the HA can at least provide interpretation services in four ethnic minority languages, but according to Lady MacLehose Centre, a non-governmental organization, the Centre now has about 92 interpreters, but it is required to provide interpretation services in 16 languages. Also, the Centre considers that at least 400 interpreters are required to meet the needs of ethnic minorities, especially elderly people. Of course, we are not demanding a major increase in the manpower of interpreters, but according to the Centre, this is a question we must face squarely as the existing establishment of interpreters is indeed insufficient. Such inadequacy will prevent ethnic minority elderly people from communicating with other people in their own languages or obtaining suitable treatment that meet their cultural needs.

Another suggestion is the provision of telephone service which is in fact nothing new. The provision of conference call service among the three parties including the interpreter can help save their travelling time, so that elderly people

can obtain suitable medical services when they have a genuine need or if they feel sick, and there will not be delays in treatment. That is also a problem that we must deal with squarely.

It is my earnest hope that the Secretary can discuss with other Policy Bureaux the feasibility of implementing a mode of mutual care among people of the same ethnicity and training up ethnic minority young people as interpreters. Because they have a better understanding of the needs of elderly people of the same ethnicity, they can clearly convey the same to the medical staff. Of course, we also need to ensure training of healthcare personnel so that they understand the different needs of people from different cultures. This is the only way that the problem can be suitably resolved.

Regarding work in the community, we hope that both the public healthcare units and the DH can strengthen their outreach services. Notwithstanding the current shortage of healthcare personnel, outreach services are still being provided. Hence, I suggest that when launching outreach services, the Secretary should consider deploying interpreters to the outreach teams working in the several districts I mentioned just now, such as Kwun Tong and Yuen Long, so as to strengthen the services in this regard.

I still have about 30 seconds, but I want to reserve some time to speak in reply later. I hope the Secretary can ensure that more positive and healthy information can disseminate in the community so that these ethnic minority elderly people living in Hong Kong need not face any exclusion and discrimination. Thank you, Deputy President.

**Prof Joseph LEE moved the following motion: (Translation)**

"That Hong Kong's ethnic minority population continues to increase, but due to differences in culture and lifestyle, ethnic minorities, especially elderly people, may have physical and psychological health problems; ethnic minority elderly people are generally unable to have access to clear healthcare information because of language problems, resulting in their being unable to properly prevent diseases and seek treatment for illnesses; in this connection, this Council urges the Administration to formulate a medical policy to support ethnic minority elderly people to protect their health."

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Prof Joseph LEE be passed.

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

I will first call upon Ms Claudia MO to speak, to be followed by Miss Alice MAK, Dr CHIANG Lai-wan, Ms Cyd HO and Ms Emily LAU respectively; but they may not move amendments at this stage.

**MS CLAUDIA MO** (in Cantonese): Deputy President, the scope of this motion today is very narrow, and also very touching. In a civilized society, elderly people are definitely one of the disadvantaged groups, and so are ethnic minorities. Ethnic minority elderly people are therefore the most disadvantaged among the disadvantaged groups. As Prof Joseph LEE said just now, the Government used to pay very little attention to ethnic minorities because their numbers were few, not to mention ethnic minority elderly patients who were even fewer in number, the Government did not have time for them at all. However, they really need someone to stand up and speak on their behalf.

Just now, many problems encountered by ethnic minority elderly people have been mentioned. Doctors aside, there are really a very small number of ethnic minorities working in the healthcare service industry. Let us consider the proportion of our population with post-secondary education in the field of medical and health-related studies including studies in medicine (except Chinese medicine). Of those who are South Asians, Indians account for 3%, Nepalese account for a higher percentage at 3.7%, Pakistanis account for over 5%, yet 6% of the Chinese population in Hong Kong has attained a post-secondary level of education in the field of medical and health-related studies. It is clear that the proportion of ethnic minorities undertaking these studies is lower than the overall population. If an ethnic minority needs to be hospitalized, the Lady MacLehose Centre would be called immediately to arrange for interpretation service. Even if an interpreter can be found, it would be too late because the doctor has already prescribed pain killers for the patient. We do not consider the current situation acceptable at all.

I hope that the post-secondary medical programmes must be taught in English to facilitate understanding by ethnic minority students. In particular, they would really have a hard time understanding the medical terms if the course is taught in Chinese instead of English. Moreover, regarding admission, if ethnic minority applicants can speak another foreign language — I mean if they know another language other than their ethnic mother tongue, for example, many Pakistanis can also speak Urdu — can consideration be given by the institutions to give them some credit in this regard so as to increase their competitiveness in securing admission? Of course, their results in the subjects of mathematics, physics and chemistry must attain the required standard because medical studies are related to life-saving matters.

Just now, Prof Joseph LEE talked about interpretation services. Basically, the Lady MacLehose Centre is now solely responsible for the provision of such services, but interpreters will only be despatched if it is satisfied that a genuine need exists. As we all know, elderly people, regardless of their ethnicity, do not want to trouble others. As a result, many ethnic minority elderly patients would not ask for interpretation services.

I also have the statistics cited by Prof Joseph LEE just now. At present, there are less than 100 interpreters, but 300 or 400 interpreters are actually needed. What can be done about the situation? The staffing establishment of less than 100 interpreters is just to showcase that such services can be provided if necessary. But it is tantamount to cheating because such a level of manpower is basically impractical at all. Of course, this is not the Secretary's fault. Nonetheless, as the focus of today's motion is "Formulating a medical policy to support ethnic minority elderly people", I really hope that the Secretary can pay more attention and conduct more research on this matter.

Let us also consider the situation of medical insurance coverage for ethnic minorities. The option of taking out medical insurance is not contemplated even by local people born, raised and work in Hong Kong, let alone ethnic minorities. It is rare for ethnic minorities to have the protection of medical insurance. First of all, instead of being full-time employees, most of them only work in temporary jobs on a contractual basis. Secondly, even if they have a saving habit, they actually cannot save much money. There are many examples around, particularly in Kowloon City. Very often, healthy middle-aged ethnic minorities have the dual role of being a father and a son who must support both their elderly parents and young offspring. They can hardly make ends meet with their

earnings, let alone have any savings. Even before they become elders, they have already made use of our public healthcare services. When they grow older, they will definitely rely on our social benefits. We should at least make a start right now and provide them with assistance at source, that is, through the provision of interpretation services.

As pointed out by Prof Joseph LEE just now, ethnic minorities would feel more comfortable if they are supported by people of their own ethnicity. Ethnic minority children must learn their ethnic mother tongue since childhood. One Saturday, I met some beautiful children in the Henry G. LEONG Yaumatei Community Centre, and I asked them what courses they were studying? They said that they were learning Bangla, the mother tongue of Bangladesh. If these children who are growing up in Hong Kong can learn Chinese as well, is it likely that they can serve their own community in future?

As we are Chinese, there are Chinatowns basically in all major cities in the world. Of course, we would expect other people to learn to speak our language. Take for example the children I met that day. Of course, it is not a problem for them to learn their own mother tongue, and they could also communicate with others in English. But when I asked them whether they could speak Cantonese, they said they could not, yet some children told me in English that some of them knew a little Mandarin.

This is indeed an awkward situation. What is wrong with the present education system of Hong Kong? Those small children only know a little Mandarin, but as we all know, Cantonese is used in 97% of the time when a person lives in Hong Kong. Hence, it is no longer just an education problem, but a problem of society as a whole. If we hope that children of the next generation can take care of the elderly people in their community ... We will not teach the ethnic minority elderly people to speak Cantonese now or ask them to learn English expeditiously because our doctors can only speak English, and not their native language. I really find this situation very strange.

Moreover, another problem lies with residential care homes for the elderly (RCHE). If ethnic minority elderly people have to live in RCHE, what choices do they have? In fact, they would be very frightened because apart from the difficulty in integration due to cultural differences, there is also the language barrier. Nonetheless, they are generally taken care of by their families. But if there is indeed such a need, what can they do? Members may say that if there is

indeed such a need, they must accept the reality. But the fact remains that no service has been provided for them in this regard at all.

While many good medical and health education services have been provided in the community through the Home Affairs Department, services for ethnic minorities are still inadequate. There are many middle-aged or senior ethnic minority women in Hong Kong. There is no way we can ask them to undergo medical checks each year to put their mind at ease because as I mentioned just now, they would refuse to do so if no female doctor is available. Moreover, they just do not understand the importance of having medical checks from a healthcare point of view. When these women reach the age of 60 in five or six years' time, they would be part of the elderly population and become a burden of Hong Kong. But it is not their wish to become society's burden.

I so submit.

**MISS ALICE MAK** (in Cantonese): Deputy President, first of all, I would like to thank Prof Joseph LEE for moving this motion today because this motion really touches on a critical aspect as regards the well-being of ethnic minorities, which has always been a matter of concern for Members.

According to statistics, the number of ethnic minorities in Hong Kong has increased by over 31.2% over the past decade (from 2001 to 2011). The problem of an ageing population — a subject frequently discussed by Members — also applies for ethnic minorities. When we discuss problems faced by ethnic minorities, we may only focus on how to provide them with assistance in terms of education and employment so as to facilitate their integration into society, yet we rarely touch on the area of healthcare.

As I see it, "not knowing" is the root cause of healthcare problems faced by ethnic minority elderly people as well as ethnic minorities in different age groups in Hong Kong. What do I mean by "not knowing"? First, they do not know what healthcare services are provided for them by public healthcare institutions, for example, the interpretation service mentioned by Honourable colleagues just now. On the one hand, the interpretation service provided cannot meet the demand because there are at present only 100-odd interpreters and a lot of trouble is involved in service arrangement. On the other hand, they do not know that interpretation service is provided by the Government at all, which is exactly

where the problem lies. After admission to hospital, ethnic minorities have no idea at all that such service is available. As a matter of fact, not only ethnic minorities themselves, but also the healthcare personnel, particularly front-line healthcare personnel, may not know that such service is available.

The focus of our discussion is ethnic minority elderly people, rather than ethnic minority workers. While the latter group may have chances to use English in their work, two groups of ethnic minorities rarely use English at all, namely, women and elders. When they first came to Hong Kong, it was very difficult for them to learn the English language, perhaps because of family reasons. As they have no idea about the provision of interpretation service, or perhaps they are not timely informed of such service by front-line healthcare personnel — I will not talk about the adequacy of such service for the time being — there is no way they can obtain such service in case of emergency.

Secondly, they do not know what assistance can be provided to them under the healthcare framework. In the beginning of this year, I had handled a medical case involving ethnic minorities. In this case, the client was an ethnic minority young man and his middle-aged ethnic minority father came to us for assistance. Although the father could speak some simple English, his English was very difficult to understand as it was not his mother tongue. Hence, it was quite difficult to communicate with him.

We learnt that his son was a cancer patient. After we explained the relevant arrangement to the father, he told us that he did not know he could apply for recurrent subsidies for medication. He thought that he could only apply for subsidy for one injection, and not again. He did not know that he was eligible for recurrent subsidies. With a monthly wage of merely \$11,000, the father had to spend almost \$4,000 for his son's treatment, and he was impoverished. Hence, he came to us for assistance.

(THE PRESIDENT resumed the Chair)

We subsequently learnt that the healthcare personnel had actually provided them with assistance, but due to communication problems, the father did not know that he could apply for recurrent subsidies after his son received the first injection, so that he could continue to receive treatment. Because of "not



knowing", they failed to obtain the services and treatment that should have been offered to them.

While communication should not be too big a problem for middle-aged ethnic minorities who can speak simple English, there would be a breakdown of communication between ethnic minority elderly patients in hospital and the healthcare personnel if they do not speak the same language. In that case, while patients have no idea of the kind of services they are entitled to, front-line healthcare personnel may not understand their medical problems. Once I stayed in a public hospital for 20-odd days due to leg injuries. Most of the patients in the orthopaedic ward are elders. As some elders only speak dialect, they can hardly tell the nursing staff their problems, the situation of ethnic minority patients is even worse. If patients cannot communicate with the healthcare personnel, they will feel very frustrated.

Moreover, by saying "not knowing", I do not only refer to patients, but the Government as well. In our debate on this year's draft estimates, an Honourable colleague had sought information from the Government on the number of ethnic minority patients seeking treatment from the public healthcare system, yet the Government did not have such information. If the Government does not even have such information, how can arrangements for service provision be made? In the past, the Government has also been severely criticized for the under-provision of certain services. That is because the Government does not have the relevant data. Without such statistics, there is no way it can formulate any planning for service provision.

In the face of "not knowing" in these areas, I hope the Secretary and the government departments under his purview can turn the situation of "not knowing" into "knowing". First, the Government must collect the relevant data annually including the number, age and sex distribution of ethnic minorities seeking treatment from the public healthcare system, as well as their common health problems. Only by doing so can the Government make long-term healthcare planning for ethnic minorities and provide them with suitable assistance, rather than being criticized for under-provision of services even though much work has already been done by the Government.

In addition, the Government must enhance publicity and education so as to resolve the problem of "not knowing" among ethnic minorities. The Government should publicize the services available to ethnic minorities, as well

as the channels for seeking assistance if necessary. As I see it, this is most crucial in resolving the problem of "not knowing".

As I said just now, whenever the problems faced by ethnic minorities are discussed, we will invariably mention ways to help them integrate into society, improve their education and help them seek employment. In this regard, many measures have already been introduced by the Labour Department. Information on the number of ethnic minorities seeking employment assistance is available from the Labour Department. I hope the Policy Bureau under the Secretary can follow the example of the Labour and Welfare Bureau so that Members can be informed of the number of ethnic minorities seeking treatment from public healthcare services. It is only by doing so that the Government can make the relevant planning. In the Labour Department's job centres in the districts, dedicated counters and information kiosks have been established for ethnic minorities, and dedicated staff are available to help them resolve various language and technical problems, or even complete the application forms.

Most of the ethnic minorities live in close proximity with fellow countrymen and form a closely-knit community. Hence, publicity and education among them can be both difficult and easy because so long as the Government have established channels of contact with them, they can quickly and effectively disseminate the information to their fellow countrymen. For instance, regarding various infectious diseases that we recently talk about, I hope the Secretary can co-operate with voluntary organizations or non-governmental organizations in the dissemination of information about the infectious diseases to ethnic minorities for the purpose of disease prevention. Of course, while living in close proximity can help their communication, the spread of disease will be made easier. I do not hope that they know nothing about the recent talk of the town, that is, the vaccination programme. I think this is something ethnic minorities should know about.

Separately, radio programmes for ethnic minorities are now available. I hope the Government can optimize the use of different channels, including radio programmes or dedicated counters, in the dissemination of healthcare information to ethnic minorities so that they will no longer fall victim to the problem of "not knowing".

It can be expected that the population of ethnic minorities in Hong Kong will increase. With an ageing population in Hong Kong, the problem of an ageing population of ethnic minorities will also be as serious. As Members have mentioned, ethnic minority elderly people may encounter many problems when they receive public healthcare services due to differences in language or living habits. From now on, I hope the Secretary can start facing the relevant problems squarely because this problem is seldom raised. I hope the Secretary can face their healthcare problems seriously, so as to resolve the problem of "not knowing" in the areas I just mentioned.

Regarding the measures proposed in my amendment, the Secretary may need to co-operate with other departments when implementing some of the measures. Nonetheless, I hope the Secretary will have the commitment to resolve the healthcare problems faced by the needy ethnic minority elderly people and make long-term planning, so that they can receive suitable treatment.

Thank you, President.

**DR CHIANG LAI-WAN** (in Cantonese): President, as we discuss this subject, I think all Members in the Chamber should have the experience of travelling overseas either for business or sight-seeing, or even studying, and they would invariably run into some problems. When we are in a foreign place where we do not know our way around or may not speak the language, if we suddenly fall ill, we would indeed have difficulties in finding a suitable hospital and doctor for treatment, not to mention telling the doctor our illness or what our problems are. I am sure that if a sick person has to do all these things, he would indeed feel very tiring.

When I studied abroad, I noticed that in Chinatown, many elderly people could only buy some Chinese medicine from Chinese pharmacies when they fell ill. In recent years, as there are more Chinese doctors in the United States and Canada, the elders would specifically choose to visit Chinese doctors. Basically, we all know the reasons very well. If they visit foreign doctors, there is no way they can communicate with each other because of language barrier. In fact, some ethnic minorities in Hong Kong also face the same problem, particularly ethnic minority elderly people who have not worked in the community. They often encounter similar problems.

Hong Kong's public healthcare services are provided for all Hong Kong residents, regardless of their ethnicity. Like everyone else, ethnic minorities are entitled to public healthcare services. But because of the language and cultural factors, as well as the limited support services provided under the existing healthcare system, some ethnic minorities cannot actually enjoy equal rights in getting healthcare services. First of all, we must understand that in Hong Kong, quite a large number of ethnic minorities have a great need for Hong Kong's public healthcare services. According to the statistics from the Census and Statistics Department, there are now over 450 000 ethnic minorities living in Hong Kong, or close to 6% of Hong Kong's total population. Of those 6%, a large percentage of people have a median income below \$4,000, and the situation is more serious among Philippines, Nepalese, Indians and Pakistanis. For ethnic minorities with a low income, or ethnic minority elderly people who have no income at all, seeking treatment from public hospitals is really their only choice when they fall ill.

We should take care of ethnic minorities so that they will not be deprived of suitable healthcare services because of the language barrier. Some ethnic minorities once pointed out that their surgeries had been postponed because no interpretation service could be arranged by the hospital. Moreover, they must communicate with the doctor in English. But as they cannot express themselves clearly or effectively in English, the doctor does not understand their symptoms and illnesses. Worse still, when the doctor prescribes them some drugs, they do not know when and how to take the drugs because they do not understand the dosage instruction. Hence, they may have to see the doctor again the next day. But the doctor would not be free to see them. Hence, it is highly likely that they take the medication incorrectly.

I have come across a real case. At the Ethnic Minorities Service Centre set up by the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB), we have a staff member whose mother is an elderly person who does not speak or understand Cantonese at all, and she does not know any English either. Due to language barrier, she has to be accompanied by her daughter whenever she needs to see a doctor, but her daughter can only take leave occasionally to accompany her. As a result, if her daughter is not free, she will stay home and will not go to see a doctor. She is just like the elders I met in the overseas Chinatown back then, who dared not leave their homes because of language barrier. In fact, although the mother of this staff member is not a wage earner, her family has also made a great contribution to Hong Kong's economy back then.

Of course, if the Government cannot timely employ or train up more interpreters, the burden will ultimately fall on our healthcare personnel. As we all know, given our present shortage of healthcare personnel, they are already working under enormous pressure. If they are also required to treat patients whom they can hardly communicate with and have to run around seeking assistance from nurses, they will be overburdened tremendously, not only in terms of time, but also mentally.

At present, our doctors must handle hundreds of patients each day. Some even describe the situation as follows: The patient can barely sit down before the consultation is over and told to leave. Clearly, doctors do not have sufficient time to fully understand the medical conditions of the patients. I must also point out that although the Home Affairs Bureau has already introduced advanced booking of interpretation service for ethnic minorities, many ethnic minorities are still unaware of this service due to insufficient publicity. Regarding the advance booking of interpreters, waiting time is another problem even if an advance booking is made. Hence, we hope that the Government can increase the manpower of interpreters in future. According to some statistics, Hong Kong still needs about 400 interpreters now. Regardless of whether we are really in shortage of so many interpreters, given Hong Kong's status as an international metropolis, I think it is appropriate for us to ensure the training of additional interpreters in order to service ethnic minority or non-Chinese patients. All in all, it is appropriate to strengthen the training of additional interpreters, which is also a matter of urgency.

President, lastly, on behalf of the DAB, I would like to express our views on the original motion and the amendments. While the underlying principle of the original motion and the amendments is calling on the authorities to provide additional services for ethnic minority elderly people in Hong Kong on account of their needs, the DAB considers that apart from taking care of ethnic minority elderly people and providing additional services for their needs, we should also take care of ethnic minority women and young children. I consider that they also have the same needs. I sincerely hope that the Food and Health Bureau and the Hospital Authority can listen to the voices in this Council calling for the provision of healthcare support for ethnic minorities and genuinely strive harder to take care of this group of ethnic minorities who need our help.

Thank you. I so submit.

**MS CYD HO** (in Cantonese): President, I thank Prof Joseph LEE for moving this motion but he only talks about "Formulating a medical policy to support ethnic minority elderly people", I am afraid the perspective is too narrow. Therefore, a few Members have coincidentally amended the motion by extending the scope to cover the whole community of ethnic minorities instead of elderly people alone. My amendment also extends the scope of support concerning the community activities and primary healthcare services.

I have talked to some ethnic minority friends to understand the life of non-Chinese elderly people in Hong Kong. I find that some of them choose to return to their home countries to live out their later years, just like the older generations of overseas Chinese who chose to return to a Chinese speaking community and live out their life. As regards the number of those people, we have no idea. I have compared the population pyramids of ethnic minorities in 2001 and 2011 and found that the number of non-Chinese people between the age of 65 and 69 in 2011 was smaller than the number of those between the age of 55 and 59 in 2001, but I do not know if those people were deceased or had returned to their home countries. It is necessary for the Government to collect more information to answer these questions and then formulate a policy accordingly.

Actually, like the Chinese elderly people, non-Chinese elderly people also need social activities after retirement to maintain communication with the community and their physical and mental well-being, as so to delay the emergence of problems arising from age and diseases. However, our social workers have little knowledge about organizing activities for non-Chinese elderly people, one of the reasons being the cultural differences. For example, when an organization, no matter what its background is, organizes a local tour or a vegetarian banquet, will it take care of the eating habits of different ethnic groups? Or, in the Islamic culture there is the Ramadan in summer, will the organizations concerned look into these cultural details in their activities? Therefore, the best approach is to train ethnic minority workers to join the public service system.

In this respect, we really have to take some remedial measures which someone calls the "reverse discrimination", but they are in fact remedial measures. These measures involve relaxing the admission requirements for non-Chinese students for some faculties such as social work and social service, on the condition that they have to take up certain posts after graduation. In so doing, society allocates resources to educate these students and at the same time

gives them the opportunities to provide suitable social services. That is better than universities scrambling for Mainland elites because local non-Chinese elderly people do need people who speak their languages and share their cultures to assist them.

As regards healthcare, not only non-Chinese elderly people, but women, children and young people all have encountered problems when they seek medical help because not all of them speak Cantonese or English. According to the Population Census in 2011, among all non-Chinese ethnic minorities, with the exception of Caucasians because they knew English, fewer than 7% were born in Hong Kong and as many as 25% of them communicated with their families in their mother tongue. These people do not understand English or Cantonese, so when they seek medical help, they need suitable interpretation service to help them communicate with the medical personnel and understand how to take the medicine. There has been a case in which a non-Chinese woman mistook the anti-depressant for pain killers. Do we have to wait till there are medical blunders before addressing the issue concerning interpretation service?

The Government always boasts that Hong Kong is an international metropolitan with a diversified culture but unfortunately, it only shirks its duty regarding the provision of interpretation services for various languages. In 2007, when our legislature scrutinized the Race Discrimination Ordinance, Dr Margaret NG proposed an amendment demanding the authorities to provide simultaneous interpretation when providing medical care. The Government responded that the provision of the service would incur plenty of resources and if the Government failed to provide such service, it would violate the law and people might sue the Government. The Government always holds such an attitude in the enactment of legislation. Its focus is not to protect the groups of people in need of protection but to shirk the responsibility in enacting statutory provisions so that no one would have the chance to take legal action against the Government.

At that time, Dr Margaret NG made a great compromise. She made it clear that she did not ask the Government for a verbatim translation or a simultaneous interpreter on the spot to provide the service. Rather, she was asking for the service to be provided through telephone or video calls, as what is actually provided today. At that time, the Government solicited enough votes to negative the amendment. Today, without the statutory provision, the Government is not even willing to allocate public resources to provide this

service. It is evading its responsibility. Because the amendment was negated, the Government had no legal responsibility to provide this service. In the end, a strange situation has been created under the Race Discrimination Ordinance. Although no exemption was given to the Government regarding the provision of interpretation service, the Government was not required to provide such service as well.

In 2000, the human rights organizations of the United Nations declared that everyone was equal before the law. If no suitable assistance is given to certain people, which results in these people not getting the adequate service, it actually constitutes a hidden discrimination. In 2009, the Committee on the Elimination of Racial Discrimination (CERD) also criticized the Government for failing to incorporate the provisions concerning indirect discrimination, including those on providing interpretation services to help non-Chinese people overcome the language barrier, in the Race Discrimination Ordinance and failing to formulate a specific legal framework.

The Equal Opportunities Commission (EOC) has also criticized the Government and called upon the Hospital Authority to provide suitable services. The EOC accepted the view of the CERD to promote an equal opportunities scheme, which included requesting the Hospital Authority to provide the appropriate simultaneous interpretation service. Regrettably, the service is limited to providing pamphlets in various languages. Very often the ethnic minority people are unaware of this service and hence miss the chance to communicate effectively with the medical personnel. However, President, to eliminate the language barrier, there are many aspects that the whole community needs to learn.

But even the EOC also faltered. When consulting the ethnic minorities how the equal opportunities scheme should be implemented, it did not provide the texts printed in various languages for the perusal of ethnic minority people. We criticized the EOC for not providing print-out texts, and as a result, the target of protection had no way of learning about the consultation, so how could they be protected? Of course, the EOC immediately learned the lesson and printed the texts in various languages. The EOC listened to our views but did the Government listen to us? Does the Government have to wait till someone's life is in jeopardy and people blame one another before it is willing to allocate public funds to get something done?



While the Government is not required by law to address this problem, civic society is dealing with it. Dr Ester LEUNG of the Hong Kong Baptist University was granted funding by the University Grants Committee to conduct a study on a public policy entitled "Community Interpreting in Hong Kong". She works with the HKSKH Lady MacLehose Centre to train simultaneous interpreters. This programme trains simultaneous interpreters to provide social services and at the same time provides job opportunities to non-Chinese ethnic minorities, which is a win-win service. However, the resources did not come easily. Although they now provide translation services in Hindi, Urdu, Panjabi, Bengali and Nepali, Dr LEUNG says that they do not have the resources to provide simultaneous interpretation training in Thai, Tagalog and Indonesian, which are the mother tongues of many foreign domestic helpers in Hong Kong.

Therefore, even if the Government has no legal responsibility and it obtained enough votes to allow it to shirk its responsibility then, it still needs to allocate public funds for this purpose. President, I urge the Government to allocate funding in the next financial year to promote the simultaneous interpretation service of various ethnic minority languages. Thank you, President.

**MS EMILY LAU** (in Cantonese): President, I speak in support of Prof Joseph LEE's motion. Concerning the Members who have spoken, President, have you noticed that those Members who proposed amendments to the motion are all female? Perhaps women are more concerned about the health of the ethnic minorities. But I believe that male Members will also speak later. However, it is such a coincidence that all the five Members who propose the amendments are female.

President, we are of course very concerned about the conditions of the ethnic minorities. A few years ago I attended a United Nations conference. The SAR Government submitted a report in accordance with the International Convention on the Elimination of All Forms of Racial Discrimination. Today, I thank Prof LEE for moving this motion, giving us this chance to express our views, and I hope that the authorities can present a better report next time.

Someone would ask, "Prof LEE, why is the perspective of the motion so narrow, concerning elderly people only?" The wording he uses is "especially elderly people", as they are faced with bigger problems. I believe that even if

we talk about all ethnic minority people, he will not object. President, I believe that the ethnic minorities that this motion targets are South Asians but not Caucasians because the latter can speak English and do not need assistance in other languages and they are also better-off economically.

We are very concerned about the underprivileged. When they cannot get the basic services, should society do more to help? President, when we discussed the rights of children in the United Nations recently, we also mentioned about ethnic minorities. But members of the committees concerned did not quite understand and asked why we called them ethnic minorities. They thought that these people were just new migrants. The committee members asked why these people who had lived in Hong Kong for 10 years had not learned the local language and why there were so many problems with their education. Perhaps it is true that our system makes it difficult for new arrivals, whatever races they are, to integrate into the local community and learn the language quickly. Hence they have problems in applying for welfare, healthcare and education services.

President, it is well evident from what is happening at present that the Government is not doing a good job and our education system is a mess. Let us look at this report — I wonder if the Secretary has read this report — it was submitted by the SAR Government to the United Nations two years ago. In paragraph 166, it said, "The right to receive medical care ... is enjoyed without distinction as to race, colour or national or ethnic origin." That was all. In the rest of the paragraph, it talked about the welfare system. And what did the report say about medical care? Prof LEE, you should hear what it said and it was totally different from what you said. It went, "It is a well-established policy of the HKSAR that no one should be prevented from obtaining adequate medical treatment due to a lack of means. All persons who hold valid Hong Kong identity cards have access — at very low cost — to public health services. Persons who do not hold valid Hong Kong identity cards also have access to those services although they will be charged at higher rates. This applies irrespective of the person's race, colour, or national or ethnic origin."

President, the authorities only care about these. The Government told the United Nations that it did a good job. If its policy was successful, Prof LEE would not have to move this motion today. The truth is that it is hard for ethnic minorities in our community to enjoy various services due to language barrier. We learnt at meetings of various panels that in hospitals, no one knew what they

said. The situation may have improved now but these people are still being ridiculed and yelled at. Secretary, tell us what should be done?

Therefore, I agree to what our colleagues have said, that is, first we need to see how serious the problem is and how many people need these services. Let us look at the Government's statistics. Even if there were indeed 450 000 people in the ethnic minority population last year, there are, based on that number, an estimate of about 10 000 people aged 65 or above. I hope that the Secretary can provide us with updated figures.

Ms HO just mentioned the Race Discrimination Ordinance which came into effect in 2009. To my understanding, ethnic minorities can receive interpretation service in public organizations. The Secretary can clarify later whether this is the case. But very often, ethnic minorities do not get the services they need. That is why Members have put forward so many views just now.

President, many Members have talked about the problem about interpretation. I learnt that the Hong Kong Baptist University (HKBU) and the Lady MacLehose Centre offered a certificate course for interpreters in 2011. The number of places offered with only 15, and all these 15 students were South Asians who had received tertiary education. They received 130 hours of training in interpretation skills and medical knowledge and 20 hours practical training in hospital, and that was it. The Secretary can later tell us the current situation. The HKBU said that the Government had provided some funding but the amount was only \$100,000 which was obviously insufficient. It is hoped that the Government will provide more funding so that these students can receive more support and training.

Many Members have mentioned just now that the Lady MacLehose Centre has done plenty of work in this respect. The Centre has a team of interpreters to provide interpretation service for ethnic minorities, but the team is understaffed. According to the information I have at hand, which may be outdated, the team is 92 strong, providing interpretation service in 16 languages, and each language needs at least six interpreters. As raised by some colleagues just now, is there a shortage of 400 or 500 interpreters? President, Hong Kong is affluent. Some people are affluent and the Government is affluent. Under such circumstances, why do the authorities not allocate more resources and hire more interpreters to provide services for ethnic minorities at hospitals and other places?

Besides, President, there is a social enterprise called Hong Kong TransLingual Services (HKTS) which provides interpretation service in 17 languages, used to be 16, and its major client is the Hospital Authority. When it was first established, there were only two to three users each day but now over 400 persons request for its service each month. Its business is booming. This shows that if there is such a service, there is the demand for it. I wonder if the Secretary is embarrassed. Actually, he should feel ashamed upon hearing that the Government is doing such a lousy job in this respect. President, I share the same view.

However, who should feel more ashamed? After its establishment, the HKTS has suffered from the problem of brain drain. President, why is it so? Its interpreters have gone to work for the Government. It is desirable that the interpreters are drawn to the Government as they are paid a few times more. President, it is good that the Government is willing to recruit these people but the whole community needs such talents. I hope that the whole community will work together to assist and support the ethnic minorities.

I get some information from the Hong Kong Unison (Unison). It is well known that the Unison has made great efforts to help the ethnic minorities for many years. President, you may have heard that its Director, Ms Fermi WONG Wai-fun, will leave the Unison soon. I hope that it will find some capable people to continue to fight for the rights of the ethnic minorities. The Unison has asked me to specifically point out, if someone in a hospital wants interpretation service, President, it is like other things, controlled by doctors. Perhaps the Secretary can verify whether I have mistaken. This is really outrageous. Even if the hospital has difficulties in communicating with the ethnic minorities, no interpretation service will be provided if doctors say there is no such need. President, you also know that doctors in Hong Kong have great authority but I have never dreamt that even the provision of interpretation service is also controlled by doctors. Besides, even if a request for interpretation service is made, will the service be provided immediately?

Therefore, President, we strongly support Prof LEE's motion. I also hope that the authorities will tell us clearly the relevant statistics and situation, and how the Secretary gets a grasp of the situation. More importantly, they should tell us ... I believe that many ethnic minority people are listening. Will the Secretary please tell them the amount of resources the SAR Government will allocate to adequately provide this service? When the Government reports to the United

Nations next time, I hope that it will expound on the problems presented today and its suggested solutions in a few more paragraphs.

With these remarks, I support the motion.

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, first of all, I would like to thank Prof Joseph LEE for moving this motion, as well as Ms Claudia MO, Miss Alice MAK, Dr CHIANG Lai-wan, Ms Cyd HO and Ms Emily LAU for their amendments. As pointed out by many Honourable Members, with an increasing number of ethnic minorities living in Hong Kong in recent years, Members are concerned about whether appropriate healthcare services have been provided for them, especially elderly people. I would like to stress that the Government has all along strived to safeguard and promote the well-being of Hong Kong people as we consider that regardless of their ethnicity, religion or class, they should be provided with the same level of healthcare services and protection. In this opening speech, I will first briefly introduce the Government's work in the provision of healthcare services for taking care of ethnic minorities. Later, I will respond to Members' views after they have spoken.

As pointed out by Prof Joseph LEE, in order to stay healthy, disease prevention in our daily life as well as obtaining appropriate treatment when necessary are both essential. I very much agree that language barrier is the major obstacle encountered by ethnic minorities in terms of receiving healthcare information and obtaining healthcare services. As some ethnic minorities do not know any Chinese or English, they may not have access to all kinds of healthcare information. If they cannot communicate with others in Chinese or English and do not have any assistance from relatives, friends or voluntary organizations, they may encounter difficulties when seeking healthcare services as a result of language barrier. Hence, the Department of Health (DH) and the Hospital Authority (HA) have already introduced a number of measures in the hope of gradually improving their services, so as to allow ethnic minorities to access to healthcare information and appropriate public healthcare services unrestrained by language barrier.

In respect of health education and provision of healthcare information, apart from publishing healthcare information in both the Chinese and English versions, the HA and the DH have also translated the salient points of such

healthcare information into different languages, including Hindi, Nepali, Urdu, Bahasa (Indonesian), Thai, Tagalog, and so on, so as to facilitate the understanding of various healthcare information by those who know neither the Chinese nor English language. Such pamphlets will be distributed free of charge to members of the public and needy patients in all public hospitals and clinics. Such healthcare information spans across an extensive range of subjects, including the prevention of infectious diseases, personal hygiene, healthcare of children, healthcare of women, and so on.

When ethnic minorities go to public healthcare institutions, the medical and healthcare services they obtain are the same as other Hong Kong citizens. At present, advance booking of on-site interpretation service and telephone interpretation consultancy service of various ethnic minority languages is available in all public hospitals, health centres, clinics as well as maternal and child health centres to facilitate the attendance of needy ethnic minorities, and the services are provided free of charge. When booking their appointments, the ethnic minorities concerned can also request the relevant hospital or clinic to arrange for the necessary interpretation service in advance. Regarding non-prescheduled appointments, such as emergencies, the staff at the hospital would make the appropriate arrangements immediately as necessary.

In respect of day-to-day enquiry and in-patient services, the DH and the HA have already implemented a series of measures, including staff training, to help enhance the communication between front-line healthcare personnel and ethnic minorities in the provision of medical and healthcare information, as well as the arrangement of healthcare services.

President, I am very concerned about the difficulties encountered by ethnic minorities living in Hong Kong in their daily lives, and I hope we can try our best to provide them with the necessary support. After listening to the speeches of other Honourable Members, I will give a more detailed response later.

Thank you, President.

**MR CHARLES PETER MOK** (in Cantonese): President, when I open the webpage of Mobile Information Service — Race Relation Unit of the Home Affairs Department, I really think that I have entered another webpage by

mistake. The so called mobile information service is actually provided by a team of information ambassadors who are mainly ethnic minority young people. They distribute information guide to and handle enquiries from new arrivals at the airport and places where ethnic minorities congregate. I guess people who congregate may also be new arrivals as well. While services provided to local ethnic minorities are insufficient, the Government adopts a funny attitude in providing the service. It seems that the Government focuses on providing service at place where ethnic minorities congregate, and such place turns out to be the airport.

According to government statistics in 2011, there were only some 10 000 ethnic minority elderly people aged 65 and above while the whole ethnic minority population was more than 450 000. Such number has been increasing in recent years. The Government should get prepared and plan in advance to cater for the urgent needs in the future. It must also formulate comprehensive policies to help ethnic minorities adapt and develop in Hong Kong, as well as enable them to have equal opportunities in participating in the community.

Some social service groups have found that ethnic minorities are usually unable to access important information due to language barrier. They normally relay messages through face-to-face contact. As for ethnic minority elderly people, as they have lower language and learning ability, they have even fewer chances to receive information. A survey has found that ethnic minorities do not know much about the relevant poverty alleviation measures provided by the Government, nor can they grasp important information, hence they fail to get the assistance and services they need. Some ethnic minority elderly people have even indicated that they do not know there are elderly services in Hong Kong. Thus, their problems have aggravated which adversely affects their social participation and integration. There are also media reports about unscrupulous people targeting ethnic minorities and cheating them to pay for government service.

Although some groups suggested that provision of more outreach services can help introduce the available services to ethnic minority elderly people, the service is limited given the drastic increase in ethnic minority population. We suggest that the Government must first provide more Chinese and English education and language support to ethnic minority communities and families so as to strengthen their ability to integrate into the local community and enable

ethnic minority young generation, family members or community groups to help their elderly people get various information and promote the idea of helping people to achieve self-reliance.

On the other hand, studies have found that many local ethnic minority families cannot afford to buy a computer, resulting in very low utilization of computers. However, smart phones are relatively more affordable and many ethnic minorities use mobile phones instead. They can use mobile apps to access information. Almost two weeks ago, I was invited to attend a community activity in which the Yang Memorial Methodist Social Service announced and introduced the mobile apps named "HK Easy". The development of this mobile apps is supported by the Office of the Government Chief Information Officer of the Hong Kong SAR Government. It provides information in Urdu and Nepali, apart from Chinese and English, to ethnic minorities. While some Government departments have noticed such a need, only piecemeal support is provided. The Government has not formulated a consistent policy to provide support.

I therefore suggest that the Government should develop a mobile apps or mobile phone websites for more effective dissemination of information currently provided in the multiple language desktop computer version, including the service guide for ethnic minorities produced by the Constitutional and Mainland Affairs Bureau and Home Affairs Department, health information on communicable diseases and hygiene for ethnic minorities produced by the Department of Health, and so on. Whenever government departments launch any service, I hope they should consider whether the approach adopted is effective and whether the service is user friendly. Although the above methods will mostly be used by young people, we should bear in mind that it is in fact very important to deliver the information to ethnic minority young people so that they can pass the information to elderly people of their ethnicity.

In addition, the Government has been funding non-government organizations to run Support Service Centres for Ethnic Minorities since 2009. There are five Support Service Centres and two sub-centres at the moment, but only one of them provides translation and interpretation services in seven ethnic minority languages. Regarding free telephone interpretation services for ethnic minorities, the problem of not having sufficient interpreters has existed for long. One of the important solutions is to train up more interpreters, but this should definitely be supported by government resources and policy. The Government can also consider providing computerized translation services to supplement



telephone interpretation services. Some organizations have also relayed to me that the current interpretation services for ethnic minorities in hospitals of different districts are provided by arranging the same number of interpreters for each language instead of adjusting the number in proportional to the population of different language-speaking minorities in the district. Improvement in this respect should be made.

Speaking of translation, in the HK Easy apps funded by the Government that I have just mentioned, the addresses and telephone numbers of different public hospitals are provided. However, the information is in English only. I have asked the responsible organization about this, and they said that there was no official information in Urdu or Nepali for these facilities. This shows that the Hospital Authority cannot even provide translation of such basic information, or cannot give the community groups supporting ethnic minorities an idea about this. These are the problems which must be addressed.

With these remarks, President, I support the motion and other amendments.

**MR GARY FAN** (in Cantonese): President, I speak in support of Prof Joseph LEE's motion and all the amendments.

Hong Kong is a sophisticated and civilized metropolitan. Apart from taking care of the interests of the majority, the Government should not ignore the minorities. According to the data of the 2011 Population Census, there are currently more than 450 000 ethnic minorities in Hong Kong, representing 6.4% of the population with a drastic increase of 30% since 2006. There are about 30 000 ethnic minorities aged above 55. They are definitely the small group within the minorities. However, it is worth noting that the number of ethnic minority elderly people has been growing, which has doubled in 10 years. Therefore, the Hong Kong SAR should not ignore their needs in healthcare services, it should plan in advance and make appropriate preparation.

President, as mentioned by Prof Joseph LEE, the biggest problem encountered by ethnic minorities in respect of healthcare is the difficulty in communicating with healthcare personnel. Due to language barrier, even if ethnic minorities seek treatment in clinics, doctors and healthcare personnel cannot fully understand their conditions. Some social welfare organizations even cited examples to point out that some ethnic minority women are afraid to

seek help from hospitals though they are eligible for services provided by the public healthcare system. That is because they cannot request to be treated by a female doctor and may have to be treated by male doctors; and according to their culture, they cannot have any contact with men.

These two examples of language and cultural barriers are exactly the problems mentioned in Prof LEE's motion. There is also a deep-rooted and long-existing problem in Hong Kong, that is, we rely on social welfare organizations to take care of ethnic minorities without a supporting pluralistic cultural policy from the Government.

President, in respect of language barrier, it is necessary for the Government to resolve this problem through long-term planning, and should not only address the problem seriously or implement remedial measures when ethnic minorities have become elderly people. For example, the Government may begin with Chinese education. It can provide support to ethnic minorities since their childhood or once ethnic minority new arrivals have come to Hong Kong by encouraging them to learn Chinese and helping them to adapt to a Cantonese-speaking environment. In addition, it can introduce easier public examinations so that ethnic minority students will not give up Chinese learning due to lack of confidence; it can also help ethnic minorities living in Hong Kong acquire the Chinese language for gradual integration into the society. At present, interpretation services in 20 languages are provided in public hospitals. As a short-term measure, the Government can expand the interpretation services, especially in the languages of South Asian countries, so as to help ethnic minority elderly people communicate with healthcare personnel.

As for the important issue of how to remove cultural barrier, some social welfare organizations advocate that the Government should also consider ethnic minorities' opinions when formulating policies. Also, the Government should proactively seek ethnic minorities' support of government policy, including medical policy, and not just provide resources. The Hospital Authority should provide further training to different hospital clusters in order to improve healthcare personnel's communication skills with ethnic minorities and their knowledge and awareness about ethnic minority culture.

President, I believe that it is necessary for the Government to pay attention to the situation that ethnic minority elderly people are reluctant to retire or those who have reached retirement age but still have to work to earn a living.

According to the statistics of the 2011 Population Census, the labour force participation rate of ethnic minorities aged 45 and above is higher than that of Hong Kong people. This may be due to the fact that retirement implies the loss of earning capacity and means of subsistence. Moreover, extended period of hard work will surely have negative impact on the health of ethnic minority elderly people, which may cause burden to Hong Kong's healthcare system in the future. The Government should consider the relevant factors when formulating medical support policy.

In conclusion, Neo Democrats and I agree that the Government should give more medical service support to ethnic minority elderly people. It is also necessary for the Government to improve ethnic minority policy in the future so that ethnic minorities will not be deprived of equal treatment and social benefits they are entitled to because of cultural differences, and that they can develop a sense of belonging to Hong Kong and have better contribution to the development of the city.

President, I so submit.

**DR LAM TAI-FAI** (in Cantonese): President, the ethnic minority population in Hong Kong has been growing from 340 000 10 years ago to over 450 000 at the moment, representing about 6% of the population in Hong Kong. Indonesians and Filipinos are the most significant ethnic minority groups, both with a population of more than 130 000.

In respect of geographical distribution of their residences, ethnic minorities living in the New Territories and on Hong Kong Island account for about 40% and 33% of the total ethnic minority population respectively. There are some particular districts (such as Central and Western, Wan Chai and Yau Tsim Mong districts) in which relatively more ethnic minorities reside. Take for example Wan Chai and Central and Western districts, there are almost two ethnic minority people in every 10 residents.

President, today's motion is "Formulating a medical policy to support ethnic minority elderly people". However, to understand and solve the problems with ethnic minority elderly people, we cannot just focus on their medical needs. Although I support Prof Joseph LEE's original motion and the amendments

proposed by the Members, I believe that the key to solving the problem is how to help ethnic minorities integrate into society. We should tackle and solve the problem at root and enable them to become genuine "Hongkongers" instead of ethnic minorities living in Hong Kong.

Secretary, ethnic minorities leave their home country, and some have settled down in Hong Kong and have been living here from generation to generation. According to statistics, more than half of those 450 000 ethnic minorities are aged 34 or below. Therefore, if the Government cannot help them integrate into society, I am sure some 20 or 30 years, these ethnic minorities, who are still young today, will have the same problems faced by ethnic minority elderly people as we discussed today.

President, Hong Kong is a place where Chinese is the main language used. Ethnic minorities who cannot learn and have a good command of Chinese will be affected in their studies, employment or even future development. Their daily lives and social activities will also be affected. A simple example is buying food in market, they may not be able to buy the food they want due to language barrier.

It is very important as to how the Government can help ethnic minority children and young people learn Chinese effectively. The Government should provide special subsidies to them so that they can have extra resources to learn Chinese, and will not lose at the starting line. If they can learn and have a better command of Chinese, they will definitely be more confident and competitive. Then they can have a different social circle, integrate into the Hong Kong society and pursue better development. In this way, I believe that problems with ethnic minority people's living and development can be solved.

President, it is not easy for ethnic minority people to integrate into the society of Hong Kong owing to cultural and language barriers. The Government should strongly promote good neighbourhood among ethnic minorities in the community. If the Government can encourage ethnic minorities to participate in community activities more proactively, become leaders in districts, participate in the work of the District Council and even become District Council Members, I believe this can help ethnic minorities tackle the problems with their everyday lives and development more effectively.

President, ethnic minorities in Hong Kong have a very high labour force participation rate, with almost 100% for Indonesians and Filipinos and a very high rate even for those aged 55 to 64. The Government might consider lowering the recruitment qualifications for some positions in the Civil Service which do not require proficient Chinese competence, or conducting exclusive recruitment exercises, such as the Project "Himalaya" rolled out in Yuen Long by the police to provide guidance to non-ethnic Chinese people who aspire to join the police force and help them pass the relevant recruitment tests. I believe that the Government can consider extending the project to other departments.

In order to tap into the ethnic minority labour supply, the Government should provide appropriate training, so that they can fill the job vacancies in industries which are in shortage of manpower in the local labour market, such as the construction and manufacturing industries. In this way, ethnic minorities can improve their living standard and enlarge their social circles. This may also alleviate the problem of labour shortage in the local market as well.

President, if people living in Hong Kong cannot develop a sense of belonging and do not consider Hong Kong their homes, they definitely do not wish to live or stay in the territory. Certainly, the society will be full of grievances and become unstable. As an international and metropolitan city with diversified development, we of course cannot reject people of different nationalities from choosing to live, pursue development and even settle down in Hong Kong. "Hong Kong: Our Home" should never be merely a slogan. The Government should formulate more diversified and effective measures to help ethnic minorities integrate into the big family of Hong Kong and the community, so as to alleviate the problems encountered by them in respect of their everyday lives, development and future integration into society.

President, I so submit.

**DR KWOK KA-KI** (in Cantonese): President, first of all I would like to thank Prof Joseph LEE for moving such a meaningful motion. I believe that all healthcare personnel have the experience in handling ethnic minority patients, especially ethnic minority elderly people. I once worked in the Queen Elizabeth Hospital, and as we all know, a lot of South Asians ethnic residents of Hong Kong live in Jordan. Their population has been growing. In the past, we considered ethnic minority residents a minority and had not provided many

special measures, such as translation services or healthcare information. However, as they have become the most important group in Hong Kong's overall population, especially in the labour force as we have just mentioned, they form an integral part of our society.

Recently, we were sad to learn that some ethnic minority workers or South Asian workers were killed or seriously hurt in industrial accidents in the construction site of the Guangzhou-Shenzhen-Hong Kong Express Rail Link. They were sent to the neighbouring Queen Elizabeth Hospital and Kwong Wah Hospital for treatment. We can imagine how difficult it will be for healthcare personnel to provide treatment to them without adequate assistance from interpreters. I heard from Ms Emily LAU just now that doctors are all powerful as they are the one who determine whether interpretation services can be provided. I have to speak on behalf of doctors. In fact, doctors cannot determine if interpretation services can be provided. Actually in most cases, they will be all too happy if an interpreter is present to help.

In fact, healthcare personnel are most eager to have interpreters. Both doctors and nurses would like to know what is wrong with the patients and understand his or her sufferings. We have no idea what to do without interpretation support. For doctors, especially those working in the accident and emergency (A&E) department, they cannot afford to wait for the interpreters. This is because the interpreter may come tomorrow or three hours later after an application for interpretation service is made. They cannot afford to wait that long if the patient waiting for first aid treatment is suffering from abdominal pain or is bleeding. Therefore, very often, front-line healthcare personnel can only resort to body language, gesture, facial expressions or simple words to find out the most crucial information as far as possible and provide treatment to patients.

However, can the problem be solved? Definitely not. This is because ethnic minorities may not use A&E service, instead they very often go to different departments of the hospitals for treatment. The motion today focuses on ethnic minority elderly people. If you go to Queen Elizabeth Hospital or Tuen Mun Hospital and the specialist out-patient clinic of North Lantau Hospital in future, you will surely see a lot of senior South Asian ethnic residents in Hong Kong waiting for treatment. They have settled down in Hong Kong. Some of them have been living in Hong Kong from generation to generation and consider Hong Kong their homes. Of course, I agree that we have the responsibility to provide education to ethnic minorities. Even though they have left schools, the

Government is still duty-bound to provide some means to help them, such as teaching them simple conversational Cantonese so that they can communicate with doctors and alleviate the problem of language barrier in medical consultations.

Nevertheless, this is just the starting point. Medical language is substantially different from common social language. Questions from doctors are usually complicated. For example, they will ask patients about their living habits, and patients have to answer questions about their health conditions. It is most difficult for doctors to tell these patients what kind of food they should not eat or should eat less, or how to prevent diseases, and so on. Healthcare personnel cannot effectively convey such messages without interpretation service. If ethnic minority elderly people refuse to seek treatment owing to communication difficulties and subsequently have serious complications, they would suffer and society also has to bear a huge cost. For example, if a patient has all along ignored his problem of hypertension, he may suffer a stroke when he is admitted to hospital. We then have to use social resources to take care of him from the time of his emergency admission to hospital to the time he is recovered and discharged. There are also other intangible costs related to the impact on his family due to his loss of work capacity.

Therefore, no matter how difficult it is, perhaps the Government will argue that assistance have been provided, just that it is difficult to recruit interpreters. I believe that if there is a will, there is a way. If sufficient resources and training are provided, I believe we can train up some ethnic minority people, or even provide training to some local talents by teaching them ethnic minority languages. Many voluntary bodies have run courses teaching Cantonese-speaking Hong Kong residents ethnic minority languages. This is vital in facilitating social integration and mutual help.

I believe there is not much controversy over this motion and the amendments as Members are proposing measures to help this disadvantaged group in society. As we all know, they are genuinely the most disadvantaged group with low household income and education level. One may query if the Filipinos and Indonesians are the largest Asian groups in Hong Kong. Many Indonesian and Philippine domestic helpers can communicate in English or Cantonese. Their language barriers are relatively smaller. We have the great difficulties in communicating with South Asians, including Indian, Pakistani, Nepalese and other nationalities. Very often, we can hardly contact them and

offer assistance to them. We hope that the Government will formulate effective policies in order to help these disadvantaged ethnic minority communities.

I so submit. Thank you, President.

**MR CHEUNG KWOK-CHE** (in Cantonese): President, history tells us that race relations and ethnicity relationship have all along been one of the most important political and social problems in a region or a country. Today, under the influence of globalization, the interaction, movement and mutual influence of different ethnicity groups are more rapid and extensive, and the challenges resulted are more complicated. On the other hand, such kind of interaction encourage us to have a better understanding of other cultures, learn to respect each other and develop a more accommodating and inclusive attitude in life. This is applicable to the contacts between Hong Kong people and Mainlanders, as well as between Hong Kong people and people of other ethnicities. The society should face up to this situation and formulate appropriate corresponding social measures.

Currently, there are more than 450 000 ethnic minorities living in Hong Kong, and most of them (98.7%) are usual residents. Only 13.3% of them were born in Hong Kong, while most of them (86.7%) were born in places outside Hong Kong. About 2.2% of the ethnic minority population (that is about 10 000 people) are aged 65 or above. Colleagues who propose the motion and the amendments have made some specific suggestions which, to a certain extent, can alleviate the hardship faced by ethnic minority elderly people in using healthcare services. I hope that my speech can give a direction for further discussion from the perspective of a social worker.

Generally speaking, the development needs of elderly people are different from that of people of other age groups; nonetheless, society should focus on examining how to upgrade their living standard. For ethnic minority elderly people, this should of course include, but not limited to, medical services. Apart from helping them integrate into society by providing appropriate social services to enhance their physical and psychological well-being, we should also pay attention to their social and mental development, as well as whether they can participate actively in community activities. As we all know, language barrier is one of the prominent problems that cause hardship in life, making it difficult for ethnic minority elderly people to fully participate in community activities. In



fact, though some ethnic minority elderly people can speak Cantonese or English, they may not adapt to mainstream social services due to cultural difference. Therefore, they need help from people with the same language and cultural background in order to build up a supportive social network, so that they will not feel isolated and lonely. Actually, many social welfare associations in Hong Kong have been providing such services for many years in different communities where ethnic minorities congregate. Such work is now undertaken by professional social workers who adopt a community work approach by taking the initiative to identify ethnic minority elderly people, establish with them a relationship of mutual trust; build up a community support network for them, so as to alleviate their sense of helplessness and loneliness which is very common; and help them overcome the language and cultural barriers by promoting the idea of self-reliance and mutual help. Social workers are bridges to facilitate ethnic minority elderly people's integration into the community.

In fact, there are currently about 10 000 ethnic minority elderly people in Hong Kong. They come from different overseas places and belong to different ethnicities. Even for elderly people coming from India, they may speak different dialects and have different living habits if they come from different regions of India. I definitely agree that we should provide more facilities and information in the community to take care of every ethnic minority people; however, oversight is inevitable. No matter how comprehensive the services are, they are after all not comprehensive enough and cannot tailor to the need of everyone. In my view, the first line of service to ethnic minority elderly people should be in the community. The Government should allocate adequate resources, so that community-based social welfare organizations can enhance their existing services, identify ethnic minority elderly people and link them up with social welfare services. Assistance can be provided to help these elderly people get in touch with the community and establish positive living conditions. Secondly, mutual assistance social networks can be established to help these elderly people handle various problems related to daily living, and integrate into the community and lead a normal life.

Regarding the handling of language problem, social workers currently working in service centres are very experienced. They identify ethnic minority young people to participate in community services and help other people of their own ethnicity and speaking the same language. In this way, we can get twice the result with half the effort and there is also an exemplary effect of social integration and community care. This is an approach which kills two birds with

one stone. Social welfare organizations can also recruit interpreters when necessary and make flexible arrangement to help ethnic minority elderly people when they need to seek medical consultation, or have appointments with lawyers, Members, staff of Housing Department, and so on.

In a nutshell, ethnic minorities have encountered problems in their everyday life, which include language, culture and even food and diet. It can be said that there are problems in every aspect of life. According to some social workers, even though some elderly people can speak Chinese, if they suffer from dementia, problems immediately arise. This is because a special feature of dementia patients is that they will usually lose the ability to speak their second language and can only speak their native language. Therefore, the first line of service should be in the community, so as to provide help in every aspect of life. Owing to language and information barriers, as well as inadequate support, ethnic minority elderly people have low self-esteem. They are afraid of being excluded, and discriminated against, giving rise to a series of problems. I believe the most appropriate direction is to allow them to integrate into the community among people who belong to the same ethnicity.

With these remarks, President, I support formulating medical policy to help ethnic minority elderly people and enhancing services in the community.

**MISS CHAN YUEN-HAN** (in Cantonese): President, some ethnic minorities have lived in Hong Kong for a long time but very often when we discuss the problems about elderly people, it seems that not a great number of ethnic minority elderly people are involved. According to the findings of the Population Census conducted in 2011 by the Census and Statistics Department, there were 5 316 ethnic minority elderly people aged 65 or above. What do 5 316 people stand for? They account for 1.5% of the 360 000 ethnic minorities in Hong Kong, or 0.07% of the total 7.1 million strong population in Hong Kong, which is insignificant. I believe that Members will not find this figure reasonable and in fact many find it strange. As I have said, in the past few decades, there has been a steady inflow of ethnic minorities into Hong Kong. How come there are only 5 000-odd ethnic minority elderly people in the territory? How come they do not grow old? After studying into the case, I find that many ethnic minority elderly people choose to return to their home countries after retirement. Of course, according to them, they would very much like to stay in Hong Kong, but as they cannot get appropriate medical services and proper care in Hong Kong,

they have to forsake Hong Kong where they have lived for a few decades and return to their home countries to live out their later years. If you ask them, had they the choice, they will certainly wish to stay in Hong Kong. However, many ethnic minority elderly people tell us that it is very hard to find a doctor in Hong Kong who understands what they say. As such, how can they feel at ease to spend their twilight years in Hong Kong?

Language barrier is the biggest problem faced by ethnic minorities of all age groups. This problem is a well-known fact to all Members. I remember that I brought up this issue in the Legislative Council four or five years ago but the situation has seemingly not changed much today. Although we have repeatedly discussed this issue, up till today, when ethnic minorities seek medical treatment, the communication problem seems to get worsened. Owing to language barrier, doctors are unable to determine the illness of patients, let alone give them appropriate treatment.

When consulting the doctor, many ethnic minority elderly people can only rely on body language to communicate with the medical personnel. Under normal circumstances, it can be guessed what their conditions are but sometimes, without verbal communication, no matter how professional and capable the medical personnel are, they still have a hard time making an accurate diagnosis.

For those elderly people who know neither Chinese nor English, they have to rely on their relatives or friends to interpret for them when they seek treatment from hospital or clinic. But as most ethnic minorities are wage earners who live from hand to mouth, how can ethnic minority young people who know Cantonese or English spare so much time to accompany the elders to seek medical treatment? Consequently, these elderly people would keep putting off seeking medical treatment, and suffer the torment of illnesses silently.

Moreover, ethnic minority elderly people are very afraid of being hospitalized in Hong Kong. Hong Kong Unison, a non-governmental organization who cares for ethnic minorities, has told us that many ethnic minority elderly people in Hong Kong are very frightened of hospitalization because the medical personnel do not understand their language and interpretation service is insufficient. At out-patient clinics, doctors can still use their expertise to fill the gap of a breakdown in verbal communication, but I still do not think it works all the time. If ethnic minority elderly people stay in hospital, however, they have bigger problems because there is no interpretation service in the ward.

The reason is very simple. Very often, when we do not feel well while lying in a hospital bed, we can tell the nurse; and if we wish to go to toilet or have other requests, we can also tell the nurse. However, it is very hard to have a personal interpreter in the ward to tell the medical personnel the conditions and requests of the patient. Those who have stayed in hospital can imagine how difficult the situation is. Under such circumstances, it is difficult for ethnic minority elderly people to communicate with the medical personnel, and the medical personnel also do not understand their problems. Ethnic minority people have different eating habits and religious backgrounds, and again due to communication problem, many ethnic minority elderly people are unable to make their requests known to the medical personnel. Hence, they often find the food served in hospital not to their liking. For example, if they want softer or harder food or they find the food too bland, they do not know how to express their views. I believe we also understand what it is like when we have to depend on the care of others in hospital.

Therefore, to put it simply, owing to language barrier, and coupled with their unique cultural and religious backgrounds, many ethnic minority elderly people often feel that they are treated differently from local people and that they are ignored by medical personnel. All these problems arise from language barrier.

I have read a feature report about ethnic minorities which points out that they like to engage in aluminum piping works with their compatriots. Why? That is because all workers belong to the same ethnicity, and they know how to pass or place their tools and where the danger is, thus they enjoy the work very much. We all know that the construction industry has difficulties in recruiting workers, and these people like to engage in a particular type of work in the construction industry. They like to work with their own compatriots, in particular, they enjoy the definite hours of work and the good time when working with people of their own ethnicity. They have a good time going to work, getting of work and they have a good understanding about work safety. Can Members imagine how frustrated they are if there is no such connection?

Therefore, we need to look squarely at the medical needs of ethnic minority elderly people and I think it is very important to provide them with a diversified and harmonious community. Concerning the problems of this small group of people, we have discussed for a long time but the Government or society has all along ignored their problem. We expect the Government to do more in this

respect to allow ethnic minority elderly people to live out their later years with ease of mind in Hong Kong. Of course, we are not just reminding the Government but we expect it to work out a comprehensive policy rather than patch up here and there. We denounce the Government that even though hospitals can offer interpretation or translation service, when there is a large number of patients who require attention, how can a little improvement be of any help? It is very difficult. We need to face squarely the needs of those in-patients. They need medical personnel to make efforts to communicate with them. Frankly speaking, the authorities must allocate resources in this respect. Therefore, I hope that we can, through today's motion, put forward the aspirations of the ethnic minority friends on their behalf. These people make their home in Hong Kong and wish to age in Hong Kong, and we hope that the Government will take good care of them.

Thank you, President.

**MR CHAN CHI-CHUEN** (in Cantonese): President, the topic of discussion today is "Formulating a medical policy to support ethnic minority elderly people". This is not a very controversial subject as we all support it and have forged a consensus on the direction of development. Hence, the statistics we adopt, the analysis made as well as the policies and measures proposed are similar. The question is whether the Government will take these views on board and if it takes them on board, whether it is willing to implement them or whether resources are available. I think we all want to possess an "all-purpose translating machine". With that, a major problem will be solved.

What we are talking about is a social policy. No matter it is the policy on healthcare, education, social welfare, or even security, the fundamental issue concerns communication and culture. When we, members of the Panel on Security, visited Stanley Prison on Monday, we saw prisoners of various ethnicities. We asked the staff there if they understood the languages of all the prisoners, their answer was in the negative. If they cannot understand them, what is to be done? Fortunately, they can seek help by calling those who know the language of the relevant race. At least, there is the basic interpretation service. However, the communication problem is present in all policy areas, which is particularly serious in the area of security. If the police do not understand the language of the subject to be charged, they may need many levels of interpretation. If so, how can it achieve justice and fairness in a trial?

In respect of healthcare problem, I wonder if Members have the experience of falling ill in a foreign land, especially in a less developed place or a place where we cannot communicate with the local people due to language barrier. I remember over 10 years ago when I visited Thailand, my Taiwanese friend suffered from vomiting and diarrhoea the whole day. As his English was not good, he considered that he could not communicate with Thai doctors, and truly, the English of Thai doctors then was hard to understand, and hence he adamantly refused to go to hospital. Finally, I found a Chinese friend living in Thailand who knew Chinese, English and Thai to accompany us to hospital, and he then felt at ease.

From this we can see that when someone is scared due to communication barrier, he will not seek help immediately but would procrastinate until no further procrastination is possible. Of course, if one seeks treatment immediately, it may be found, upon diagnosis, that his illness is not serious and can be cured. However, if one procrastinates and finally seeks treatment despite language barrier, his conditions may have already worsened. Therefore, the root of the problem still lies with language and communication barrier.

The Equal Opportunities Commission published a report on the Study on Racial Encounters and Discrimination Experienced by South Asians in 2012. The report found that the two main factors that prevent interaction between ethnic minorities and local Chinese were the lack of a common language and scant understanding of the others' cultures. This problem was especially common among South Asians who did not understand Cantonese. They usually communicated with local people with single English words or simple English. The report also found that many local housewives and retirees were not fluent in English and thus lacked the means of effective communication. They were unable to communicate with South Asian people other than a polite nod or a simple greeting.

English-speaking South Asians would assume that most Chinese can speak English and when they find Chinese people unwilling to speak to them; they would think that Chinese people are unfriendly. This idea is not entirely correct but gradually many ethnic minority people find that it is extremely difficult to integrate into the Chinese community. Without a common language, the problem will be more serious which will affect their daily lives directly.

As a matter of fact, language barriers do not only exist among ethnic minorities who do not know Cantonese or non-English speaking Chinese. Many ethnic minority elderly people were born and raised in their home countries. They were educated in their native languages and were accustomed to their own eating culture. As they only know their native languages but not English or Cantonese, they always have communication problems which affect their daily lives and also hinder them from receiving public information.

From the perspective of a healthcare policy, the authorities should first aim at disease prevention rather than addressing the problems in hospitals or clinics. The Food and Health Bureau should put in more efforts in helping ethnic minority communities access our healthcare policy and services. This is the approach to solve the problem at source. Very often, many ethnic minorities dare not leave their familiar communities or communicate with local Chinese. As their age advances, their self-caring abilities will decline, and if their families have little time to look after them, their problems will become increasingly complicated and their illnesses will also aggravate. Compared to younger English-speaking ethnic minority people, they are in dire straits.

For ethnic minority elderly people, they are facing double difficulties. It is difficult to disseminate healthcare information to elderly people, and it is difficult to disseminate healthcare information to ethnic minorities. Hence, to disseminate such information to ethnic minority elderly people, it is several times more difficult. Health is the most practical problem faced by ethnic minority elderly people. Some ethnic minority elderly people who have been hospitalized indicate that they are not used to hospital meals which mainly cater for Chinese people. Also, as they do not know English, they are unable to communicate with medical personnel, which may lead to misdiagnosis and wrong prescription.

However, speaking of meals, even my mother, who is Chinese, is also not used to hospital meals. As regards the meal issue, we can discuss with the Secretary how to improve hospital meals when we have the chance. Therefore, there are also double difficulties. Hospital meal is the first problem and feeding ethnic minorities on Chinese meals is another problem.

However, as medical personnel do not know the needs of ethnic minority elderly people, no effective communication can be conducted. And as interpretation service is not available, these people often feel that they are treated indifferently. In respect of this issue, our colleagues have put forward many

remedial measures today. For example, requiring each hospital cluster to provide interpreters of various languages and when a hospital admits ethnic minority people who only know their native languages, interpreters can be arranged to interpret on the spot. Secondly, the Government should employ medical personnel of different ethnicities. This was also the suggestion that I gave the Hong Kong Correctional Services. I suggested that they employ correctional services staff of different ethnicities. Thirdly, in the clinical information data bank, relevant labels should be prepared for ethnic minorities. Drug labels in various languages should be provided for ethnic minorities who do not know Chinese and English, so that they would know their illness, the effects of the drugs and how the drugs should be taken. These are solutions that we want and we can think of. The remaining issue is what resources the authorities are prepared to allocate, their determination to solve the problem and the difficulties in implementing those measures.

**MR ALAN LEONG** (in Cantonese): President, before discussing this motion on "Formulating a medical policy to support ethnic minority elderly people", let us first consider some background information about the ethnic minority population in Hong Kong. According to the 2011 Population Census, there were a total of over 450 000 ethnic minorities in Hong Kong, constituting 6.4% of the whole population in Hong Kong. Most of them, or as many as 81%, are non-Chinese Asians; as for ethnic minorities commonly regarded as the more disadvantaged groups, such as Indians, Pakistanis and Nepalese, the numbers of people living in Hong Kong are quite large.

President, in the past decade, the ethnic minority population in Hong Kong has been growing significantly, with an increase of close to 31.2%. The extent of ageing among the ethnic minorities is not as serious as the local population, and their average age is lower than the population of Hong Kong as a whole. Although the ageing problem of the ethnic minority population is not as serious as the local population, the number of ethnic minority elderly people aged 65 or over is increasing.

In 2001, 1.1% of the ethnic minority population (that is, about 3 700) were aged 65 or over, but according to statistics, a decade later, that is, in 2011, the percentage of ethnic minority elderly people aged 65 or over had nearly doubled, at 2.2%. As the actual number of ethnic minorities has been increasing over the same period, a population of 2.2% can mean 10 000 people. President, those



10 000 ethnic minority elderly people aged 65 or over would likewise suffer from deterioration of physical function and geriatric diseases, and require medical treatment from public hospitals. Hence, the Civic Party considers that it is very appropriate for Prof Joseph LEE to move this motion debate today because at present, there are indeed quite a large number of ethnic minority elderly people requiring healthcare services.

President, as you may aware, if an ethnic minority defendant undergoes a criminal trial at the magistracy, an interpreter speaking his mother tongue would be arranged for him. For example, if the ethnic minority defendant's mother tongue is Tagalog, during the trial, the interpreter would translate the English questions into Tagalog for him, and after the ethnic minority witness or defendant has replied in Tagalog, the interpreter would translate his reply into English, and in some cases, from English to Cantonese again — if his friend speaks Cantonese and would like to know the progress of the proceedings, the Court would also arrange this service.

When an ethnic minority elderly person aged 65 or above goes to hospital for treatment, regardless of whether his mother tongue is Urdu, Hindi, Punjabi, Nepali, Bahasa (Indonesian) or Vietnamese, he would feel as helpless as an ethnic minority defendant standing trial in the magistracy. On comparison, ethnic minorities in hospital have a much urgent need in terms of language assistance because they may be suffering from severe stomach ache or headache, or cardiac arrhythmia which can be life-threatening. On the contrary, ethnic minorities in court can wait. If the trial is not held today, it can be held the next day. But the situation in the Accident and Emergency Department is not the same.

Regarding today's motion, I think Secretary Dr KO Wing-man should seriously consider whether the interpretation services currently provided for the ethnic minorities are adequate. President, take the example of Pakistanis and Nepalese. According to the 2011 Population Census, only about 15% of the Pakistanis aged 5 or above can communicate with others in English or Cantonese, while the remaining 85% of the Pakistanis speak other languages in their daily lives. The situation is even worse for the Nepalese, with only less than 10% who can communicate with others in English or Cantonese.

President, I am aware that since 2008, interpretation service for 12 languages have been provided in public hospitals under the Hospital Authority, yet the relevant service is not simultaneous interpretation service as that provided

in court. For example, if an ethnic minority speaking Tagalog or Punjabi suffers from stomach ache, he would have to call an interpreter speaking his mother tongue, and then the interpreter will provide English interpretation for the doctor, which is very indirect. I consider that there is absolutely room for improvement in this arrangement, and the Secretary would have to deal with this important question of language and communication.

As mentioned by some Honourable Members just now, the Government needs to have a better understanding of the diet and living habits of in-patient ethnic minorities, so that they will not feel alienated in case they need to be hospitalized unfortunately. In particular, when an ethnic minority is feeling unwell, if he cannot communicate with others, cannot take meals in hospital and cannot adapt to the hospital environment, his suffering will be aggravated. I hope the Secretary can pay more attention in this regard.

I so submit.

**DR PRISCILLA LEUNG** (in Cantonese): President, I speak in support of today's motion. My speech today will focus on the relative disadvantaged groups among the ethnic minorities, especially the South Asians.

Several Members have proposed amendments to today's motion. Two of them have deleted the reference to "elderly people" in order to extend the scope to cover all "ethnic minorities". I am also inclined to adopt an overall perspective in examining the problems encountered by ethnic minorities when they receive healthcare treatment and various services.

Speaking of South Asians, according to my observation from my work serving the community over the years, many of them have been living in Hong Kong for generations, and they are not expatriates who work in universities or international organizations. They grow up in Hong Kong and can speak fluent Cantonese, although their written Chinese is not as good as the locals. Many of them grow up and work in Hong Kong and have become very fond of the place, and some even dislike being called ethnic minorities. Moreover, they like Chinese very much. Where do I meet them most frequently? It is in Tai Chi class because they like to learn Tai Chi and they envy Chinese medicine practitioners and Chinese medicine, or even acupuncture. They are more open-minded and curious about the treatment of certain diseases through the

combined use of Chinese and Western medicines as currently being explored in Hong Kong. They are very open-minded and want to learn about them.

Perhaps I have some special affinity with South Asian families. When I studied law at the University of Hong Kong, a very good classmate in my study group is an ethnic minority, he is an Indian. In the place I work, my closest colleagues are also ethnic minority Professors of Law. By coincidence, my son studies in a local secondary school which has a special class for ethnic minority students, and these ethnic minorities have become my son's best friends. They often visit us and eat Chinese food. I often exchange views with their parents as to how to teach our next generation. I find that middle-class ethnic minority families are very stringent and I think, in comparison, Chinese families are not half as stringent as ethnic minority families, to say the least.

When I serve as a Member, I have also met some very good partners, for example, in the Lehman Brother minibond incident, one of the earliest victims who came forward was also an ethnic minority. After years of working together and having close contacts with them in daily life, I note that many of them aspire to be Hong Kong people. Whenever we meet, they would tell me that they are Hong Kong people and do not want to be called ethnic minorities. They do not want to be classified as such. In fact, they have the feeling of oppression, for example when they were in secondary schools, incidents of bully or repulsion did actually happen in traditional secondary schools. As a result, they have some bad experience growing up as ethnic minority children.

I recall one incident which happened a few years ago. A Nepalese friend was hurt in an accident, and in case of accidents, language communication is very important. Regardless of whether it is a fire, an emergency, a health incident, communication with the police, or sometimes even in conviction, many problems would be involved in a series of incidents or in a single incident, ethnic minorities would be very helpless if they have the problem of language barrier.

Ethnic minorities are very adorable for they are always willing to work. At present, certain job types have recruitment difficulties, for example, certain job types in the construction industry as just mentioned by Miss CHAN Yuen-han. In fact, ethnic minorities are willing to work in the construction industry, as well as in restaurants; they are also willing to take up manual work, and they are dedicated in their work. We should provide proper training for them. At present, we can actually train ethnic minorities to take up many types of jobs.

They can also provide service to people of their ethnicity, and as they speak the same language, the communication will be better and more direct. One of the areas of service is healthcare services. I think social work is also another possible area of service. Moreover, we can also allow them to join the Police Force, the media and emergency services such as the special duty units. This is an area of work we must undertake consciously. If this can be achieved, I believe that they would feel that they are Hong Kong people in a genuine sense.

Several weeks ago, I took part in a radio programme of RTHK called Backchat, and the topic was the Philippine hostage incident. I was surprised to find that — if I remember correctly — 99% of the callers considered that Hong Kong people had all along been conceited and racist, thinking that their lives were more precious than others. In fact, I had thought about this for a long time after the programme. The incoming calls did not solely criticize the Philippines; on the contrary, it seemed that there was no such call at all. Why do we give people such an impression? I think it has been accumulated for a long time, and that incident is just the trigger point. All people in Hong Kong have all along been saddened by the hostage incident, we actually have no such idea in mind but it turns out that other people hold such an impression on us.

Therefore, what I want to say today is that I hope we can make these ethnic minorities, who have been living in Hong Kong for generations and consider Hong Kong as their home, feel that they are *bona fide* Hong Kong people; and that we also consider them Hong Kong people and love them as Hong Kong people. We should make them feel that Hong Kong is their home, a place where they can live happily and a place to spend their twilight years after their retirement.

President, I so submit.

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

**DR FERNANDO CHEUNG** (in Cantonese): President, I thank Prof Joseph LEE for moving this motion which concerns about the difficulties encountered by ethnic minority elderly people in respect of their healthcare services. Of course, apart from elderly people, ethnic minorities in various age groups also receive little attention in respect of healthcare services. We know that at present, the

Hospital Authority (HA) has signed a contract with the Hong Kong TransLingual Services (HKTS) — which is an NGO (that is, a social enterprise) — to provide translation/interpretation services since 2008. The demand for interpretation services has kept increasing. As we can see, the number of cases has increased from 207 in 2008 to 4 658 cases last year. It is clear that the demand is on the increase. Of course, the number of ethnic minorities in Hong Kong has also been increasing. If the current number of foreign domestic helpers is also included, a total of some 450 000 ethnic minorities are living in Hong Kong, constituting 6.4% of the whole population in Hong Kong. Even if the number of foreign domestic helpers is discounted, there are still some 200 000 ethnic minorities in Hong Kong, or about 2.9% of the entire population.

Of course, we are concerned about the situation of South Asians, who have relatively more problems when compared with other ethnic minorities. As we can see, among the ethnic minority population, the situation of the whites, Japanese or Koreans is relatively more optimistic as they have higher income and better conditions of living. Improvements are needed in the current contract between the HA and the HKTS. First, requests for interpretation service are mainly made by healthcare personnel. In this regard, it is very important if patients can also be allowed to request for interpretation service directly because if the relevant service is only provided upon a decision made by healthcare personnel, there will be a time gap.

Moreover, the service is charged by the hour. Hence, the interpreters are also remunerated on a case-by-case basis. As such, for them, it is an unstable job which also lacks professional development. Although we know that this service is being improved constantly, and the HKTS has collaborated with the Centre for Translation of the Hong Kong Baptist University in respect of training and appraisal, that is, all their interpreters have received training — we are happy to know that — we still hope that the relevant situation can become more professional. If the terms and conditions of the contract can provide more certainty so that the interpreters are not remunerated on a case-by-case basis, I believe that the service will become more stable and the quality of service will get better.

Moreover, we also note that apart from elderly people, many ethnic minorities require medical treatment right from birth, especially ethnic minorities with disabilities. For example, after giving birth, the ethnic minorities may not have access to the appropriate healthcare information in our Maternal and Child

Health Centres. In our recent discussions on invasive pneumococcal disease, we are very worried because two children were dead because of the disease. At present, the Government announced that a vaccination subsidy scheme would be introduced. When parents like us are confused about the details, the situation is worse for ethnic minorities who have lived apart from the mainstream community in aspects such as languages and culture. When the authorities refer to 7-valent, 10-valent and 13-valent vaccines, we are really clueless as to what they are. In the community, 23-valent vaccines are being injected. What then are to be done for the ethnic minority children? The authorities need to enhance the transparency in terms of access to information.

Moreover, interpretation services should not be confined to institutions under the HA. Instead, it should be introduced extensively to cover all healthcare institutions, and even extend beyond healthcare institutions. For ethnic minority students with special educational needs (SEN), interpretation service is also required when they receive assessment in Child Assessment Centres. After assessment is made on the relevant services required for ethnic minority students with SEN, there is currently no interpretation service provided in early education centres, special child care centres or kindergarten-cum-child care centres. As such, the parents will not have access to the appropriate information. For students studying in special schools, no interpretation service is provided for the physiotherapists, occupational therapists, nurses, and so on. Hence, the relevant information has not been translated into the ethnic minority languages as appropriate. In fact, interpretation service is also needed in schools. Likewise, this kind of interpretation service should also be provided for social service organizations.

Apart from extensively promoting the interpretation service so that ethnic minorities can access to public healthcare, education and social welfare services. We note that ethnic minority workers do not have sufficient access to information on occupational safety. Several years ago, an ethnic minority woman was killed in a serious industrial accident when her long hair was caught in a washing machine. The instruction of that machine was only available in Chinese. Moreover, information on occupational safety is only written in Chinese and English (of course, the English version of such information would be hidden away), and not in ethnic minority languages. Hence, we should also pay attention to healthcare information for workers as well as the preventive measures to ensure safety.

All in all, we note that healthcare services provided for ethnic minorities have been improving. After the enactment of the Racial Discrimination Ordinance, the relevant services have been improving, but there is still a very large scope for improvement. I hope that the Government can provide interpretation service in respect of all public services and facilities. Thank you, President.

**DR HELENA WONG** (in Cantonese): President, first of all, I would like to thank Prof Joseph LEE for moving this motion on the subject of a medical policy to support ethnic minority elderly people. When ethnic minorities seek healthcare services from the public sector, they have the problem of language barrier as they may not know any Chinese or English, either in the spoken or written forms. As a result, when they receive healthcare treatment from the public sector, they may not be able to communicate with the healthcare personnel effectively, and they may not fully understand the diagnosis, such that their health may be affected.

In this connection, we have analysed some special cases. At first, I thought the scope of this subject was too narrow. While the number of ethnic minorities is not that large in the first place, the focus is on ethnic minority elderly people. I thus ask myself what problems would this small group of special people encounter when they seek public healthcare services.

In the course of data research, some cases began to catch our attention. In one case, a Pakistani woman went to a public hospital in Hong Kong for treatment. As she did not know any Chinese or English and did not understand the doctor's diagnosis, she always thought that she suffered from headache. The doctor prescribed her some drugs, but did not clearly explain to her what her problem was. After taking the medication for two years, she went to the hospital for a follow-up treatment. This time, she was accompanied by a social worker who asked the doctor what kind of drugs the Pakistani woman was taking. The doctor replied that it was an antidepressant. For two years, this ethnic minority elderly woman did not know that she was taking an antidepressant and that she was suffering from depression. As she did not understand her illness, over the past two years, she would take the drug whenever she had headache or bone pain for she thought it was a painkiller. Hence, the problem is serious indeed. It is bad for a patient to take the wrong medicine, yet it is even worse if he does not even know what drugs he is taking or when to take those drugs.

In another case, a Pakistani woman took her child to a public hospital for treatment. Her child suffered from asthma, but as she did not understand any Chinese or English, she could neither understand the doctor's explanation nor understand the dosage instruction. Once, the doctor prescribed a nasal spray for her child, but the mother did not know that the spray was to be used several times a day. She thought the spray should only be used when her child had an asthma attack, which is not the instruction given. As a result, her child's condition had not improved at all. Therefore, we can hardly accept such cases. While we have a good public healthcare system, there are still cases in which the patient or his family does not even know what kind of illness he is suffering or how to take the prescribed medication. Hence, the situation is worrying indeed.

Of course, we know that work has been done by the Government because the Racial Discrimination Ordinance has been enacted. I also know that the Hospital Authority (HA) has taken some measures, that is, they have engaged a service contractor to address the problem faced by public hospitals when translation and interpretation services are required by ethnic minorities or their family members. Moreover, on-site and telephone interpretation services are provided for 17 ethnic minority languages. In that case, the problem should have been resolved because interpreters are available. However, why do we still need to discuss this subject matter today?

We find out that very often, such interpretation services can only be provided through advanced booking. Moreover, applications for such services may not be granted. We note that there are problems in several areas. Firstly, the quality of interpretation service provided by the HA's contractor in public hospitals may not be good, we are not sure whether it is due to inadequate manpower. During peak periods when there are many patients, the contractor cannot entertain additional service requests. In some cases, the interpreters are part-time staff who cannot cope with such a huge demand. Secondly, in some cases, front-line staff in hospitals do not know that interpretation services are available and hence they have not informed the patients accordingly. In other cases, some ethnic minorities would like to apply for interpretation services, but their applications may be rejected. It turns out that the doctor's consent is required for approving an application. An application for interpretation service would only be approved if such service is considered necessary by the doctor. Hence, notwithstanding the availability of such service, nobody can benefit without the doctors' approval. Hence, in my view, the HA should review



whether adequate manpower is available to provide interpretation services for ethnic minority patients and their family members.

After the enactment of the Racial Discrimination Ordinance, public hospitals and schools, as well as organizations like the Labour Department or employment agencies must comply with the provisions of this anti-racial discrimination legislation, such that ethnic minorities would not, due to language barrier, fail to receive appropriate treatment, fail to understand the dosage instruction of medication prescribed by the doctor or fail to understand their own medical condition.

Therefore, in order to protect the special rights and needs of ethnic minorities, including elderly people, the HA should first review whether the need for interpretation services can be satisfied under the existing policy. It should also collect some data, so as to explain to us whether the existing problem lies with inadequate manpower or the requirement of prior approval from doctors before interpretation service can be arranged for ethnic minority patients.

Nonetheless, it seems that the HA has not provided any systematic training for the healthcare staff, in order to deepen their understanding on the culture and aspirations of ethnic minorities, including their religious practice, diet or their ritual for the deceased, and so on. Do the authorities have a set of standardized training courses for increasing the staff's sensitivity towards other ethnic groups? Do the authorities have such a policy now? It seems that the answer is in the negative. I have also enquired with some hospitals. It turns out that different rules apply. Some hospitals would provide such training for their staff, but it is not a standard practice, and each hospital will do so according to their own procedures (*The buzzer sounded*) ...

With these remarks, President, I support the original motion and the relevant amendments.

**MR LEUNG CHE-CHEUNG** (in Cantonese): President, regarding today's motion on "Formulating a medical policy to support ethnic minority elderly people", while its scope is not too wide, it is still worthy of concern by all Members of the Legislative Council, as well as all Hong Kong citizens. According to the Census and Statistics Department's 2011 Population Census — Thematic Report: Ethnic Minorities, about 450 000 ethnic minorities, constituting

6.4% of the whole population in Hong Kong, were living in Hong Kong, but more than half of them were foreign domestic helpers from the Philippines and Indonesia. If foreign domestic helpers were discounted, about 200 000 ethnic minorities were living in Hong Kong in 2011, apart from the Caucasians, the majority of them were Indonesians, Pakistanis, Nepalese and Filipinos, and most of them were living in Yau Tsim Mong, Yuen Long and the Central and Western Districts.

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

Major problems faced by ethnic minorities living in Hong Kong are those related to language, religion and culture. In the New Territories West Constituency to which I belong, many South Asians such as Pakistanis and Nepalese congregate. Given the vital role and position of religion in these ethnic groups, they have once relayed to me their wish that schools or community halls in the district could be opened for them to conduct religious activities at specific times, yet the Government has all along failed to give them an effective response. In respect of language, most of them can only speak their own mother tongue, such as Urdu or Nepali, rendering them unable to communicate with local people in their daily lives.

Regarding today's motion on "Formulating a medical policy to support ethnic minority elderly people", I consider that elderly people, regardless of whether they are ethnic minorities or locals, have special healthcare needs.

At present, special healthcare services provided by the Government for elderly people mainly include daily care and rehabilitation services for mobility-handicapped elderly people; monitoring, support and follow up of discharged patients with chronic or high-risk diseases; attending the physical and mental needs of terminal patients and their family members, and so on. These services are provided by different professionals including doctors, nurses, occupational therapists, physiotherapists, social workers, and so on, either in medical institutions or in the patients' homes as a form of outreach services.

Such services are highly inadequate in Hong Kong. Take for example the shortfall of places in care and attention homes as well as residential care homes for the elderly. We have already discussed the subject many times in the Panel

on Welfare Services of the Legislative Council. I believe that apart from the differences in the language of communication, culture and religion, ethnic minority elderly people have the same healthcare needs as local elderly people, and they are facing similar problems. Together with the factors of language, religion and gender, that is the problem faced by ethnic minorities, especially elderly people. At present, the public healthcare system may not necessarily provide the appropriate services for them. Regarding the problem of language and communication specifically, I hope the authorities can make provision for the necessary complimentary and support healthcare services as I mentioned just now.

Due to cultural differences and the language barrier, ethnic minorities may have little understanding of Hong Kong's situation, and most of them would not seek help from "outsiders" readily. In their culture, information is still mainly disseminated orally among the ethnic groups. Under the Community Care Fund, language course subsidies have been specifically provided for ethnic minorities. Funding has also been allocated by the Government for six non-government organizations to operate Support Service Centres for Ethnic Minorities, so as to disseminate information among ethnic minorities and act as a channel of support through the Centres' neighbourhood networking. A good effect has been achieved. Nonetheless, I consider that services provided for ethnic minorities should not focus on a "segregation" mode, that is, providing them with special services or subsidies. Instead, ethnic minorities should be directed to join Hong Kong's mainstream services so that their characteristics can be incorporated into the existing mainstream services. For example, regarding the existing public services, district-based translation and counter services can be provided in districts most populated by ethnic minorities, just like in some foreign countries, certain services can be provided over the phone. For example, if a patient goes to the hospital for some healthcare services, assistance can be provided over the phone to facilitate the doctor's understanding of the patient's condition. Apart from creating employment opportunities for ethnic minorities, it can also help them integrate into the community.

Deputy President, I so submit. Thank you.

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

**MR ALBERT CHAN** (in Cantonese): Deputy President, the needs and service demands of ethnic minorities in Hong Kong have been ignored over the years. For years, people in the community have been calling on the Government to face the needs of ethnic minorities squarely, especially their need in respect of translation services. In 2008, Support Service Centres for Ethnic Minorities (Support Service Centres) have been established by the Government. At that time, we have already pointed out to the Government time and again that appropriate assistance must be provided to cater for the needs of ethnic minorities, especially language support and interpretation service when they seek medical treatment. It is understood that with the commissioning of these Support Service Centres, assistance can, to a certain extent, be provided to ethnic minorities, especially Indians and Pakistanis, as they can receive help from interpreters when they seek medical treatment from hospitals.

In 2008, Support Service Centres were established in four districts to serve the needy residents in Yuen Long, Tuen Mun, Wan Chai and Kwun Tong. We have criticized time and again that Tsuen Wan, Kwai Chung and Sham Shui Po are also home to many Indians and Pakistanis, yet no Support Service Centre has been set up in these districts. As a result, the needy persons must travel a long distance to another district when assistance is needed. Actually, there is a great need for interpretation service among many Indian and Pakistani elderly people. When Members meet the public in their district offices, arrangements would have to be made for the Indian and Pakistani elderly people concerned to be accompanied by their relatives or volunteers so that they can act as interpreters. Only in this way can we fully understand their problems which are mostly related to their children's education, application for public housing, application for SAR passports, and so on. Hence, although the four Support Centres have been opened for more than five years, there is still a great demand for interpretation service in the community.

The best way to provide genuine assistance to Indians, Pakistanis and other ethnic minorities in respect of healthcare services is to train up more ethnic minorities as healthcare personnel. As we all know, there are many ethnic minority doctors and nurses working in hospitals in countries such as the United Kingdom, the United States, Canada, Australia and New Zealand, and many of them are well-versed in their own ethnic minority language. These hospitals do not only have Indian and Pakistani doctors and nurses, but their medical teams are also staffed by Chinese well-versed in Cantonese and Putonghua. It is more

direct and effective for healthcare personnel to contact and communicate with ethnic minority patients directly in their own languages.

There is no law in Hong Kong encouraging the integration of ethnic minorities into the community. For example, this kind of policy is in place in the United States for the coloured people, especially the Africans. Some universities even allocate a particular percentage of places for Afro-Americans. Such encouragement policies can help ethnic minorities integrate into the community or particular professions. However, their need in this respect has been completely ignored by the Hong Kong Government.

As a result of historical reasons and language requirements, many Indians and Pakistanis had worked as police officers during the time of the Hong Kong-British administration. Of course, this is not directly related to the healthcare policy under discussion today. But I want to illustrate with this example that after the reunification, as a result of changes in the Government's administration or some hidden policy changes, ethnic minorities are forced to make major adjustments and changes in respect of their employment and daily lives.

During the time of the Hong Kong-British administration, ethnic minorities could work as police officers even if they only knew English. But after the reunification, they cannot join the Police Force if they cannot speak Cantonese. As a result, there are only a handful of Indian and Pakistani new recruits in the Police Force. This situation is definitely related to the authorities' language policy. Although the Basic Law has stipulated that both the Chinese and English languages are the official languages, in actual practice under "one country, two systems", the chance of ethnic minorities working for the Hong Kong Government in various departments has indeed been affected substantially as a result of changes in the language policy.

Going back to healthcare services, I would very much hope that the service mentioned just now, that is, interpretation service for ethnic minorities provided by the Home Affairs Department can be extended to all major hospitals to ensure that ethnic minorities will not be affected or harmed as a result of language barrier.

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

(No Member indicated a wish to speak)

**DEPUTY PRESIDENT** (in Cantonese): Prof Joseph LEE, you may now speak on the amendments. The speaking time limit is five minutes.

**PROF JOSEPH LEE** (in Cantonese): Deputy President, as we can see, there is no major conflict between the theme of my original motion and the various amendments proposed by Honourable colleagues. Amendments proposed by some colleagues only seek to extend the scope of health problems from ethnic minority elderly people whom I mainly focus on to cover ethnic minorities of other age groups. I have also talked about the situation mentioned by Miss Alice MAK.

Ms Claudia MO mainly stressed the inadequate provision of translation service, while Ms Cyd HO pointed out that we have missed some situations, for example, apart from health problems of ethnic minorities, ethnic minority elderly people also face the problem of elderly care as there is currently no provision of residential care homes especially for ethnic minority elderly people. Moreover, Ms Cyd HO suggested that suitable training could be provided to ethnic minorities so that more ethnic minority young people could take care of ethnic minority elderly people. In fact, there is no conflict between this idea and our concepts of "ageing in place" and healthy ageing.

Overall speaking, it is clear from the speeches of Honourable Members that they very much support this motion, and I am happy for that. In principle, amendments proposed by Honourable colleagues support the idea that we should urge the Government to expeditiously formulate specific measures to help ethnic minority elderly people or people in other age groups gain access to appropriate healthcare services, so that they can live healthily regardless of their age.

Thank you, Deputy President.

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): Deputy President, I would like to thank Prof Joseph LEE again for moving this motion and other Members for proposing the amendments. I very much agree to the views expressed by Members. As Hong Kong is the world city of Asia, we very much hope that we can, through various means, help ethnic minorities to truly integrate into the Hong Kong society, making Hong Kong a genuinely harmonious community. As Prof LEE has said, some Members have talked about some relatively macroscopic and general issues such as regional policies, education and other matters. My response will focus on healthcare services as the subject of Prof LEE's motion is "Formulating a medical policy to support ethnic minority elderly people".

I would like to point out that the Hong Kong Government has all along endeavored to ensure and safeguard that Hong Kong residents will not be denied the public healthcare services on account of their race, religion or social status. I consider this principle very important because not all countries in the world have an all-inclusive healthcare safety net in place. The fact that our public healthcare system can achieve this should be well cherished by everyone. This policy is accessible to all, irrespective of their race, religion or social status, including ethnic minorities. I believe that this policy is worth our efforts to highlight to everyone.

As regards healthcare services, most Members have concentrated on the problems faced by ethnic minorities, especially the language problem; and some Members have also mentioned religious and cultural problems. Most Members have pointed out that due to language barrier, ethnic minorities are unable to fully communicate with healthcare personnel, which has led to various kinds of difficulties during the provision of healthcare services.

Next, I will spend some time presenting to Members how various institutions in our healthcare system have endeavored to improve the services in this respect despite the many restrictions encountered. Why do I mention the restrictions? That is because healthcare services are different from other services that are provided through specific offices or at specific locations. Regarding healthcare services provided under a huge medical framework, the special features include a large number of service points, a diversified service mode, a classification of non-urgent medical services and out-patient services which require advance booking. The services delivered by the accident and emergency department have to race against time while the services provided in

hospital wards are different and there are also other modes of services. Therefore, it poses all kinds of restrictions on our design of a perfect interpretation service. When Members point out that there is room for improvement in the service, they need to take note that the healthcare system is a rather complicated structure. Let me expound to Members the improvement measures that we have taken in recent years.

In respect of health education, we agree that "prevention is better than cure". Hence, the Health Department (HD) and the Hospital Authority (HA) have disseminated health information to different groups of people, including the ethnic minorities of course, through various channels. The HD and the HA have translated a series of essential messages on health into various languages and have handed out the relevant pamphlets free of charge to everyone. Take for example the infectious diseases. We have bear in mind the needs of ethnic minorities in our publicity exercises concerning the infectious diseases. For example, we know that recently there have been cases of the Middle East Respiratory Syndrome found in the Middle East and this disease poses different risks to different racial groups. Therefore, based on the risk assessment findings and scientific evidence, we carry out different publicity exercises among visitors from different regions and local residents returning to Hong Kong.

Take the recent cases of Middle East Respiratory Syndrome as an example. The cases mainly involved people from the Middle East or people falling ill after returning to their home countries after visiting the Middle East. Therefore, other than informing the general public through the established channels of press release and the data reporting system, we have, at a time when the Muslims make pilgrimages to the Middle East, stepped up education and publicity among the relevant religious and ethnic groups and tourists by providing them with the information and suggestions on precautionary measures. We also alert the medical personnel that they should perform quick tests for visitors returning from the Middle East who show symptoms of acute respiratory tract infection.

Another example is the Government Vaccination Programme launched one or two years ago, which includes some special measures to prevent ethnic minorities from being missing out as a result of inadequate access to the information. To ensure that no ethnic minorities will miss the aforesaid vaccination programme because of language barrier, the Centre for Health Protection has written to non-governmental organizations providing services to ethnic minorities, requesting them to pass the message on to various ethnic



minority groups. The HD also disseminates the message about the Elderly Health Care Voucher Scheme to various ethnic minority groups. All these examples show that we take care to ensure that ethnic minorities receive these messages.

Moreover, appointments for on-site and telephone interpretation service for a number of ethnic minority languages are available in all public hospitals, health centres, clinics and maternal and child health centres. Regarding on-site and telephone interpretation service, some Members accept or appreciate that flexible services can sometimes be provided while some Members think that telephone interpretation service is insufficient. I would like to point out, however, depending on the time when the need arises, if the service is on appointment basis, we will, of course, try to arrange for an interpreter to be present on site. In an emergency case in which the medical personnel see such a need but cannot wait for the interpreter, sometimes they would also use telephone interpretation service when necessary.

In respect of the HA's service, many Members have pointed out just now that our contractor can provide the interpretation service for 17 languages through appointment. The HD can also seek help from the Support Service Centres for Ethnic Minorities funded by the Home Affairs Department or use the interpretation service provided by part-time court interpreters. The scope of service cover the languages of India, Pakistan, Indonesia, the Philippines, Nepal, Vietnam, Thailand, Japan and other countries. When a patient makes a medical appointment, he can request the hospital or clinic concerned to arrange for the interpretation service in advance. Besides, as I mentioned before, our service can be provided in different modes and the hospital staff will made appropriate arrangements according to the condition of the patients. As I have said, in urgent and emergency cases, the telephone interpretation service will be used. On some occasions, if the use of multilingual cue cards, though the instructions are relatively simple, can sufficiently serve the purpose under certain circumstances, medical personnel may adopt this method first.

I very much agree with Members that effective publicity must be carried out because many people may not be aware of the aforementioned interpretation services. At present, relevant posters printed in various languages have been posted in conspicuous locations of public hospitals and clinics explaining to ethnic minorities the arrangement for applying for interpretation service. Thus, ethnic minorities would know that when they consult the doctor, they can request

front-line medical staff to arrange for interpretation service. The front-line staff at the information service counters will certainly provide suitable assistance to the ethnic minority patients. We have endeavoured to ensure that the medical personnel of all units understand the arrangements for interpretation service.

Members have also pointed out that some medical personnel may not be fully aware of such arrangements. Although we have an enormous system with over 60 000 staff, we will do our best to pass this message on to all staff. As a matter of fact, some Members have also mentioned just now that since the interpretation service was launched, the number of users has continued to rise. I can provide the latest figures for Members' reference. In the 2012-2013 financial year, the public hospitals and clinics under the HA provided interpretation service for 4 900 times and the health centres and clinics under the HD also provided this service for over 640 times.

Of course, the quantity of interpretation service is very important. Through the interpretation service contractors, the HA provides training for all interpreters on medical knowledge. For interpreters who only know two languages, it would be helpful to their interpretation work if they can grasp some medical knowledge. Therefore, we have provided training conducted by university lecturers to teach them about the operation of hospitals, medical terminology and infection control so that they can provide better service. So far, over 70 interpreters have received this training. Besides, the service contractor commissioned by the HA and representatives of the translation and interpretation faculty of the Hong Kong Baptist University, as mentioned by Members just now, also conduct yearly inspection in hospitals to monitor the service quality of the interpreters. From the questionnaire completed each year by the inspectors, the service standard of the interpreters continues to rise in recent years.

On the other hand, concerning daily enquiries, front-line HA staff will use response cue cards, disease information sheets and patient consent forms in 18 ethnic minority languages to communicate with the ethnic minority in-patients. As I have said, owing to different service modes, flexibility is needed under different situations to adopt different modes of communication with these patients.

On the other hand, Members are also concerned about the training of staff. As front-line staff such as those at the information service counters, nurses and clerks often come in contact with ethnic minorities, appropriate training have also

been provided for them to enhance their communication skills with ethnic minority patients and their knowledge of these people's cultures, and also familiarize them with the procedure of arranging the interpretation service so as to ensure the quality of service. In the 2011-2012 and 2012-2013 financial years, over 3 700 staff of various levels in the HA had received relevant trainings on serving ethnic minority patients.

In respect of religion, one or two Members have mentioned that apart from language, the religious and cultural customs of certain ethnic minority groups may be different from that of other patients and hence hospitals have also made specific arrangements in these respects.

Of course, on the whole the quality of food is also an issue, and hospitals have adopted different measures to cater for the needs of patients of different religious backgrounds. First of all, public hospitals have special meal arrangements for patients of different religious backgrounds, for example, halal food for Muslims and vegetarian food for Buddhists. As regards spiritual support service, if permitted by the actual environment, some hospitals have set up small chapels for people of different religions or a prayer room and a ceremonial room in the mortuary. The hospital would contact local religious bodies to provide pastoral care for the patients.

Moreover, special arrangements have been made in hospitals for surgeries to be performed on patients who, due to certain religious beliefs, do not accept blood transfusion or blood products during the treatment. If the conditions of the patients in question are complicated, arrangement will be made for them to undergo surgery in those HA hospitals which handle patients who do not accept blood transfusion for treatment. If a Muslim patient passed away in a HA hospital, the hospital will follow the guidelines on how to handle a dead body under the HA's clinical protocols and transfer the body of the deceased patient directly to specified mortuaries instead of leaving it in the mortuary of the hospital so as to avoid violating the taboos of that religion.

Deputy President, the above are some improvement measures that we have endeavoured to implement in response to the demands of ethnic minorities for various healthcare services under various restrictions. After listening to the views of Members, I also agree that we do not have a full picture of the healthcare needs of ethnic minorities, especially their demands under the whole healthcare system. As regards ethnic minorities, I have taken note of the

statistics that some Members have at hand, but on the whole, we may not know how many of them know Cantonese, how many of them can communicate in English and what problems they have in seeking healthcare services. As such, we are willing to work with the relevant academic institutions, commissioning them to gather more information so that we can fully grasp the problems encountered by ethnic minorities in using healthcare services in Hong Kong.

Moreover, I also agree to the views of Members concerning how to enhance the publicity of information on healthcare and services. In particular, some Members have mentioned about facilitating ethnic minorities to organize themselves for enhanced involvement and mutual assistance. I will also consider how work in this respect can be implemented. Lastly, I agree that our interpretation service has improved in the past few years but there is still room for improvement. I would like to point out that while we make improvements, there are limitations. For example, in respect of resources, in view of the various modes of service and the large number of service points, I believe it is difficult to arrange interpreters of all languages to standby at all service points at all times. Owing to this reason, as some Members have said, our team of interpreters charges their fees on a case-by-case basis. As resources are limited, efficiency of services should be considered. Taking into account the fact that there are 60 to 70 clinics and dozens of hospitals, it is unlikely that there can be interpreters of 17 or more languages stationed in all the hospitals and clinics. Therefore, we must set up a network to have interpreters on call so that they can arrive as soon as possible.

I want to point out here that most of our services are able to meet the performance indicators, that is, the interpreters can arrive within an hour. However, in case that we cannot wait an hour, what can be done? While we have to consider cost-effectiveness, we should have to maintain the job security of the interpreters because this is their livelihood and they all wish to have a stable job. I have to point out there is a conflict. If we establish a huge team of interpreters, each interpreter will get fewer cases. Hence under all these restrictions, I can only say that I am willing to discuss with the relevant organizations to find out what difficulties they have in organizing these interpretation services and if there is room for improvement.

Thank you, Deputy President.

**DEPUTY PRESIDENT** (in Cantonese): I now call upon Ms Claudia MO to move an amendment to the motion.

**MS CLAUDIA MO** (in Cantonese): Deputy President, I move that Prof Joseph LEE's motion be amended.

**Ms Claudia MO moved the following motion: (Translation)**

"To add ", while" after "That"; to delete "but" after "increase,"; to delete "minorities, especially elderly people," after ", ethnic" and substitute with "minority elderly people"; and to add ", and the healthcare support targeting ethnic minorities is very limited" after "language problems"."

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Ms Claudia MO to Prof Joseph LEE's motion, be passed.

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

(Members raised their hands)

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

(No hands raised)

Ms Claudia MO rose to claim a division.

**DEPUTY PRESIDENT** (in Cantonese): Ms Claudia MO has claimed a division. The division bell will ring for five minutes.

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

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

Functional Constituencies:

Mr Albert HO, Mr James TO, Mr Tommy CHEUNG, Mr Vincent FANG, Prof Joseph LEE, Mr Jeffrey LAM, Ms Starry LEE, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr CHEUNG Kwok-che, Mr IP Kwok-him, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr MA Fung-kwok, Mr Charles Peter MOK, Mr Kenneth LEUNG, Mr Christopher CHEUNG, Mr IP Kin-yuen, Mr Martin LIAO, Ir Dr LO Wai-kwok and Mr CHUNG Kwok-pan voted for the amendment.

Miss CHAN Yuen-han, Mr KWOK Wai-keung, Mr POON Siu-ping and Mr TANG Ka-piu abstained.

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

Geographical Constituencies:

Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr TAM Yiu-chung, Mr Ronny TONG, Ms Cyd HO, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mrs Regina IP, Mr Alan LEONG, Mr Albert CHAN, Mr WONG Yuk-man, Ms Claudia MO, Mr Gary FAN, Mr CHAN Chi-chuen, Mr CHAN Han-pan, Dr Kenneth CHAN, Mr LEUNG Che-cheung, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr SIN Chung-kai, Dr Helena WONG, Dr Elizabeth QUAT, Dr CHIANG Lai-wan and Mr Christopher CHUNG voted for the amendment.

Mr WONG Kwok-hing, Mr WONG Kwok-kin and Miss Alice MAK abstained.

THE DEPUTY PRESIDENT announced that among the Members returned by functional constituencies, 27 were present, 22 were in favour of the amendment

and four abstained; while among the Members returned by geographical constituencies through direct elections, 28 were present, 25 were in favour of the amendment and three abstained. Since the question was agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was passed.

**MR RONNY TONG** (in Cantonese): Deputy President, I move that in the event of further divisions being claimed in respect of the motion on "Formulating a medical policy to support ethnic minority elderly people" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

I order that in the event of further divisions being claimed in respect of the motion on "Formulating a medical policy to support ethnic minority elderly people" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

**DEPUTY PRESIDENT** (in Cantonese): Miss Alice MAK, as Ms Claudia MO's amendment has been passed, I have given leave for you to revise the terms of your amendment, as set out in the paper which has been issued to Members. When moving your revised amendment, you may speak for up to three minutes to explain the revised terms in your amendment, but you may not express further views on the motion and the amendments, nor may you repeat what you have already covered in your earlier speech. You may now move your revised amendment.

**MISS ALICE MAK** (in Cantonese): Deputy President, I move that Prof Joseph LEE's motion as amended by Ms Claudia MO be further amended by my revised amendment.

**Miss Alice MAK moved the following further amendment to the motion as amended by Ms Claudia MO: (Translation)**

"To add "; specific measures should include: (1) to strengthen the training for front-line healthcare personnel by, such as increasing their understanding about the living habits and cultural background of ethnic minorities, and encouraging their optimization of the interpretation service at hospitals, etc., so as to facilitate them to communicate with ethnic minority elderly people and provide appropriate healthcare services; (2) to co-operate with non-governmental organizations and ethnic minority groups, and through the networks of the relevant organizations and groups, to actively approach more ethnic minority elderly people, so as to provide them with more healthcare information; (3) by way of a greater variety of channels, such as promotional advertisements and radio programmes, etc., to strengthen publicity on healthcare services for ethnic minority elderly people and provide them with disease prevention knowledge; and (4) to set up dedicated counters and information kiosks in hospitals to provide ethnic minorities, especially elderly people, with healthcare service assistance and information" immediately before the full stop."



**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That Miss Alice MAK's amendment to Prof Joseph LEE's motion as amended by Ms Claudia MO be passed.

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

(Members raised their hands)

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

(No hands raised)

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

**DEPUTY PRESIDENT** (in Cantonese): Dr CHIANG Lai-wan, as the amendments by Ms Claudia MO and Miss Alice MAK have been passed, I have given leave for you to revise the terms of your amendment, as set out in the paper which has been issued to Members. When moving your revised amendment, you may speak for up to three minutes to explain the revised terms in your amendment, but you may not express further views on the motion and the amendments, nor may you repeat what you have already covered in your earlier speech. You may now move your revised amendment.

**DR CHIANG LAI-WAN** (in Cantonese): Deputy President, I move that Prof Joseph LEE's motion as amended by Ms Claudia MO and Miss Alice MAK be further amended by my revised amendment.

**Dr CHIANG Lai-wan moved the following further amendment to the motion as amended by Ms Claudia MO and Miss Alice MAK: (Translation)**

"To add "; and (5) with considerations such as language and religion, etc., to provide ethnic minorities (especially ethnic minority elderly people) with a variety of healthcare support" immediately before the full stop."

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That Dr CHIANG Lai-wan's amendment to Prof Joseph LEE's motion as amended by Ms Claudia MO and Miss Alice MAK be passed.

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

(Members raised their hands)

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

(No hands raised)

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

**DEPUTY PRESIDENT** (in Cantonese): Ms Cyd HO, as the amendments of Ms Claudia MO, Miss Alice MAK and Dr CHIANG Lai-wan have been passed, I have given leave for you to revise the terms of your amendment, as set out in the paper which has been issued to Members. When moving your revised amendment, you may speak for up to three minutes to explain the revised terms in your amendment, but you may not express further views on the motion and the amendments, nor may you repeat what you have already covered in your earlier speech. You may now move your revised amendment.

**MS CYD HO** (in Cantonese): Deputy president, I move that Prof Joseph LEE's motion, as amended by Ms Claudia MO, Miss Alice MAK and Dr CHIANG Lai-wan, be further amended by my revised amendment.

**Ms Cyd HO moved the following further amendment to the motion as amended by Ms Claudia MO, Miss Alice MAK and Dr CHIANG Lai-wan:**  
**(Translation)**

"To add "; this Council also urges the Administration to expeditiously draw up corresponding measures to take care of the needs of ethnic minority elderly people" immediately before the full stop."

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That Ms Cyd HO's amendment to Prof Joseph LEE's motion as amended Ms Claudia MO, Miss Alice MAK and Dr CHIANG Lai-wan be passed.

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

(Members raised their hands)

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

(No hands raised)

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

**DEPUTY PRESIDENT** (in Cantonese): Ms Emily LAU, as the amendments of Ms Claudia MO, Miss Alice MAK, Dr CHIANG Lai-wan and Ms Cyd HO have been passed, I have given leave for you to revise the terms of your amendment, as

set out in the paper which has been issued to Members. When moving your revised amendment, you may speak for up to three minutes to explain the revised terms in your amendment, but you may not express further views on the motion and the amendments, nor may you repeat what you have already covered in your earlier speech. You may now move your revised amendment.

**MS EMILY LAU** (in Cantonese): Deputy President, I move that Prof Joseph LEE's motion, as amended by Ms Claudia MO, Miss Alice MAK, Dr CHIANG Lai-wan and Ms Cyd HO, be further amended by my revised amendment.

**Ms Emily LAU moved the following further amendment to the motion as amended by Ms Claudia MO, Miss Alice MAK, Dr CHIANG Lai-wan and Ms Cyd HO: (Translation)**

"To add "; this Council also urges the Administration to recruit more ethnic minority healthcare personnel and provide more healthcare information in various ethnic minority languages" immediately before the full stop."

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That Ms Emily LAU's amendment to Prof Joseph LEE's motion as amended Ms Claudia MO, Miss Alice MAK, Dr CHIANG Lai-wan and Ms Cyd HO be passed.

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

(Members raised their hands)

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

(No hands raised)

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

**DEPUTY PRESIDENT** (in Cantonese): Prof Joseph LEE, you may now reply and you have 12 seconds. The debate will come to a close after Prof Joseph LEE has replied.

**PROF JOSEPH LEE** (in Cantonese): Deputy President, in today's debate on "Formulating a medical policy to support ethnic minority elderly people" held in this Chamber, the views expressed by Honourable Members are crystal-clear, and I hope the Secretary will formulate the appropriate policy immediately to assist these ethnic minority elderly people. Thank you, Deputy President.

**DEPUTY PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Prof Joseph LEE, as amended by Ms Claudia MO, Miss Alice MAK, Dr CHIANG Lai-wan, Ms Cyd HO and Ms Emily LAU, be passed.

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

(Members raised their hands)

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

(No hands raised)

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

**DEPUTY PRESIDENT** (in Cantonese): Fourth Member's motion: Facing up to the needs of persons with disabilities.

Members who wish to speak in the motion debate will please press the "Request to speak" button.

I now call upon Mr LEUNG Yiu-chung to speak and move the motion.

## **FACING UP TO THE NEEDS OF PERSONS WITH DISABILITIES**

**MR LEUNG YIU-CHUNG** (in Cantonese): Deputy President, I move that the motion, as printed on the Agenda, be passed.

Deputy President, the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) is an international convention passed by the United Nations on 13 December 2006 which serves to protect the human rights of persons with disabilities (PWDs). The draft convention was adopted by 192 Member States of the United Nations and 90 non-governmental organizations (NGOs) at the special meeting of the United Nations held on 25 August 2006. The text was published internationally on 20 March 2007 and the Convention entered into force on 2 May 2008. The UNCRPD is the first convention that provides protection to the human rights of PWDs.

Deputy President, the UNCRPD was adopted by the 61st Session of the United Nations General Assembly on 13 December 2006, and opened for signature on 30 March 2007. China is one of the State Parties. On 1 August 2008, the Chinese Government deposited with the Secretary-General of the United Nations an instrument of ratification, which stated that "In accordance with the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and the Basic Law of the Macao Special Administrative Region of the People's Republic of China, the Government of the

People's Republic of China decides that the Convention shall apply to the Hong Kong Special Administrative Region and the Macao Special Administrative Region of the People's Republic of China."

Deputy President, I have used much time on briefing how the UNCRPD came to existence. I have also highlighted that consensus was forged by the representatives of 192 countries and 92 NGOs and that the Chinese Government had deposited with the United Nations an instrument recognizing the application of the UNCRPD to the Hong Kong Special Administrative Region (HKSAR). My purpose is to advise that the SAR Government should not only attach importance to the content of the UNCRPD, but is also obliged to formulate and implement relevant policies in accordance with the UNCRPD, so as to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all PWDs, and to promote respect for their inherent dignity. This is not only the purpose of the UNCRPD, but also related to the concept of self-recognition of the SAR Government. Deputy President, more than five years have passed since 2008, but what is the attitude of the SAR Government in implementing the UNCRPD? How many positive messages have been brought by the SAR Government on the interests of PWDs? These are the areas of discussion for today's motion.

Deputy President, the SAR Government has stressed that being the executive authorities of Hong Kong, it is certainly obliged to implement the provisions of the UNCRPD. The Labour and Welfare Bureau is carrying out a series of public education and publicity programmes to encourage various sectors of the community to join the Government in the implementation of the UNCRPD, with a view to creating a barrier-free community where PWDs can pursue their own living and fully integrate into the community.

Deputy President, these goals are indeed the directions that all PWDs in Hong Kong expect the Government to follow. They hope the Government will respect their rights in a serious and practical manner, as well as formulate and implement measures so that PWDs may lead a life of dignity just like ordinary people. However, Deputy President, as you are also well aware, I have been moving motions on the rights of PWDs for 11 years and it is a pity that until now, most PWDs and I still consider that the SAR Government has not faced up to the issue but just ignored it in an indifferent attitude.

I believe many PWDs share the view that the SAR Government is just like an unmotivated student in respect of assisting PWDs. On the one hand, this student is afraid of being punished by his teachers and parents, but on the other hand, he is reluctant to deal with the problems seriously. It thus acts perfunctorily, muddling along with an intention to get things done. The SAR Government is like a student who is forced to hand in his homework. While PWDs voice their aspirations, they very often fail to get any substantive assistance at the end. All they get is mere lip service. This reflects the attitude of the Government towards its work for PWDs.

Such an approach cannot effectively help PWDs integrate into our society or community, nor can it help them lead an unrestrained life. Why do I make such criticism of the Government? Deputy President, let me cite the example of public bus service. PWDs, especially those suffering from visual impairment, have repeatedly requested for the installment of stop announcement systems on public buses. After repeated requests and urges, the bus companies have finally installed the system. Nevertheless, some friends of mine have conducted a survey on the systems and found that only 30% of them are functioning effectively while the remaining 70% are not in use. Why? First, the systems are out of order; second, the drivers do not switch on the systems.

That is why I say only lip service is provided. On the face of it, the Government has really done something. The Government is like an unmotivated student who says that he has done the homework. However, whether he has acquired the knowledge and whether the work he has done is effective are different matters of concern. There is neither follow-up action nor supervision. The Government has not even monitored whether such systems can help people with visual impairment. It just does not bother. It considers the mission complete after doing a few things. Such an attitude is similar to that of Chief Executive LEUNG Chun-ying who only gives empty talks without any follow-up.

Deputy President, another point that worries me is that LEUNG Chun-ying has instilled the "hypocritical rhetoric" culture into government officials. I am not sure whether these officials have already learnt to master this technique. They just learn the bad things rather than the right things. Very often officials also make use of "hypocritical rhetoric" to cover up their insincerity in handling their work. That is why PWDs are very disappointed with the Government's work relating to PWDs' interests.



Deputy President, just like many of my friends with disabilities, I hope the Government would face up to the issue. What is the meaning of "face up to"? It means to enable PWDs to lead a life same as any ordinary people from a level perspective and in an equal manner. Therefore, I hope the Government can take care of their needs in various aspects and provide positive assistance. As such, today's motion does not only deal with transportation as I have been focused on this aspect over the past years. This time I have also put forward areas such as healthcare, education, welfare and employment. I hope the Government will truly review its policies and effectiveness. What I emphasize is effectiveness. Sometimes the Government has put in place policies but their effectiveness is disappointing. The case I mentioned just now is one of the examples.

Deputy President, the concept of focusing on the rights of PWDs can be said to be the spirit of the UNCRPD. Last year, the United Nations Committee on the Rights of Persons with Disabilities (the United Nations Committee) made the following comment on the report submitted by the SAR Government at its eighth session, "The Committee is concerned about the rather passive role adopted by the Equal Opportunities Commission (EOC), which is responsible for monitoring and executing the Disability Discrimination Ordinance (DDO). The Committee recommends that the EOC review its role and assume a more proactive part, especially when handling complaint cases."

Deputy President, I think the observations and recommendations made by the United Nations Committee on this issue have really hit the mark. Why do I say so? Take sign language as an example. Deputy President, you may remember that sign language interpretation has been provided for Council meetings since last year but many television news reports do not broadcast the interpretation. A lot of efforts have been made before some television stations are willing to broadcast sign language interpretation. It is already so difficult to persuade television stations to broadcast sign language interpretation of Council meetings, how can we expect them to report on news related to PWDs? In fact, many television stations do not provide such interpretation in their news reports at all. I thus asked my colleague to call the EOC to check whether this is in breach of the DDO. In reply, the EOC advised that the provision of subtitles in news reports is already a service for the hearing impaired and as such, the non-provision of sign language interpretation does not constitute discrimination. My colleague further indicated to the EOC that many persons with hearing impairment are illiterate and their understanding in written language may be different from ours. As such, they depend on sign language in order to

understand the content. How did the EOC reply then? It said no complaints in this regard have been received so far and so the problem of discrimination does not exist.

As cited by me just now, the United Nations Committee had criticized the EOC for not taking a more proactive part. It does not do anything when there is no complaint. However, the above problem has been raised time and again in this Council. How come the EOC is unaware of the problem and has not followed up? Therefore, I think the criticisms made by the United Nations Committee were very right.

The United Nations Committee did not only criticize the EOC for being not proactive enough but had also put forward recommendations in many aspects. One of the important points was on the general principles and obligations. The Committee regretted the outdated eligibility standard in the Disability Allowance Scheme and lack of unity in the various definitions of disability that had been adopted in different pieces of legislation and by government bureaux and departments. The Committee encouraged the SAR Government to revise the inappropriate eligibility standard and to adopt definition of PWDs that adequately reflects article 1 and the human rights model of the Convention.

I have pointed out in the original motion that the existing criteria for the Disability Allowance are very outdated in that they are linked to "a 100% loss of earning capacity", thus rendering many PWDs ineligible for the Disability Allowance. As such, in the original motion, I request the Government to take the advice of the United Nations Committee by deleting the provisions linked to "a 100% loss of earning capacity" and replacing them by international disability standards and assessment methods. I also request the Government to comprehensively review and raise the amounts of the Disability Allowance to enable PWDs to adequately meet medical and healthcare expenses, and so on.

On this point, I would like to tell the Secretary that when the minimum wage was under discussion, we already told the Secretary that many of my friends with disabilities want to be self-reliant instead of living on Comprehensive Social Security Assistance (CSSA). To this end, they need to be remunerated at a reasonable level. However, the Government now proposes that an assessment should first be conducted before they may get a certain percentage of the minimum wage. We keep asking the Government not to make so many troubles in this aspect and suggest providing direct subsidies to PWDs instead. The level

of subsidies should be set at half of the minimum wage which will then be increased to 70% to 80% upon assessment. With more income, plus the Disability Allowance, PWDs may be able rely on themselves instead of the CSSA. Therefore, in paragraph (2) of the original motion, I ask the Government to comprehensively review and raise the amounts of the Disability Allowance to enable PWDs to adequately meet medical and healthcare expenses, and so on. This is of utmost importance. I hope the Government has paid heed to our advice and make an effort in this regard.

In addition, the United Nations Committee had made as many as 32 comments on the SAR Government and I do not want to read them out one by one. I would like to only cite the last item which is more important. The Committee was concerned about the heightened suicide risk among persons with intellectual or psychosocial disabilities and the high suicide rate of 35% for PWDs in Hong Kong. Indeed we should try to figure out why the suicide rate for PWDs is so high. I am worried that this is because the support in our society is not enough to help them lead a life of dignity. As a result, they give up themselves and subsequently get onto a road of no return by committing suicide. If this is really the case, I feel so sad. Therefore, I hope the Government will not simply listen to our views without taking any action, just like what it did in the past. I hope the Government will promote the rights of PWDs in a practical way so that they can live a life of freedom and integrate into the community.

Thank you, Deputy President. I so submit.

**Mr LEUNG Yiu-chung moved the following motion: (Translation)**

"That this Council urges the Government to implement the United Nations Convention on the Rights of Persons with Disabilities on various policy levels, and face up to the needs of persons with disabilities especially in areas such as healthcare, education, welfare, employment and transportation, etc., so as to create a truly inclusive society; the relevant measures should include:

Healthcare —

- (1) to review the definition of disabilities under the various policies on persons with disabilities, and reform the definition under the Disability Allowance by deleting the outdated provisions linked to

'a 100% loss of earning capacity' and replacing them by international disability standards and assessment methods;

- (2) to comprehensively review and raise the amounts of the Disability Allowance to enable persons with disabilities to adequately meet medical and healthcare expenses, etc.;

#### Education —

- (3) to comprehensively review the integrated education policy, including the subsidy systems, manpower establishment and training, assessment systems, continuous education arrangements, overall culture and public education, and consider legislating for protecting students with disabilities and those with special learning needs;
- (4) to step up the promotion of sign language, implement sign language programmes in primary and secondary schools and provide sign language interpretation in television news reports, so as to facilitate the deaf-mute to integrate into society;

#### Welfare —

- (5) to increase the places in residential care homes for persons with disabilities and provide carer subsidies to carers of persons with severe disabilities, so as to protect the livelihood of persons with disabilities in residential care homes or in the community;

#### Employment —

- (6) to establish a quota system for employing persons with disabilities and provide minimum wage subsidies; the Government and subvented organizations should take the lead in employing more persons with disabilities, with 2% as the target rate, and disclose by various departments and organizations their status on employment of persons with disabilities; other larger-scale public organizations such as the MTR Corporation Limited and the Airport Authority, etc. should also take the lead in employing more persons with disabilities;

Transportation —

- (7) to extend the scope of the Public Transport Fare Concession Scheme for the Elderly and Eligible Persons with Disabilities (i.e. 'concessionary fare of \$2 per trip') to cover persons with disabilities under the age of 12, and make it applicable to green minibuses across the territory; and
- (8) to improve the existing barrier-free access and install electronic route display panels and next stop announcement systems on various means of public transport."

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr LEUNG Yiu-chung be passed.

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

I will first call upon Mr IP Kin-yuen to speak, to be followed by Mr CHAN Han-pan, Mr WONG Kwok-hing and Dr Fernando CHEUNG respectively; but they may not move amendments at this stage.

**MR IP KIN-YUEN** (in Cantonese): Deputy President, I have become a Member for more than a year. About one year ago, Mr LEUNG Yiu-chung moved a similar motion on the Disability Discrimination Ordinance in this Council. But I did not know that Mr LEUNG Yiu-chung had already moved similar motions for many times before that. On this issue, we really hope that the Government will adopt a firm approach in order to improve the living conditions of persons with disabilities (PWDs) in Hong Kong.

Although the United Nations Convention on the Rights of Persons with Disabilities has entered into force since 2008, there is still much room for improvement in the promotion of the rights of PWDs in Hong Kong. In fact, the concepts of equal opportunities and integration of able-bodied and disabled persons in the community cannot be realized by a mere piece of official paper;

such concepts can only be realized by putting them in practice in daily life including the implementation of various government policies. Physical disabilities are congenital and may not be altered. But as philosopher John RAWLS said, whether there is justice in a society depends on how our systems address and overcome congenital inequalities. Education can help PWDs go beyond the limits imposed by their physical defects, identify their potentials and get to know the world. This is a very important point. A few days ago I visited a school for persons with physical disabilities. I saw how the incapacitated students have made progress with computer-aided technology and after receiving training. They can now do simple things such as feeding themselves and this already gives them much dignity. Their families and friends are also greatly encouraged. This is the most basic part. What is more important is to restore the working ability of some PWDs through such assistance. This is very important to them and their families. The Government plays a key role in providing equal education opportunities. Therefore, I urge the Government to increase its resources to strengthen the support to PWDs, so that they are given truly equal opportunities in education.

At present, students with severe disabilities have to go to special schools but the conditions of the premises of some special schools are very poor. Take Chi Yun School which admits persons with severe disabilities as an example, the school premise is already 50 years old and the original design does not include barrier-free access facilities such as ramps. Yet there is only one small lift on the school premise. Most students in this school suffer from mobility impairment and intellectual disability. In case of emergency such as a fire, students' lives and safety will be in jeopardy as they cannot evacuate promptly. In the case of Ko Fook Iu Memorial School in Sha Tin and Hong Chi Morninghill School in Tuen Mun, while the school premises are small with a lack of basic teaching and auxiliary facilities, they are forced to share the premises with other schools. For mainstream students, a substandard school premise campus will definitely affect their studies and school life, the case is especially serious for students with severe disabilities and special needs. As such, I urge the Administration to allow the expeditious relocation, redevelopment, alternation or improvement of the premises of certain special schools which are excessively dilapidated, cramped and substandard. After our recent visits to these schools recently, we find that improvement is urgently needed. Nonetheless, under the current redevelopment plans, it seems that no appropriate arrangements are made for these school premises.

Integrated education has been introduced since 1997 to give students with mild disabilities the opportunities to study in mainstream schools. The idea is worthy of recognition. I believe many of us here agree that the integration of students with disabilities with normal students is a direction worth our effort. However, the success of integrated education depends on the overall arrangements of the Administration, including resource input, sufficient training, and so on. We are delighted to hear the good news that a student named TSANG Tsz-kwan, despite being blind and hearing-impaired from a young age, excelled in the Hong Kong Diploma of Secondary Education Examination this year and was accepted into the Translation Department of The Chinese University of Hong Kong. She has become a spotlight in local and even international media. While TSANG's willpower is definitely the key factor to her success, we should bear in mind that her willpower can only bring success when supported by her schools. In her case, both Ying Wah Girls' College and Ebenezer School have made a lot of efforts to help an outstanding student make a success. While the community has expressed astonishment and commendation towards TSANG's achievement, this reflects that PWDs are still faced with many obstacles in education. Not many students are as lucky as TSANG Tsz-kwan.

The Subcommittee on Integrated Education under the Panel on Education chaired by Dr Fernando CHEUNG has held a number of public hearings over the past year. PWDs, their parents, organizations and professionals who attended the hearings all pointed out that the Government's funding and support in both hardware and humanware are acutely inadequate at present. In terms of hardware, despite the slight enhancement in school facilities compared with the past, many school premises still fail to meet the requirements. In particular, some tertiary institutions are constructed on hillsides where roads are steep with no facilities assisting PWDs. It is dangerous for students with disabilities to travel around the campus. Facilities in classrooms, hostels and canteens do not cater for the needs of PWDs. Certain facilities such as washrooms for the PWDs are not user-friendly due to their poor design. Apart from the campus, assistive devices such as text magnifiers and Braille display units are prerequisite for students with disabilities in their learning. However, given the size and weight of these devices, it is difficult for these students to carry them to class. Yet without these devices, the students will be unable to learn effectively and this has indirectly deprived them of the equal opportunities in education. As such, I urge the Administration to allocate additional resources for assisting primary and secondary schools, as well as tertiary institutions which provide integrated education in upgrading their hardware facilities, including improving the designs

of classrooms and public space, and procuring assistive devices, so as to build up truly barrier-free campuses.

Hardware must be supported by humanware. At present schools are in lack of professional teaching and counselling staff. The situation is most acute in primary and secondary schools while in tertiary institutions, the situation is also worth noting. Under the new secondary school curriculum with tight schedule and numerous specialist subjects, and coupled with the persistently large number of students in each class, subject teachers are already overloaded with teaching duties and may not be able to take care of the needs of the whole class or even individual students with disabilities. Supporting teachers and teaching assistants appointed on contract terms may not receive enough professional training and their turnover rate is high. Frequent change in personnel will inevitably affect the continuity in the provision of supporting services. Apart from teaching staff, professional supporting staff, such as speech therapists, are also in serious shortage, thus retarding the rehabilitation of students with disabilities. Therefore, we need to strengthen our support to these students by employing more specialists, more permanent teachers as well as counselling personnel, so as to strength the support for such students.

Moreover, we need to provide more subsidies and support services for students with disabilities. It is of vital importance to purchase, repair and maintain assistive devices. In some of the complaint cases we have received, many students with hearing impairment complain that they can hardly learn properly without the assistance of appropriate devices. For example, the initial purchase of cochlear implant devices and external speech processors is wholly subsidized by the Government but the subsequent replacement or repair cost may amount to several thousand or even several tens of thousand dollars. How can poor families afford the cost? Why does the Government only subsidize the initial purchase but discontinue its support afterwards?

We really need to assist PWDs. We should not consider the work completed by just signing the convention (*The buzzer sounded*) ... We must get the work done adequately ...

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



**MR IP KIN-YUEN** (in Cantonese): ... Deputy President, thank you.

**MR CHAN HAN-PAN** (in Cantonese): Deputy President, since I became a Legislative Council Member last year, this is the second time I speak on a motion about persons with disabilities (PWDs). Just now a Member said that this motion has been proposed time and again over the past decade or so, and this reflects that the Government has not attached importance to this issue and the needs of PWDs.

I wonder how many decades a person will have. As the problems of PWDs have long been neglected throughout their entire life from schooling, working to retirement, we therefore find today's motion very meaningful. We consider it of paramount importance that PWDs can integrate into society and lead a dignified life.

Today, I will focus on the employment of PWDs and barrier-free transport services. Concerning the employment of PWDs, it is imperative to help them work with confidence and integrate into society. However, providing employment assistance is no easy task. More importantly, we seek to provide stable jobs and employment opportunities. Why would I stress the word "stable"? Let us reflect on it. Imagine that a person was employed after an interview but was dismissed two months later, and then he got another job after an interview but was again dismissed two months later, his confidence would gradually be eroded and he would query his ability. Even able-bodied people will have such a feeling, not to mention PWDs. Therefore, job stability can enable PWDs to live a dignified and equal life like the able-bodied, and build up self-confidence, which is very important.

Recently, I learnt from the press that a Mr LEE has employed a PWD for not just one year, but more than 10 years. Good persons and good deeds of this kind should be commended.

Originally, before I spoke on this motion, I intended to collect some relevant information and data. I was however so disappointed to find that the most updated information provided by the Census and Statistics Department (C&SD) was published seven years ago, that is, 2007. We can hardly find any updated statistics on PWDs. According to the data of 2006-2007, the

unemployment rate of PWDs is about 10.5%, which is 2.5 times that of able-bodied people.

How is their current employment situation then? We want to know, in particular, if the implementation of minimum wage has any implication on their employment. Although various data are available in the community, we think they are merely based on speculation. According to my understanding, a new round of survey data on the employment of PWDs will not be published by the C&SD before the last quarter of 2014. Simply looking at the compilation of data, we can tell how serious the Government regards the employment of PWDs. The unavailability of data shows that the Government has not attached due importance to the issue. What can be done without the relevant data?

For many years, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) has urged the Government to establish a quota system for employing PWDs. With this quota system, employers would employ a certain percentage of employees with disabilities. Furthermore, we also proposed that the Government should provide tax concessions to employers who employ PWDs. It is hoped that through the provision of tax concessions, more job opportunities will be provided for PWDs. While we consider tax concessions a kind of reward, many employers who have employed PWDs do not care much about such reward. Instead, they are pretty eager to earn social recognition and to get the message across. We therefore consider it important to provide employers with this little reward through the provision of tax concessions.

At present, many overseas countries, such as Germany, France and Japan, have established quota systems for employing PWDs. Let us disregard countries that are too far away and focus on Guangzhou and Taiwan, which are closer to us. Laws have been enacted to require enterprises to employ PWDs on a proportionate basis. In as early as the 1990s, Taiwan had already required companies with over 100 employees to recruit 1% employees with disabilities. Subsequent to an amendment in 2009, companies with 34 employees are required to employ a certain percentage of employees with disabilities.

Members may wonder if the Taiwan enterprises are forced to employ PWDs in compliance with the law. But the fact is, according to the data published in December 2012, in Taiwan, a total of 69 000 PWDs were employed, which has exceeded the prescribed limit 51 000 PWDs by more than 10 000. As evident from Taiwan's experience, the quota system has not only provided job

opportunities for PWDs, but has also enabled some enterprises to identify PWDs with potentials and caliber. This is actually a win-win situation.

I believe Members may remember the success story of a top achiever in the Hong Kong Diploma of Secondary Education (HKDSE) examination, TSANG Tsz-kwan, who has strived for excellence with her self-invented lip reading. Although she lacks three senses, her perseverance and diligence have enabled her not only to complete the HKDSE, but with excellent result. Other familiar examples include the American scientist HAWKING and the famous basketball player YAO Ming, who is deaf in the left ear. We should not belittle PWDs as their vitality can be unimaginably strong, and we understand that their perseverance should be encouraged. Therefore, we should change the mindset that PWDs are burden to society.

The word "burden" reminds me of the barrier-free transport. Many PWDs told me that the greatest trouble in their day-to-day life is going out. As they have to rely on transport or are probably wheelchair-bound, they cannot move freely on a bus like able-bodied people but have to stick to their wheelchairs. What is their favourite transport then? They would choose the buses under Rehabus services and Easy-Access Transport Services. Nonetheless, in the past year, booking dial-a-ride trips for these services was very difficult. Although there are currently 129 Rehabuses, cases of unsuccessful telephone bookings are as high as 15 000. If they cannot book a Rehabus and have difficulty in travelling on ordinary buses, they may otherwise have to book another vehicle in order to go out. How long do they have to wait? Very often, a successful booking has to be made three months in advance. We find this very inconvenient. Do they have any alternatives? Hospitals may arrange Non-Emergency Ambulance Transfer Service for them. And yet, in view of the high demand, booking of such service is certainly very difficult. What if they cannot book any vehicle in case of emergency? They can only call an ambulance.

Therefore, we opine that transport services are essential for PWDs. Should we not do our best to meet their simple aspiration for transport? We therefore hope that the Government will expeditiously increase or further increase the number of buses under Rehabus services and Easy-Access Transport Services, so as to enhance their mobility.

Deputy President, no one wants to have any physical disabilities and everyone wants to live like an able-bodied person. However, sometimes we do not have a choice. Regardless of whether the disability is inborn or from an accident, we must learn to adapt and face up to ourselves. The abovementioned student TSANG Tsz-kwan, who has strong perseverance, once told the media, "We should not choose to escape, or else the difficulties will follow us". I eagerly hope that the SAR Government will no longer escape, but wholeheartedly understand the needs of PWDs and listen to their aspirations.

Lastly, I want to talk about DAB's viewpoints on the original motion and various amendments. Over the years, we have been supporting the building of an inclusive society for all and striving for the greatest benefits for PWDs. We will therefore support the original motion and various amendments. Yet, we have reservation about Dr Fernando CHEUNG's amendment to introduce a special disability allowance and will therefore abstain from voting on this amendment.

I so submit. Thank you, Deputy President.

**MR WONG KWOK-HING** (in Cantonese): Deputy President, I thank Mr LEUNG Yiu-chung for moving this motion today. Concerning his original motion, I have only proposed a minor amendment, and that is, "to allow persons with loss of one limb to also receive Disability Allowance". The purpose of this minor amendment is to highlight the need for the Government to promptly and comprehensively review and revise the Disability Allowance scheme, which was formulated in 1973, with a view to meeting people's aspirations and actual needs.

Deputy President, although I have not brought the "broken leg" to this meeting today, I have prepared some data to illustrate the inadequacies of the Government and the reason for an expeditious review. First, I have to criticize the Government for adopting the delaying tactics in reviewing the Disability Allowance scheme.

Deputy President, I have in hand the Direct Investigation Report published by the Office of The Ombudsman, Hong Kong (the Office) in 2009, and earlier, I had helped Mr LEE Shing-leung to lodge a complaint to the Office, which published a report on 30 September 2009 to request the authorities to expeditiously conduct a review and make adjustment. Unfortunately, the

Government has been procrastinating. Although the Social Welfare Department (SWD) had conducted a review in the interim, the Inter-departmental Working Group on Review of the Disability Allowance (the Working Group) was not set up until 2013. The Working Group later reported to the Commission on Poverty's Social Security and Retirement Protection Task Force after the meeting and made some remarks that are untrue and have not been proven. I still cannot figure out why they made such remarks.

What was the result of the Government's delaying tactics? According to the reply given by the Government in response to a Member's question raised this year, there were 2 066 PWDs whose disabling condition is not to the degree of severe disability and cannot apply for Disability Allowance in 2010. The number was 2 117 in 2011 and 2 164 in November 2012. Within the 35 months excluding December 2012, there were 6 347 PWDs who are not eligible for Disability Allowance and cannot enjoy the \$2 concessionary fare as they do not meet with the so-called "100% disability" requirement laid down by the Government. This is really outrageous. The delaying attitude of the Government has left some 6 000 PWDs unattended. I hope that the Government will not delay anymore. This is the first point of my speech today.

Deputy President, the second point that I am going to make is about the Office's recommendation for a comprehensive review of the Disability Allowance scheme. Has the Government taken heed of the Office's advice? No. In the report, the Office has put forward eight recommendations as set out in paragraphs (a) to (h). In paragraph (a), the first recommendation, it recommends the authority to "review the eligibility criteria for fine-tuning". In paragraph (h), the eighth recommendation, it suggests the Government to "consider an overall review of the Disability Allowance scheme, covering the eligibility criteria, the roles of medical doctors and the SWD as well as the assessment mechanism". I do not want to waste time reading out the second to the seventh recommendation.

Obviously, the Office has done its job. It does not matter if the Labour and Welfare Bureau refuses to take heed of Members' advice, but it should at least listen to the opinions and recommendations of the Office. Has the Government done so? The so-called "review" conducted by the SWD earlier is not an in-depth review, but has muddled through by focusing on some non-essential parts, such as the assessment forms and guidelines, checklists and descriptions. It has completely evaded the Office's request for a review of the Disability Allowance scheme.

Today, the Government is still evading this question. As a Member has asked in his earlier speech, why should the Disability Allowance be linked to "a 100% loss of earning capacity"? Why is a person eligible for Disability Allowance only if he has 100% disability? Why should our scheme stick to the outdated provisions laid down in 1973? The Government has evaded the relevant questions.

After meeting with the Task Force under the Commission on Poverty to report on its work, the working group has made some remarks that are untrue. According to media reports, allowing people with loss of one limb to apply for Disability Allowance will make people with seeing difficulty, mental handicap or chronic illness also eligible for Disability Allowance. This will push the number of Disability Allowance recipients to 1 million and incur a government expenditure of over \$20 billion a year.

I think the Government is scaring the people. The purpose of stating some untrue figures is to mislead Hong Kong people into opposing a comprehensive review of the Disability Allowance scheme with certain presumptions. Deputy President, I think what the Government has done is wrong, unfair and unjust. If the Government thinks it has reasons, it should provide the relevant data for discussion by the Legislative Council.

Deputy President, I have collected other government data to prove that the remarks made by the working group which reports to the Commission on Poverty are untrue. Deputy President, in March this year, the Government stated that a total of 176 129 PWDs have been issued with Registration Cards, which include disabilities such as hearing impairment, visual impairment, physical handicap, speech impairment, mental handicap, mental illness, autism, visceral disability/chronic illness, attention deficit/hyperactivity disorder and specific learning difficulties. Among them, 52 639 are PWDs with physical handicap. Even with the inclusion of PWDs who are not 100% disabled, the total number is only 176 129.

Let us look at the number of eligible Disability Allowance recipients as at the end of 2012. Again, according to government information, the number is 146 670. The difference of the two numbers shows that although 29 459 of them were issued with Registration Cards, they cannot receive Disability Allowance and enjoy the \$2 concessionary fare. As this involves less than 30 000 PWDs, why did the Government not give an account on this? Why has

the Government refused to allow these 30 000 people receive Disability Allowance and enjoy the \$2 concessionary fare? This is the actual figure.

I hope that the Government will explain if this is unfair, unjust and impractical. Worse still, the Government said that the relevant report will be delayed until the end of 2014 (*The buzzer sounded*) ...

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

**MR WONG KWOK-HING** (in Cantonese): ... this is so unreasonable.

**DR FERNANDO CHEUNG** (in Cantonese): Deputy President, I thank Mr LEUNG Yiu-chung for moving again a motion expressing concern about persons with disability (PWDs). This motion has an extensive coverage because there is really a substantial difference between the needs of PWDs and the assistance actually received. Although PWDs are said to have a long list of aspirations, the Government has responded by taking actions bit by bit, just like "squeezing toothpaste out of a tube". After all, the response of the Government is attributable to its attitude and underlying value on PWDs.

There are two service modes for discharged patients with disabilities, and one is called the medical model. Under the medical model, disability is deemed as illness, deficiency and functional disorder, and is therefore an individual problem. In other words, compared with able-bodied people, PWDs are deemed to have physical or mental deficiency and thus they cannot handle difficulties as good as able-bodied people.

However, there is another model called the social model. Instead of stressing deficiency, it focuses on how the entire society treats people with varying degrees of abilities. In other words, the crux of this model is whether PWDs have been restrained by the institutional and environmental barriers and cannot give play to their potentials under the overall social environment. The rationale of this model is that human beings of varying intelligence have their strengths and weaknesses, and PWDs having either physical or mental deficiencies will certainly encounter greater difficulties, which have rendered them unable to give play to their potentials in society. But if the social

environment can accommodate and encourage them, and provide additional provisions and assistance to them, they may perform even better than ordinary people. Let me cite a simple example. While people with autism cannot even take care of themselves in many cases, they can be very attentive and focused, and do their work wholeheartedly. Similarly, mentally-handicapped persons are very loyal, and if they are assigned to a certain post, they would be very excited and thus devote to their work. Even for jobs that able-bodied people are unwilling to do, they will also work wholeheartedly with great pleasure. This is their strength. Has the Government look at them from this angle?

The Government has merely considered from an economic angle. When society pursues economic development, the Government will naturally expect everyone to have excellent productivity. It would be best if employees can make money for their boss but receive lower pay. All in all, the higher productivity, the better. This is why PWDs and mentally-handicapped people are regarded as obstacles and burden. PWDs will be miserable if the Government adopts such an attitude. Unfortunately, this is precisely the attitude which the Government has adopted in the formulation of policies, placing PWDs in an inferior position. The minimum wage policy is an example. What does the word "minimum" mean? The Government said that minimum wage was set to prevent the wage level from being too low. What is meant by "wage level being too low"? It means that the wage cannot even sustain the basic living. If a person works with his best effort but cannot make ends meet, this is the minimum. However, the wage of PWDs is even lower. If the result of the productivity assessment shows that their productivity is only 70% of an able-bodied people, their wages will have to be discounted by 70%. But it can be as low as 50%, depending on the result of the productivity assessment.

The Government only stresses productivity and argued that this is for the well-being of PWDs, but the design of the entire policy discriminates against them. Why should PWDs undergo productivity assessment? CHONG Chan-yau has been an Administrative Officer, the head of Oxfam and assumed an important post in the University of Hong Kong. Has the Government required him to undergo the productivity assessment? Has his productivity been undermined due to his visual impairment or inconveniences? This is impossible. Then why should other PWDs undergo such an assessment? Worse still, after this once-and-for-all assessment, no appeal or review is allowed. An employer may even dismiss the employee concerned if he is not happy with him. Assuming that I am the boss and you are a PWD working in my company, I



would conduct an assessment for you during the first three months. If the assessment result showed that the wage should be discounted at 70%, but I do not think you worth it and consider a 50% discount more acceptable, I would fire you on the excuse that you were overpaid and did not worth wages at a 70% discount.

Worse still, employers are not subject to the Disability Discrimination Ordinance, thus leaving PWDs unprotected. The above example clearly shows that employees were being discriminated by their employers because of their disabilities. When the minimum wage law was enacted, employers have been exempted from the Disability Discrimination Ordinance. How could it be? If anyone applies for a judicial review on this Ordinance, I think the Government will probably lose as the policy is so discriminative. After introducing the productivity assessment, the Government should at least provide some subsidies to make up for the differences. If the wage is discounted by 70%, the Government should provide a 30% subsidy. This is what I mean.

Deputy President, a more important point is that PWDs can hardly get a job or a job opportunity. According to a survey conducted in 2007-2008, the labour participation rate of PWDs was only 13.7%. Given that the general participation rate is 60% to 70%, how come the participation rate of PWDs is just 13.7%? This is because they cannot get a job. The Government has not only turned down our proposed quota system, but is also reluctant to order its departments and publicly-funded organizations to formulate any target. Instead, it has introduced a terrible charter to call on various departments and organizations to employ PWDs on their own initiative. Not to mention that they are funded by the Government, even for the Government itself, PWDs only account for 2% of its staff — the number is deceitful as the majority of them were not disabled when they were employed, but have become so after joining the Civil Service — Deputy President, I am not going to argue over this. Yet, the Government should at least provide subsidies for various organizations to do so, but it has been reluctant.

On education, Mr IP Kin-yuen has just expressed many views which I am not going to repeat, but I totally agree with him. If we can identify and intervene at an earlier stage, we should be able to do better and should not be chanting empty slogans. For instance, for how many years have school places under the Integrated Programme not been increased? For children with special education needs, the Government has not provided any care at all. After merging with child care centres, kindergartens no longer have any school places

for the Integrated Programme. How come kindergartens are not required to achieve integration? Why would the Education Bureau do so? Or, should the Social Welfare Department (SWD) be held responsible? Let them sort it out on their own.

The current problem in, despite the fact that these children have special education needs, they do not receive sufficient care. No assistance would be provided even after they were identified to have such needs. Similarly, the bilingual mode of education has not been properly implemented for students with hearing impairment and for deaf students. For children suffering from autism and hyperactivity disorder, the current waiting time for services provided by the Hospital Authority's Department of Child and Adolescent Psychiatry is 100 weeks. Deputy President, I am not kidding. The golden period of these children is between aged zero and six, but they have to wait two years for an assessment. This is just a waste of time. The existing definition of "disability" is extremely harsh. Although many PWDs belong to the poor population, the data on poverty fails to show the number of PWDs. To be eligible for Disability Allowance, a PWD must have 100% disability, which is an extremely stringent criteria. What is more, such an allowance is governed by the Employees' Compensation Ordinance enacted 40 years ago, which is already outdated.

I have brought up this issue for discussion in the Legislative Council in 2006, and lodged complaints to The Ombudsman with the relevant organizations. Even The Ombudsman agreed that this is unacceptable and undertook to initiate an investigation, thereby urging the SWD and the Secretary to delete the provision specifying "100% loss of earning capacity". But the provision has yet to be deleted. Deputy President, The Ombudsman's report was published in 2009 and the year 2013-2014 will soon be over. This is indeed a long story and I still have a lot to talk about. For instance, the welfare system has torn many families apart; residential care services are inadequate; the Rehabilitation Programme Plan which is supposed to be reviewed once every five years was last reviewed in 2007. It is now 2013 and 2014 is around the corner. Where is the review?

Regarding the Disability Discrimination Ordinance, the Equal Opportunities Commission (EOC) also suggested that a review is necessary, but no improvement has been made after the publication of the Design Manual in 2008. In fact, many amendments have to be made and the policy on mental health has yet to be introduced. Also, the EOC has proposed to establish a

Mental Health Council, but it is still nowhere to be seen. From this, we can see that the Government is not sincere in these areas of work and has not accorded top priority to PWDs.

I so submit.

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): Deputy President, I would like to thank Mr LEUNG Yiu-chung for moving the motion of "Facing up to the needs of persons with disabilities" and the amendments proposed by Mr IP Kin-yuen, Mr CHAN Han-pan, Mr WONG Kwok-hing and Dr Fernando CHEUNG.

The United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) has entered into force in the People's Republic of China including the Hong Kong Special Administrative Region (HKSAR) since 31 August 2008. As stated in the Hong Kong Rehabilitation Programme Plan, it has all along been the development direction of Hong Kong's rehabilitation policy to help persons with disabilities (PWDs) develop their potential and build a barrier-free environment with a view to enabling them to participate in full and enjoy equal opportunities both in their social life and personal growth. These objectives are consistent with the spirit and core values enshrined in the UNCRPD. Promotion and implementation of the UNCRPD is an ongoing initiative. It is also the direction of continued development of rehabilitation services in Hong Kong.

The HKSAR Government attaches great importance to the welfare and rights of PWDs and has never neglected or ignored them. In fact, since the UNCRPD came into force, the Government has continuously increased its resources to strengthen the support services to PWDs. The total recurrent expenditure of the government departments concerned on related services has increased from \$16.6 billion in 2007-2008 to \$24.3 billion in this financial year, representing a rise as much as 46%. This fully illustrates the Government's commitment and sincerity in facing up to the needs of PWDs.

On the other hand, to promote the spirit and core values enshrined in the UNCRPD among the general public, the Labour and Welfare Bureau has since 2009-2010 substantially increased the expenditure on public education from some \$2 million to about \$13 million at present.

All government bureaux and departments are fully aware that in formulating policies and implementing service programmes, due consideration needs to be given to the requirements under the UNCRPD. For policies and measures which may bring about significant impact on PWDs, bureaux and departments are required to suitably consult PWDs and stakeholders and draw up guidelines to ensure that these policies and measures can adequately cater for the needs of PWDs, thereby facilitating their full integration into society.

In fact, with the concerted efforts of the rehabilitation sector including PWDs groups, various sectors in the community and the Government throughout the years, the rehabilitation service of the HKSAR has been making continuous development. This has laid a good foundation for further promoting and safeguarding the interests of PWDs and equal opportunities. The Labour and Welfare Bureau and other bureaux and departments concerned will continue to work on this foundation and strive to fulfil the obligations under the UNCRPD. We will also develop and enhance our policies and services.

Deputy President, I so submit. After Members express their views on the subject, I will give a detailed reply later. Thank you, Deputy President.

**SECRETARY FOR EDUCATION** (in Cantonese): Deputy President, I would like to thank again Mr LEUNG Yiu-chung for moving the motion and the four Members for proposing the amendments. The Education Bureau is very concerned about the educational needs of students with disabilities and is committed to providing them with appropriate support. At present we adopt a "dual-track" approach in the provision of special education. Based on the assessments and recommendations of specialists and with parental consent, the Education Bureau places students with severe or multiple disabilities in the present 60-odd special schools. As for other students with special educational needs (SEN), they can be placed in ordinary schools. The number of these schools amounts to 843 according to the latest statistics. Under the Disability Discrimination Ordinance, all schools are obliged to admit students with SEN and provide appropriate support to them.

To assist schools to take care of students with SEN, the Education Bureau has all along provided schools with additional resources, professional support and teacher training. Given the rising number of students with SEN, we have

enhanced our support services and put in place a series of measures. I will give a detailed explanation and presentation later.

Currently Hong Kong adopts the Whole School Approach to integrated education and this is in line with the global trend in the development of integrated education. The Education Bureau has been constantly reviewing the implementation of integrated education and will put forward improvement measures where necessary and feasible. Based on our observation, an inclusive culture and the spirit of the Whole School Approach have gradually taken root in schools after years of implementation.

Deputy President, I thank Members for their concerns and valuable opinions on the development of integrated education. I will give a comprehensive and detailed reply later after listening to their views. Thank you, Deputy President.

**MR CHEUNG KWOK-CHE** (in Cantonese): Deputy President, Mr LEUNG Yiu-chung has moved the motion on "Facing up to the needs of persons with disabilities", urging the Government to face up to the needs of persons with disabilities (PWDs) in areas of healthcare, education, welfare, employment and transportation, and so on, as well as proposing a series of measures. In fact these measures and the amendments proposed by a number of Members have always been matters of concern and demands of the social welfare sector, and I certainly concur with them. I have various opinions, yet due to the time constraint of only having a speaking time of seven minutes, I shall focus my discussion today on the subsidies for carers of PWDs and the issue of insufficient residential homes.

In the Chief Executive's Question and Answer Session held on the 17th of last month, I asked the Chief Executive why the carer subsidies conceived by the Government only included carers of the elderly but not carers of PWDs. The Chief Executive did not give a specific answer, but merely said that he was well aware of and deeply concerned about the situation of PWDs. However, when he later responded to the problem of insufficient residential care homes, he prevaricated that it was an issue of land supply. In fact, we all know that Hong Kong is not lacking in land, however the Government controls the supply in order to safeguard the interests of property developers, and even attempt to use this as an excuse to seize agricultural land in the New Territories and the "Government,

Institution and Community" sites, or take advantage of this opportunity to roll out reclamation projects in order to increase high-value sites in commercial districts. I solemnly urge the Chief Executive to stop using this as an excuse to disregard the extremely urgent demands of the social welfare sector for venues and facilities for elderly homes, residential care homes for PWDs and community mental rehabilitation services. The issue of insufficient residential homes has been delayed too long.

Early last month, the Alliance for Subvented Residential Care organized by a group of the elderly and parents of PWDs issued a report entitled "Questionnaire survey on the life of carers of persons with disabilities". Some 800 valid questionnaires were returned by carers, and from this response rate alone we can see how urgent their problems are. The results of the survey indicate that over 80% of carers are female, and nearly 45% of the care recipients are persons with multiple disabilities. One can hardly imagine the mental and physical stresses of carers. The life of this group of carers may be described as inhuman; for instance, nearly 30% of carers spend more than 16 hours a day taking caring of their family members with disabilities; over 70% of carers sleep continuously for less than six hours a day on average, and 15% sleep continuously for less than three hours a day. In other words, carers are constantly in a state of mental and physical exhaustion.

In fact, many social workers have kept telling me that many of these carers have evident mental stress problems, and there has been considerable tension in the family due to care-related issues, which has affected the relationship among family members. As a matter of fact, the survey also confirms that, due to insufficient residential care services, many carers have devoted great mental and physical efforts to look after their family members with disabilities for more than 20 years. Most carers are under severe emotional distress, and nearly 75% of them feel helpless and insecure about the future. We, as social workers, are deeply concerned about this exceeding pressure exerted on carers.

Deputy President, the social welfare sector has no alternative but request the Government to introduce carer subsidies. This is because for people with severe or multiple disabilities, they actually need residential care, and such care require various expertise, manpower and facilities. However, the Government has constantly disregarded the problems of carers, and parents have been relying on God's mercy for more than 20 years. As parents get old, they can hardly manage to take care of their daily lives. Being physically and mentally

exhausted, they can only settle for the next best by requesting the Government to introduce a subsidy as a transitional measure.

Carers need to have subsidies to hire temporary carers, so that they can take a break or go out to deal with other businesses. Furthermore, in some disadvantaged families, the mothers cannot go out to work since they have to care for family members with disabilities, and this has also caused practical financial problems. This survey confirms that over one fourth of carers need to care for family members with disabilities alone; nearly 30% are unable to find temporary helpers when they are sick or need to go out. Furthermore, over 60% cannot go out to work as they have to provide full-time care, and only 10% can engage in part-time work. More importantly, the survey results have disclosed that more than 30% of families with PWDs are living below the poverty line.

Deputy President, the findings of this survey have reflected a very sad social reality, and this is also one big blot on the government administration. There has been a lack of a long-term care policy in Hong Kong, with an acute shortage of residential care homes and an extremely long waiting list for various community services. According to the survey, nearly 40% of PWDs have been on the waiting list of residential care homes for PWDs, yet a considerable number of them have been waiting for over nine years and have yet to receive the relevant services. We request the Government to immediately provide subsidies to carers of PWDs and the elderly, so as to alleviate their mental and financial burdens, as well as to show respect for their contribution.

With these remarks, Deputy President, I support the motion.

**MR ALBERT HO** (in Cantonese): Deputy President, first of all I would like to thank Mr LEUNG Yiu-chung again for his persistent efforts over the years in proposing motion debates in the Legislative Council on the rights of persons with disabilities (PWDs) and relevant policies. I will, on behalf of the Democratic Party, speak on three policy areas, and the other Members belonging to the Democratic Party will later further elaborate on areas regarding other policy areas.

The first issue is related to home and residential care. In Hong Kong, the duty of caring for children with disabilities mainly rests on family members. However, as these children grow up, many elderly parents are physically and

mentally exhausted in caring for their grown-up children with disabilities, and very often, they are too weak to take up this task. Moreover, as PWDs get old and become elderly PWDs, most of them are taken cared of by other family members. Currently in Hong Kong there are 1 152 700 chronic patients, among them, 361 300 are PWDs and 87 000 are persons with intellectual disabilities, and about 104 000 PWDs and 121 000 chronic patients live with their carers. In other words, about 80% of carers are spouses, children, son-in-laws, daughter-in-laws, or parents of PWDs. Approximately 200 000 family carers — as I said earlier — have silently assumed the heavy responsibility of caring for PWDs. Unfortunately, in the absence of adequate social support, some families can only arrange their family members with disabilities to live in residential care homes.

As the number of government-subsvented residential care places is in short supply, PWDs have to wait for years before they can be admitted. According to the data provided by the Government, the average waiting time for day-time care centres in 2010-2011 was 31.2 months, and the average waiting time for hostels for moderately mentally handicapped persons and hostels for severely mentally handicapped persons were up to 84.4 months and 81.6 months respectively. For this reason, many PWDs are forced to live in residential care homes with poor quality of services. Therefore, Deputy President, the Democratic Party strongly requests the Government to expeditiously implement the following effective policies to improve the conditions faced by PWDs.

Firstly, we strongly request the expeditious provision of subsidies for carers of PWDs, so as to slightly alleviate the burden on family members. Secondly, we request the Government to face up to the problem of inadequate residential care places and assess the situation, so as to expeditiously identify sites for building additional residential care homes. In this respect, I opine that the Government should set aside some spaces in newly completed public housing estates and home ownership scheme flats for residential care homes; or under certain conditions, demand private development projects to reserve space for such public purpose, and some of the areas reserved would certainly be used for building residential care homes for PWDs. In addition, I urge the Government to review the Residential Care Homes (Persons with Disabilities) Ordinance, and stipulate the standard for manpower and space in private residential care homes, so as to improve the quality of homes for persons with disabilities.



Secondly, with regard to assisting the employment of PWDs, the problems we have to face up to are high unemployment rate of PWDs and low income offered to PWDs. Among the 347 900 PWDs aged above 15, only 41 000 PWDs (that is, 11.8%) are under employment; and among PWDs aged 15 or above, apart from a 11.7% unemployed population, 15.5% of PWDs have no opportunities to engage in economic activities or employment although they are not retirees, persons having to stay at home for household duties or students. These are the problems that we need to face up to.

As for the monthly income of PWDs, their salaries are certainly below the income level of the overall working population. The median monthly income of PWDs in employment is \$6,800, while the median pay of the overall working population amounts to \$10,000. Excluding those with disabilities working in sheltered workshops, the median monthly income of PWDs in employment is \$7,500. Deputy President, I consider this situation unacceptable, therefore the Democratic Party urges the Government to establish a target rate for employing PWDs. The Government should certainly take the lead in adopting the target rate, and it should also urge subvented organizations and social enterprises to adopt the same rate. In addition, we recommend that the Government should provide tax concessions to increase employment opportunities for PWDs, and should subsidize the income of PWDs, so that their income is up to the statutory minimum wage.

Thirdly, we are also very concerned with the issue of barrier-free access. As we all know, the Design Manual: Barrier Free Access 2008 formulated in 2008 and the relevant provisions of the Buildings Ordinance apply only to buildings completed after 2008, therefore many old buildings have no barrier-free access at all. We urge the Government to allocate resources to expeditiously set up additional barrier-free access (*The buzzer sounded*) ...

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

**MR ALBERT HO** (in Cantonese): ... so that they can integrate into society.

**DR KWOK KA-KI** (in Cantonese): Deputy President, first of all I would like to thank Mr LEUNG Yiu-chung for moving this motion debate today. As he has said, in the past 10-odd years, he had persevered in seeking justice for persons with disabilities (PWDs) every year, and this is a task that he will never give up.

However, much to our regret, the responses of government departments and Policy Bureaux are lukewarm. As we all know, the employment condition for PWDs is rather unfavourable. Figures from the Census and Statistics Department indicate that the unemployment rate of PWDs in Hong Kong is up to 89%. In spite of the fact that we are currently approaching a state of full employment and our unemployment rate constantly maintains at 3.5% or below, the unemployment rate of PWDs is almost 20 or 30 times of that of able-bodied persons.

Up to now, the Government has not taken the lead in formulating and implementing the employment quota system for PWDs in government departments, public organizations and organizations partly invested by the Government, such as Disneyland.

The physical condition of PWDs will not lead to their complete incapacity. They all have their own merits and are suitable for clerical and non-manual jobs, such as social workers, software engineers and financial consultants, and so on. Let me give an example. In last year's Computer and Communications Festival, 10 PWDs were employed as ambassadors. I have a news clipping reporting that a restaurant owner — an ordinary restaurant owner — has employed more than 50 PWDs for his catering group.

Comparing this restaurant owner with a government possessing an asset of \$2,800 billion, employing 160 000 civil servants and tens of thousands of employers in public organizations, I can only describe that our Government is "insensitive, indifferent and apathetic". The Government is definitely not incompetent, and it is definitely in a position to employ more PWDs.

Over the past five years, the Government has employed 29 000 civil servants, yet merely a little more than 100 of PWDs have been employed, accounting for merely 2% of the total number of civil servants. Even the Government does not take the lead, how can we encourage others to do the same?

(THE PRESIDENT resumed the Chair)

Certainly, the Government will say, a support scheme for employing PWDs has been introduced. However, I think this scheme is far from adequate, for the main issue is not telling employers that there will be a subsidy of \$20,000 for reinstalling the facilities; the point at issue is to convince the Government, so that it will teach other by its own example. The Secretary for Education is also present in this Chamber, what is the meaning of teaching others by one's own example? That is, one should not just make comments, but should be a responsible employer with conscience. In order to do so, one should not pass the buck to others by merely providing subsidies.

Moreover, I would like to point out the difficult situation of students with disabilities. I talked with Mr IP Kin-yuen of the education sector a moment ago. In fact, students with disabilities are now in an extremely difficult situation. The Education Bureau calls it by the fine-sounding name of integrated education, yet the real situation is cry up wine and sell vinegar. As a matter of fact, in the past, children with disabilities or learning disabilities, or even autistic children, could receive special care when they enrolled in special learning school. Under the current integrated education system, they are placed in mainstream schools. This is not a problem, the main problem is that there is no support for such schools, hence they are completely left alone to fend for themselves. The Education Bureau has all along refused to implement small class teaching. Currently there are 30 to 40 students in a class, and the condition in the North District is even worse, with two more students in each class. For each student with disabilities, mainstream schools will receive a subsidy of \$10,000 per year. Unless there are 100 or 200 such students in the whole school, otherwise the subsidies received definitely cannot help the school support students with disabilities and students with special learning needs. This is absolutely an irresponsible act. We do not oppose enrolling such students in mainstream schools, but we oppose such an irresponsible policy.

Regarding the plight of carers of PWDs, I have a personal experience. I have assisted parents of a group of severely mentally handicapped children in establishing an association called Mutual Care Association. Members of the Association are parents who have considerable difficulties in taking care of their handicapped children. Some of the children are almost 20 years old, they have not received any support since graduation and can only stay at home. For a

family with a child who is severely mentally handicapped, the whole family has to take care of him and cannot go anywhere. As we all know, if you fail to keep an eye on the handicapped children, these big friends — I dare not call them children — will leave their home at any time, and accidents may happen. Therefore, at least one of the parents has to provide full-time care. The loss of income has exerted extra financial burden on parents and the family is in dire straits. However, the Government continues to turn a blind eye. This may be the consistent style of the SAR Government — turning a blind eye to every situation.

With regard to government subsidies, it is the same with the Student Travel Subsidy Scheme. The extension of the Scheme to recipients of the Comprehensive Social Security Assistance and children with severe disabilities under the age of 12 will only be implemented in the second quarter of next year. As for the application of subsidy by persons with disability in one limb, the inter-departmental working group will only draw a conclusion by the end of next year. The disability assessment system introduced decades ago has not been revised so far. How can this Government let tens of thousands of socially disadvantaged people down?

I so submit. Thank you, President.

**MS CLAUDIA MO** (in Cantonese): President, when it comes to the needs of persons with disabilities (PWDs), the areas involved can be counted from A to Z, from education, social welfare, healthcare to transportation, almost all areas are included. I am not sure if anyone has ever raised the issue of subsidy for electric wheelchair, but I would like to talk about this issue based on my personal experience. If a person suffers from physical impairment, apart from sleeping, basically he must live his life in a wheelchair. If the wheelchair is not an electric one, he must be pushed around by somebody. Some people can push their wheelchairs around, yet it is extremely difficult. If all members of his family need to go to work or school, the wheelchair-bound person will have to be left alone at home. Such mental distress of being abandoned by the world and feeling like a trapped animal is indeed very awful.

If recipients of the Comprehensive Social Security Assistance (CSSA) want to apply for purchasing an electric wheelchair, a special subsidy will be granted. First of all, they have to approach social workers of the Social Welfare

Department (SWD), as well as provide letters of recommendation from physical therapists, occupational therapists and medical professionals to support their applications. However, their recommendations may not necessarily imply approval of applications. The applicant has to explain why he needs to purchase an electric wheelchair, although the answer is as simple as being able to go out on his own. The applicant must obtain recommendations from three doctors at the same time, and a maximum of full subsidy may be granted if his application is approved.

If we put ourselves in other people's shoes, and think about the daily life of wheelchair-bound people who must be pushed around by others, what would you think? Some people may say that people who are non-CSSA recipients are not that poor, this is certainly not true. As we all know, the so-called non-CSSA recipients simply mean that they are not eligible for receiving CSSA. How many grass-roots families are non-CSSA recipients because they are not eligible for CSSA? They can apply for various charitable trust funds managed by the SWD, yet it is also necessary for them to obtain recommendations from physical therapists, occupational therapists and medical professionals, and more importantly, they must submit documents of financial conditions to prove that they have financial difficulties, and finally they can receive subsidy.

The process does not sound too complicated. First of all, ask therapists and then doctors for recommendations and help, and that is it. However, the waiting time is so long and the procedures are so complicated that it actually takes one whole year before the application can be processed, and nobody can assure that the application will be successful, yet the process has taken one whole year.

Another problem is, the doctor sought by the SWD to recommend an applicant may probably have diagnosed and treated the applicant years ago, but this doctor may not be aware of the applicant's latest condition. For instance, if a relatively young patient is wheelchair bound, and when he was diagnosed and treated by the doctor three years ago, he was still young and strong, capable of pushing the relatively advanced wheelchair with his hands and did not need an electric wheelchair. However, the movement capability of this patient's hands has largely degenerated in the last three years, yet the doctor is not aware of it, and very few people would really care about such a situation.

The most common case is that the applicant has owned a wheelchair, but wishes to purchase an electric one, so that he can go out on his own without having to be pushed by others. However, such applications are often not approved, for reason that the applicant has owned a wheelchair, and the authorities do not see any reasons for not using the existing one, or do not find the existing wheelchair no longer usable. The reason given by an applicant may probably be that the existing wheelchair has been used for nearly 10 years, and it is now dilapidated or has other problems. In that case, the authorities would repair the wheelchair for the applicant but not approve him to buy a new one, preferably an electric wheelchair.

President, electric wheelchairs are crucial for patients, particularly young patients who are wheelchair bound due to physical impairment. I would not specifically ask the Government to relax such applications, instead I wish the authorities can show more concern, and hope that the SWD can process such application speedily, and subsidy should be granted with regard to the age of applicants. For applicants aged 20 to 30, more discretion should be given in considering their applications, so that they can go out on their own, move around freely and live a relatively independent life.

Thank you.

**MR MA FUNG-KWOK** (in Cantonese): President, first of all, I would like to thank Mr LEUNG Yiu-chung for moving the meaningful motion today.

President, although the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) has entered into force in Hong Kong for certain years, many concern groups consider that its frameworks are not implemented and there are a number of areas for improvement in terms of policies.

The UNCRPD serves to ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities (PWDs) so that their physical constraints will not constitute an obstacle to their integration into the community. As such, I hope the Government will not simply formulate its policies from the perspective of social welfare. Instead, it should review the supporting measures required by PWDs from the perspective of respecting their rights, so as to enhance their participation and enjoyment of equal opportunities

in their daily life and workplace. They should be helped to integrate into the mainstream society in all aspects so that they will not lose at the starting line.

In the original motion, the Government is requested to fine-tune the existing policies in areas such as healthcare, education, welfare, employment and transportation. I think it is in the right direction. But I would like to highlight the difficulties faced by PWDs from the perspectives of culture and sport.

In fact, Article 30 of the UNCRPD provides that States Parties recognize the right of PWDs to take part in cultural life, arts, recreation and sport. But sadly, from the cultural point of view, a full set of cultural policies to support PWDs' participation in art and cultural activities is still absent in Hong Kong. Activities like going to a concert or drama, painting and dancing may be something simple and common to ordinary people. However, are PWDs able to enjoy the opportunities to participate in art and cultural activities just like normal people? I believe they are not entirely unable to do so, but surely there is still much room for improvement.

Take the participation in art and cultural activities as an example. PWDs have to consider matters as simple as how to buy the tickets, how to travel to the venue, how to appreciate the art products through audio description or visual interpretation, and so on. However, the current operation of the hardware may not fully meet the requirements stipulated in the barrier-free policy and has undermined PWDs' right of participation.

In my view, the Government should implement an accessibility policy in the West Kowloon Cultural District now under construction. The hardware of the existing venues should also be upgraded with enhanced design in the venue, ticket office window and audience seats. Where feasible, appropriate support in visual, audio and touch senses should be given by providing subtitles, sign language, audio description, touch images, and so on, so that PWDs will be able to enjoy art and cultural activities in a barrier-free environment.

Take a look at the situation of artists with disabilities and inclusive arts groups. Under the existing policies, arts with the disabled is considered by the Government as the minority. It is difficult for inclusive arts groups to get regular funding when they bid for resources under the same principles and criteria with other arts groups. As a result, their operation can only depend on subsidies applied for individual projects or on fund-raising.

In my view, arts with the disabled aims to help PWDs build up their self-confidence through suitable nurturing. As such, we should not put the basic needs of PWDs under a competition mechanism. Instead, the Government should formulate strategies for developing inclusive arts and alter the "item by item" subsidizing mode. More resources should be allocated to provide ad hoc funding so that participants and inclusive arts groups can be given regular and appropriate support such as practice venues. PWDs may then participate in arts on an equal basis.

From the perspective of involvement in physical exercises, the participation in sports by PWDs without barriers is simply a fulfillment of their basic needs. Nonetheless, the support from the Government in this aspect is still inadequate and general sports and recreational venues may not meet the needs of PWDs. For example, the newly completed swimming pool in the Victoria Park has relocated the shroff office from the ground floor to the podium. Patrons have to climb four flights of stairs to get to the shroff office and this causes great inconvenience to those with disabilities. We must learn from such experience and avoid making the same mistakes.

I hereby urge the Government to enhance sports and recreational facilities. In particular, the needs of PWDs should not be neglected in planning the future Kai Tak Sports Complex, which should be equipped with sports facilities that are user-friendly to PWDs. The purpose is to create an inclusive society and encourage PWDs to involve more in sport.

Regarding the policy on elite sport for PWDs, our focus will be on assistance in terms of venues and resources. In this regard, I suggest that the Government should upgrade the facilities in existing sports centres in response to the needs and encourage community organizations (such as private sports club) to provide training venues for disabled sports associations. The Government should also step up its financial support and consider providing charity tax concessions for enterprises sponsoring disabled sports associations and cultural organizations. This will bring new resources to the sports associations.

President, I believe that what PWDs need is more than sympathy and mercy, but respect and equal opportunities in participation. As such, I urge the Government to try to understand, apart from the perspective of welfare, what PWDs pursue in culture, arts and sport and respond them in its policies.



Finally, I would like to respond to the original motion, which suggests that a quota system for employing PWDs be established with 2% as the target rate. While I do not oppose this suggestion in principle, I do not understand the rationale for setting "2% as the target rate". According to the information from the Government, currently 2% of the civil servants are PWDs. Where possible, we should further increase the proportion instead of limiting it to 2%. As such, I think such target rate should be proposed only after careful consideration.

Furthermore, I am also concerned that small and medium enterprises may not have the additional resources to enhance their hardware for employees with disabilities. As such, we should encourage the enterprises by providing incentives and our main target is those large enterprises with a certain number of employees.

President, I so submit.

**MR MARTIN LIAO** (in Cantonese): President, persons with disabilities (PWDs) are often the neglected ones in society. With their physical impairments, they face more setbacks and difficulties than the able-bodied in their daily life or in terms of their mental well-being or work. However, their needs are not fully taken into consideration in respect of social policies, community facilities and public services in general, so there is inadequacy in all aspects of support. This not only wears out their will and makes it more difficult for them to live on their own, but also pushes them further into the abyss of poverty and hopelessness. In my opinion, the Government has to strengthen and improve the policies in support of PWDs to help them get out of the blue and live a life full of colours. Today, I would like to focus on two areas, namely the Government's welfare policy and employment support for PWDs.

First of all, in my view, the Government has to reform the outdated eligibility criteria under the Disability Allowance Scheme, including expeditiously revising the definition of "severely disabled", and consider introducing a graded assessment mechanism to offer the allowance according to the level of disability.

President, the Disability Allowance Scheme has been in running for 40 years since its inception in 1973, yet its definition of "severely disabled" has never been revised. It is defined as "100% loss of earning capacity" as

stipulated in Schedule 1 of the Employees' Compensation Ordinance, so only those who lose two of the limbs, who have a disabling mental condition or who are profoundly deaf, and so on, are eligible for the allowance. However, from a purely medical perspective, such requirement is not in sync with what is going on in society and is thus outdated. In addition, the definition is so unclear that doctors may come up with different diagnoses. In the past, a number of disabled persons with visceral or chronic diseases were rejected because they were not diagnosed as "100% loss of earning capacity", which put them in a difficult position. For instance, Mr LEE Shing-leung, aged 64, lost his right calf in an industrial accident in 2007 and could not work again, but the Social Welfare Department turned down his Disability Allowance application five times. Even though Mr LEE was eventually granted the allowance amid pressure of public opinion, it was done only in a rather undignified manner. That is, the department confirmed his 100% eligibility based on an evaluation that he was 35% mentally disabled and 65% physically disabled.

Cases like Mr LEE, a man of age with one limb lost, may not be regarded as "100% loss of earning capacity" from a medical perspective. But in reality, given their age and background, they virtually have no chance to get a job. In fact, such rusty disability requirement has long been under fire. Mr Justice Andrew CHEUNG of the High Court, the Office of The Ombudsman and the United Nations Committee on the Rights of Persons with Disabilities have criticized the requirement for being outdated and lacking consistency in execution. The Government's promise for a comprehensive review of the Disability Allowance Scheme is just hot air with no concrete action taken. I hope that the Government can remove the requirement of "100% loss of earning capacity" the soonest possible. In its place, a comprehensive assessment should be conducted on applicants' physical structure, impairment level as well as their ability of self-care, mobility and expression, and a graded assessment mechanism should be introduced to offer the allowance according to the level of disability, such that more of them will benefit.

President, as for employment support for PWDs, according to the Census and Statistics Department's figures as of the end of 2008, there were about 360 000 PWDs, but this did not include 80 000 or so persons with intellectual disability. Of these 360 000 people, about 46 000 were economically active, representing a Labour Force Participation Rate of merely 13%, and about 41 000 of them were employed. Their employment rate was approximately 10%, which

was 3.5 times larger than the overall rate for Hong Kong at the time. That testifies to the difficulties they have to face in respect of employment.

There are now voices calling for the Government to set up mandatory employment quotas for PWDs and penalize non-complying companies. Nevertheless, I would go for the incentive, since companies need to be fitted with relevant facilities ready should they employ PWDs. In Hong Kong, 98% of the companies are small to medium enterprises (SMEs). They may find the extra expense incurred by an employment quota unaffordable, and some of them may not be able to provide jobs suitable for PWDs. In addition, incentives are conducive to correcting the wrong perception that PWDs are second-class labours, since employers would recruit them on the merit of their ability, rather than do so just for the sake of meeting the quota even though no suitable posts are available for them. PWDs so employed will only end up idling, which may add to their frustration.

In a word, I would see incentives as a more workable option. The Government may also offer tax concessions and allowances to companies employing PWDs and subsidize the purchase of relevant facilities by SMEs to encourage the employment of PWDs in the business sector. The Government should also proactively foster co-operation between the business sector and social welfare organizations for the establishment and promotion of a new work model for PWDs in order to enhance their prospect of employment.

President, I so submit.

**MR RONNY TONG** (in Cantonese): President, many newly joined Members may not be aware that in each of the past nine years, Mr LEUNG Yiu-chung invariably moved similar motions in this Council. The newcomers may not be aware either that almost all such motions moved by Mr LEUNG Yiu-chung over these years were passed, as far as I recall. President, what does this mean? To put it tritely, it means that the Government has turned a deaf ear and a blind eye. This Council passes such motions year after year, but what is the SAR Government's response? The Secretary only sits opposite us pretending to listen to our debate year after year, without doing anything in fact.

President, what I must say is that — maybe I should be fairer — in June last year, we finally succeeded in securing a fare concession for persons with disabilities (PWDs) and the elderly; from the following September onwards, the "concessionary fare of \$2 per trip" has even been made applicable to buses and ferries. However, President, what the Government likes most is penny-pinching with the public. The community has been asking for the provision of a fare concession to PWDs, and meanwhile, we have also kept asking for an extension of the concession to carers of PWDs. Why? If PWDs, particularly those incapacitated for work, are to integrate into society, it is impossible for them to get around freely without their carers. Now that the Government can provide the concession for PWDs, why can it not extend the concession to their carers as well? I believe the cost required is only a drop in the ocean; given the enormous reserve and surplus of the Government, the sum involved is insignificant.

Moreover, President, I remember clearly that during the past few years, even though we did our utmost to argue the point, the Government or public transport operators insisted otherwise, thinking that the provision of a concession to the elderly or PWDs would make them lose a lot of money. President, you may recall that some members of the community once invited a professor from the University of Hong Kong (HKU) to conduct a study and write a report, which points out that public transport operators will not suffer any losses because of providing the concession; quite the contrary, they will make profits, because with the offer of the concession, those elderly people and PWDs who refrained from going out in the past will now go out. For buses which are not filled to capacity, carrying more people will actually lead to a net profit rather than a loss. The only scenario resulting in a loss is that passengers not entitled to the concession are squeezed out of the vehicles due to the boarding of elderly people or PWDs. Only this may result in a loss. But this does not happen in reality.

President, although the HKU had completed this report, the contents of which are very logical, the Government and public transport operators refused to admit or accept them. But in the end, as I said just now, this concession was introduced last year. Last week, I had a meeting with a bus company, and they said candidly, "We have actually made a profit, as the number of our passengers has increased. Although they only pay a fare of \$2, this \$2 is extra." As far as they are concerned, they have more customers and their public transport can serve Hong Kong people more efficiently. This is in fact a win-win situation. Why is the Government not willing to take another little step forward? President, this

situation applies to the elderly, and it also applies to PWDs as well as their carers. I very much hope that in the upcoming Policy Address, the SAR Government will think this through and take one more step forward to help the carers.

President, I would also like to say that even though some PWDs are not completely incapable of working, and they can work or take care of themselves to a certain extent, the treatment they receive falls far short of what is expected from a civilized society. President, I am referring to the existing policy under which a person classified as 50% disabled can only obtain a disability allowance of \$1,450 each month. President, \$1,450. You may do a calculation. How much is the allowance per day? \$48 per day, which is not enough to buy a lunch box. That does not matter too much. But unlike applicants for Comprehensive Social Security Assistance (CSSA), applicants for Disability Allowance do not get assistance on a perpetual basis upon one successful application. Even if they are granted Disability Allowance, they will have to be assessed again in future. Furthermore, if the Government "gives out candies", they are very unlikely to be granted one additional month of allowance as in the case of CSSA recipients. They will not be benefited. The treatment they receive is even worse than that received by people on CSSA. They have to be assessed once every six months. Why are they put in a position almost equivalent to being insulted? A disability is a disability. Will they cheat you on that? Will a 50% disability suddenly become a 10% disability after a lapse of six months?

President, we must make one more point. Let us not forget that under the existing minimum wage regime, PWDs are unable to get the statutory minimum wage. They are required to obtain a "medical chit" from a doctor to certify the percentage of their loss of ability to work, and they can only earn that percentage of the wage. President, all in all, you can see that very often, the treatment they receive simply does not compare at all with that received by ordinary members of the public, but they are the most needy and most disadvantaged ones. We are ignoring their difficulties. What for? For saving a little money. President, I hope the SAR Government can change its attitude. Thank you, President.

**MR GARY FAN** (in Cantonese): President, I speak in support of Mr LEUNG Yiu-chung's original motion. The United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) is adopted to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all

persons with disabilities (PWDs), and to promote respect for their inherent dignity. The UNCRPD has come into force in Hong Kong since 2008 but until now the Government's policy of "A Society for All" is still far from perfect. Social injustice against PWDs persists and deals a severe blow to the dignity of PWDs. According to the findings of a study on the deficiencies and social exclusion suffered by families with PWDs published by the Hong Kong Council of Social Service in 2011, around 33.1% of these families are living in deficiency, which means they are not given the living necessities enjoyed by most Hong Kong people. For example, they do not have regular dental check-up, fruit every day, or even a decent piece of clothing. Besides, 24.7% of these families indicate that they are unable to take public transport to visit a relative or friend and 12.9% think that their identities are not accepted by others. All these figures reflect the situation of PWDs. They need our assistance.

The Neo Democrats supports Mr LEUNG Yiu-chung's motion in which he urges the Government to face up to the needs of PWDs on various policy levels so that they may lead a life of dignity just like ordinary people. I am particularly concerned about two policy areas, namely employment and transport as I am the deputy chairman of the Panel on Transport.

President, employment is not only an important financial source for PWDs but also a chance for them to build up self-confidence and maintain their contact with the community. Therefore, encouraging employers to hire PWDs should be a focus of the inclusion policy. At the Commission on Poverty Summit held in end September this year, the Government announced the implementation of the Talent-Wise Employment Charter to encourage employers in various sectors to provide more job opportunities to PWDs. However, the Charter is simply a reward scheme. Although some large public organizations such as the MTR Corporation Limited and Hong Kong Airport Authority are willing to participate in the scheme and directly hire employees with disabilities, the number of participating bodies in the scheme is actually small. With the absence of specific targets on the employment of PWDs, I believe the scheme will unlikely bring significant impact.

President, in recent years, while the Government keeps bragging that its proportion of employees with disabilities has reached 2%, it has not introduced this standard to other large-scale public organizations or large enterprises. It even ignores the fact that many countries have in fact established a quota system

for employing PWDs long ago. For example, it is stipulated by the French Government that an enterprise with over 20 employees are required to hire a proportion of PWDs of at least 6%; while in Italy, an enterprise with over 36 employees are required to have a proportion of PWDs of at least 15%. The SAR Government should make reference to overseas systems as soon as possible and establish a quota system for employing PWDs by requiring large-scale public organizations and large enterprises to employ a certain proportion of PWDs. The ratio should be gradually raised to 3% or above instead of being maintained at only 2%. Assistance should be provided to PWDs without delay to remove their obstacles in employment so as to help them integrate into society.

President, talking about integration into society, we should attach the same importance to the right of PWDs to go out. In these days, I believe a lot of feelings have swelled "Long Hair" who sits next to me. Recently "Long Hair" and I intended to arrange a site visit through the Complaints Division to the public housing estates in Tseung Kwan O. However, as he is wheelchair bound at the moment, his movement is largely limited and our visit has to be postponed subsequently. President, there is also coverage in today's *Apple Daily* about wheelchair users. According to the figures by the Transport Department, as at September 2013, less than 70% of the KMB fleet are wheelchair accessible equipped with a low platform. Once a wheelchair user living in Tai Wai had waited for two hours before a bus with a low platform came. This person had once called the KMB hotline to reserve the service of such bus but was subsequently stood up. She waited until midnight after the last bus had also left, but a bus with a low platform never showed up. She could not go home in midnight and had to stay in a relative's home. President, how can PWDs lead a life of dignity after having experienced such plight?

Therefore, I think the Government should urge bus companies to replace their fleet with low-platform buses as soon as possible. In my view, the present \$2 fare promotion for PWDs should be extended to cover family members and carers of PWDs so as to relieve their pressure. They would then find it easier to help PWDs go out while PWDs may develop their own social life.

President, to enable PWDs to lead a life of dignity, they should have the chance to develop their potential. Their working ability is not as low as some people think. Most of them wish for employment to prove that they can contribute to society. The Government should facilitate their enjoyment of employment opportunities and self-reliance. At the same time, the difficulties

faced by them when going out should be minimized so that they can be truly integrated into society. When they are no longer deficient materially or mentally, they can lead a more fruitful life.

President, I so submit.

**MR FRANKIE YICK** (in Cantonese): President, regarding the motion of "Facing up to the needs of persons with disabilities", the Legislative Council has discussed at least 10 times over this subject in the past few years. I recall that last year Mr LEUNG Yiu-chung moved a similar motion with regard to an inclusive society for all. This year, Mr LEUNG has moved a relevant motion again, evidently hoping that various sectors in the community can continue to attach importance to the difficulties faced by persons with disabilities (PWDs), as well as wishing that the Government can introduce relevant measures to provide more support for PWDs. The Liberal Party has always supported such a proposal.

With respect to healthcare, at present Disability Allowance is categorized into Normal Disability Allowance and Higher Disability Allowance. Applicants must be assessed as "severely disabled", that is, they must be certified by doctors from the Department of Health or the Hospital Authority that the degree of disability is more or less equivalent to a 100% loss of earning capacity before they are eligible to apply for the above Allowances. The above provision has rejected a number of PWDs from applying. For example, persons with loss of one limb do not meet the relevant criteria.

In fact, as early as 2009, the Office of The Ombudsman criticized the Social Welfare Department over the problems prevailing in the application criteria for Disability Allowance. The report of The Ombudsman pointed out that when the authorities introduced Disability Allowance in 1973, the criteria for disabilities could simply refer to the compensation for occupational injuries, yet times have changed, and furthermore, employment compensation and Disability Allowance are obviously two very different concepts. It is rather biased for the existing system to consider an applicant's working ability and degree of disability solely based on medical conditions, entirely disregarding the applicant's actual situation.

The Rehabilitation Advisory Committee reviewed the Disability Allowance scheme at the beginning of 2013. The Committee opined that at present, linking



the eligibility for Disability Allowance to "100% loss of earning capacity" had, to a certain extent, created difficulties in terms of concept, and should be amended. The Committee recommended introducing a new approach for the assessment of disabilities, so as to embody the original intent of the scheme.

We also understand that redefining disabilities at various levels is not easy, yet the Liberal Party supports the direction of the review. In addition, places of residential care homes for PWDs have long been insufficient. We have repeatedly discussed the related issues at the Panel on Welfare Services, and opined that the Government must make long-term planning for day-time adult services for PWDs, expeditiously increase the number of places to shorten the waiting time, as well as further strengthen support services for families of PWDs.

With regard to employment, the original motion has proposed to formulate a quota system for employing PWDs and provide minimum wage subsidies, and hopes that the Government and subvented organizations can take the lead in employing more PWDs, with 2% as the target rate. As we know, according to government data, presently the Government has reached the above target. We of course wish that all government departments will continue to extend the proportion in this respect, so as to provide more employment opportunities for PWDs.

The Liberal Party opines that we should adhere to the existing measures in order to motivate employers and enterprises to employ more PWDs, and it is not necessary to deliberately formulate a quota system for employing PWDs, so as to avoid losing flexibility. As for providing minimum wage subsidies for employed PWDs, we also have reservations about this.

With regard to education, the Liberal Party supports reviewing the integrated education policy, including the subsidy systems, manpower establishment and training, and so on, yet we do not regard it necessary to consider legislating at this moment to protect students with disabilities and those with special learning needs.

Apart from the above comments, the Liberal Party basically supports the spirit of the original motion and the amendments. In this connection, we will vote for all of them. President, I so submit.

**IR DR LO WAI-KWOK** (in Cantonese): President, the social and economic development in Hong Kong is relatively mature. I believe Members would not have any objection against facing up to the needs of persons with disabilities (PWDs), so as to express the care and concern of the community. Opinions may differ, that is, on the premise of ensuring proper use of public money, how to optimize the utilization of social resources in the light of the actual needs of PWDs in areas such as healthcare, education, transportation, welfare and employment, and so on. If the SAR Government intends to improve the existing welfare policies related to PWDs, the definition of disabilities as well as the vetting and approval criteria for Disability Allowance should be reviewed first, so as to tally with the actual situation of society.

Currently there are Normal Disability Allowance and Higher Disability Allowance under the Social Security Allowance Scheme of the Social Welfare Department. Eligible applicants can receive \$1,450 and \$2,900 per month respectively, but there is much room for improving the actual operational levels. Firstly, the definition of disabilities at present is largely confined to medical assessment without taking social and environmental factors into careful consideration, and it is rather too harsh and sloppy to assess "severely disabled" as broadly equivalent to 100% loss of earning capacity.

Secondly, according to existing requirements, recipients of Disability Allowance or Higher Disability Allowance cannot receive Elderly Living Allowance at the same time. The reason provided by the authorities is to avoid double benefits, which sounds plausible on the surface, yet questionable upon careful scrutiny. Some elderly people have relayed that they were originally eligible for receiving Normal Disability Allowance of \$1,500, but as they were being forced to choose between Disability Allowance and Elderly Living Allowance, they have opted to receive Elderly Living Allowance of \$2,200. They consider such arrangement unreasonable. At present, able-bodied elderly people can apply for Elderly Living Allowance or Old Age Allowance as long as they are Hong Kong residents aged 65 or above. As for Disability Allowance, it is originally intended to help PWDs cope with special needs due to their severe disabilities. The eligibilities of these two Allowances do not constitute a choice of either this or that. In contrast, elderly people with disabilities truly need special care when compared with able-bodied elderly people. For example, they have to spend an extra amount of money to cope with healthcare fees, purchase auxiliary equipment, and so on.

As to whether the amount of Disability Allowance should be raised and whether the applicants should be means-tested, so as to ensure that public money will not be misused, we can have in-depth discussions. In conclusion, it is indeed necessary for the authorities to conduct a comprehensive review and optimize the disbursement mechanism of Disability Allowance.

Meanwhile, the authorities should allocate resources to further enhance home care and community support services, including expanding the current pilot scheme on Home Care Service for Persons with Severe Disabilities, so that more people in need can be benefited, and strengthening the support for PWDs as well as families with disabled members. A two-pronged approach can also be considered by introducing care service vouchers of "money following the persons" to subsidize persons with intellectual disabilities to reside in self-financing homes, as well as subsidizing non-governmental organizations to set up more residential care homes, so as to divert persons on the waiting lists and shorten the waiting time.

As for motivating the construction of barrier-free community facilities, the Buildings Department first published the Design Manual in 1984 to provide guidelines on barrier-free assess and facilities, so as to supplement the provisions of Regulation 72 of the Building (Planning) Regulations. However, the last update was made in 2008. The authorities should timely revise the Design Manual in the light of advancement in construction technology and increasing social demands. It should also draw reference from overseas experience and hold discussions with the construction sector, the social welfare sector and local organizations, so as to timely revise the Design Manual, and fully enforce it to address the needs of PWDs in the community.

President, helping PWDs secure employment can enable them to become self-reliant, contribute their expertise and build up self-confidence. In this regard, either the Government or the industrial and commercial sectors can play an active role. Government-subsented organizations and some larger-scale public organizations, such as the MTR Corporation Limited, should take the lead in employing more PWDs to promote a social atmosphere of equal employment. However, the Honourable colleagues of Business and Professionals Alliance for Hong Kong and I do not agree to the formulation of a quota system or a fixed target rate for employing PWDs, as proposed by some Members, for we should not violate the fundamental principles of market economy and appointment by merits, otherwise it would lead to another form of inequality. From the relevant

experience of other regions, the implementation process will give rise to various problems and side effects. In this connection, the SAR Government should help PWDs secure employment through other means. It should, on the one hand, raise the amount of job attachment allowance under the On the Job Training Programme for Persons with Disabilities, as well as the amount of job trial wage subsidies; and on the other hand, it should proactively support the establishment of social enterprises by voluntary organizations to provide more employment opportunities for PWDs.

President, we must face up to the needs of PWDs. The SAR Government and various sectors in the community should work together to motivate community support services and barrier-free community construction, so as to create a truly inclusive society. At the same time, we must also ensure the proper utilization of social resources, as well as assure people of different conditions that they can all receive reasonable and equitable development opportunities.

President, I so submit.

**DR ELIZABETH QUAT** (in Cantonese): President, I thank Mr LEUNG Yiu-chung for moving this motion again, so that we have another chance to speak for persons with disabilities (PWDs).

Last year, when Mr LEUNG Yiu-chung moved the motion on "Building an inclusive society for all", I specially invited the president of the Hong Kong Rehabilitation Power to exchange views. He positively gave me a lot of valuable advice, in the hope that I could press the Government for them to speed up the implementation of policies on an inclusive society for all. This year, I asked the president for advice again regarding this motion on "Facing up to the needs of persons with disabilities". In response, the president said he was glad that my speech last year had reflected their aspirations, yet he was disappointed at the same time, for it appeared that the Government had done nothing in the past year. Last year's speech can actually be "recycled" and repeated to the Government again.

There are some main points that must be reiterated once again, including extending the scope of the public transport fare concession for PWDs to children with disabilities under the age of 12, as well as all green minibuses across the

territory. Many of our Honourable colleagues have explained the reasons for extending the concession, and I would not repeat again in this Chamber.

The recommendation that Mr LAM, the president, asked me to reiterate again is the Registration Card for Persons with Disabilities. They hope that the Government can relax the provisions by means of an administrative order to allow 50 000-odd holders of the Registration Card for Persons with Disabilities to enjoy the public transport fare concession, and extend the scope of the concession, so that persons not reaching the level of "100% disability" are also able to enjoy the concession. I know Mr CHEUNG Kin-chung will certainly say: "Extending the definition entails substantial expenditure, hence the Government has to handle this issue carefully based on the principle of prudent financial management." In this connection, I hope the Secretary can provide figures for our reference, how substantial will the resources be entailed? Are the relevant amounts so substantial that members of the public are unable to afford?

Furthermore, Mr LAM also hopes that the community would show more concern about the support for carers of PWDs. When I carry out district services, I frequently come into contact with PWDs. Many wheelchair-bound friends tell me, when they go out or go to see a doctor on weekdays, they usually need someone to accompany and assist them. However, these helpers have to take one day leave to accompany them, and subsequently forfeit one day's pay and they also have to pay transport fares as carers cannot enjoy fare concession. Therefore, many volunteers, apart from being kind-hearted, also have to pay out of their own pocket to take care of PWDs. PWDs hence feel embarrassed; and due to this reason, only a small number of people are able to take care of PWDs. In this connection, we hope that the Government can face up to this problem and enhance support for carers of PWDs, particularly carers who have to stay home all the time to care for persons with severe disabilities. The Government should at least provide carers with sufficient allowances to support their basic living, not merely provide a subsidy of several hundred dollars or one thousand-odd dollars a month. Mr LAM believes that it would be ideal if the subsidy can reach the level of the minimum wage. I hope the Secretary will consider this proposal.

President, when I was collecting opinions from different stakeholders, the Direction Association for the Handicapped, an organization for PWDs, also hoped that I could convey their opinions. They are very supportive of increasing barrier-free transportation services proposed in Mr CHAN Han-pan's amendment, including the number of Rehabus and Easy-Access Bus, so as to provide more

"point-to-point" services for PWDs. Meanwhile, they also make recommendations from a user's point of view. They hope that the related service hours can be extended from 7 am to 11 pm to 12 midnight, and there would be someone to answer the special line until 12 midnight, but not just forward to the voicemail of the 24-hour hotline, since many PWDs still need bus services between 11 pm and 12 midnight. In addition, they also hope PWDs who are not recipients of Comprehensive Social Security Assistance recipients can also receive subsidies and support services in connection with the purchase, repair and maintain of assistive devices.

President, apart from assistive devices, it is important to have barrier-free public facilities in many buildings, but such facilities are inadequate. Therefore, I will continue to urge the Government to provide technical and funding support for owners' corporations of buildings. If PWDs cannot even get out of the building where they live, no matter how good the assistive devices are, such as wheelchairs, this will be useless for them. If PWDs are unable to go out easily and smoothly through barrier-free passages, they will be discouraged to participate in community activities. For this reason, providing incentives for installing barrier-free access in residential buildings is crucial. Can the Government study the feasibility of enhancing funding support in order to convert the access of residential buildings into barrier-free passages?

I wish that my speech this year can really speak for PWDs, so that the Government can seriously consider implementing various feasible measures as soon as possible, instead of letting PWDs wait for a long time, yet nothing has been done. Then Members will say again next year, "This year is the 12th year proposing the same motion." Moreover, I do not wish to recycle my script every year, and repeat my speech once a year, yet the Government has still made no progress in helping PWDs. We must work in concerted efforts to help those needy persons in society.

President, I so submit.

**MR WU CHI-WAI** (in Cantonese): President, after listening to Members' speeches, I notice that the terms "disability" and "severe disability" have various definitions. Has the Government seriously dealt with and treated the relevant problems? No. Take Disability Allowance as an example. The definition adopted by the Government is "100% loss of earning capacity". Is this a

response to the actual difficulties encountered by persons with disabilities (PWDs) as well as their various needs and aspirations? I think the Government should first seriously review if the existing definition of "disability" meets with the modern-day social requirement.

Before this meeting, a group of parents of children with severe disabilities came to petition at the Legislative Council to express the difficulties that they have encountered, which are probably more unbearable and miserable than we often heard of. They said that as their children have severe disabilities — not only physically deficient, but also mentally handicapped — they are unable to take care of themselves. Some children even have various degrees of hyperactivity disorder, and thus require longstanding support and care from their families. This is nonetheless not uncommon in the community.

Despite the various difficulties, the parents have no choice but to bring up their children with incomparable devotion and their best efforts, so that they can live as long as they can. But given the immense financial and mental pressure on the parents to take care of their children, they may suffer depression or other illnesses. But since their children have come to this world, they must live on.

Has the Government formulated any measures to help these parents take care of their children with severe disabilities? These parents have to count on their savings and financial means. Under this circumstance, the Government should not treat children with severe disabilities the same way as those with general disabilities and address the problem on this basis. The parents were right in saying that the resources and support provided by the Government are seriously lacking, which has rendered them so helpless.

As I have just said, it is a common phenomenon that children with severe disability cannot take care of themselves. In that case, parents will definitely become their carers and have to stay close to them. This makes the carer subsidy an important source of finance to these parents. However, the Special Care Subsidy for Persons with Severe Disabilities under the Community Care Fund (CCF) has recently been suspended. Will the authorities consider resuming the provision? Now that even the CCF has discarded the parents of children with severe disabilities. In view of the difficulties encountered by these parents, will the Government undertake to expeditiously introduce a carer subsidy so as to provide adequate assistance?

I wish to draw the Secretary's attention to another case, and that is, the boarding school for children with severe disabilities generally allows students to stay for only four or five days a week, and they have to return home during weekends. As a result, these students have pretty long time staying at home every week and this has caused even greater difficulties to parents in taking care of them. Worse still, this has made it impossible for the parents to seek jobs and financial assistance to help bringing up their children. Another problem is, there is serious shortfall of boarding places and only a few boarding schools provide long-term care services. As a result, some parents have to seek short-term respite service from residential care homes for the elderly.

Will the Government consider extending the boarding period to seven days and increase the places providing day care respite to relieve the heavy burden on parents, while enabling children with severe disabilities to receive better care? Of course, if the places of boarding schools or residential care homes for the PWDs can be increased, the Government will be duty-bound to monitor the operation of the relevant organizations. This is because children having severe disabilities are the most disadvantaged group in society, who never utter a word even if they are being discriminated against at schools or in residential care homes. Also, the Government is obliged to implement the Convention on the Rights of Persons with Disabilities, so as to ensure that the children are properly taken care of at schools and in the residential care homes without being discriminated or unreasonably treated.

I hope that the Government has heard the voices of the parents of children with severe disabilities, and will appropriately respond to their aspirations later on. The difficulties faced by children having severe disabilities are much greater than other PWDs as they need round-the-clock care.

With these remarks, I support the motion. Thank you, President.

**MR LEUNG KWOK-HUNG** (in Cantonese): President, I have been listening to the debate all long. I was in my office when listening to some of the speeches. I thought to myself: Members are sympathetic this time around, except for those from the Business and Professionals Alliance for Hong Kong and the Liberal Party, who have shown hesitation when it comes to establishing an employment quota system or providing wage subsidies. All other Members are sympathetic and support the motion in unison.



I have no idea whether this Council has the right to collective bargaining on this year's Budget to tell the Government that if it does not act in accordance with the items in this motion to be passed by us today and deploy corresponding resources, we will not allow the passage of the Budget. This is negotiation by way of filibustering, so to speak. Otherwise, as Dr Elizabeth QUAT has said — the Government is really bad, as it still uses a script written 10 years ago. Last year, when I reproached the Government for using a 19-year-old script and failing to implement what the Hong Kong Federation of Trade Unions had proposed 19 years ago, you people said, however, that I was wrong to filibuster. As far as I am concerned, this Council is either insane or hypocritical.

Of course, I cannot say that I was totally right. As I failed to accomplish what I strove to achieve even by filibustering, I really have to apologize to the elderly. First of all, Secretary CHEUNG — do not doze off; look at me first — your famous line is: "It has been operating effectively." With respect to the insufficient number of columbarium niches, you said, "Our past policy has been operating effectively." As regards those elderly persons who had been waiting but passed away before they could be admitted to residential care homes, you said likewise that the system had been operating effectively. According to you, all these have been operating effectively for many years, right, buddy? Regarding the proposals put forth by Mr LEUNG Yiu-chung, have you actually considered relaying them to the Chief Executive for the purposes of future Policy Addresses and Budgets? I mean, as the problem is so serious, have you considered what percentage of our gross domestic product should be utilized for tackling this problem? If not, we will be "waiting for dawn with eyes brimming with tears", and that is pointless.

To put it plainly, if you say that it is practically impossible to carry out any reform in our present-day society, I will resign myself to that. But honestly, it is possible to calculate the amount of money to be spent by you on these measures. Or you may say, "Let the measures be implemented in phases, 'Long Hair', as it is not feasible to implement all of them in one go." Then I have to ask you, "When will you take action in the remaining three-odd years of LEUNG Chun-ying's tenure?" Just take the "messy debt" that LEUNG Chun-ying owes Mr WONG Kwok-hing as an example — he has cheated Mr WONG Kwok-hing and cajoled him on the allowance for persons with loss of one limb. It is so laughable, come to think of it. How come Mr WONG Kwok-hing has not rebuked him? Unlike me, Mr WONG would not utter reproving remarks until after the "Emperor" has left, but I would hurl objects and point the finger at him. Mr WONG would not

reprimand him sharply. As the old saying goes, "When speaking to an important person, you should look on him with a degree of contempt." Instead of acting in this way, Mr WONG would not utter reproving remarks until after the "important person" has left and got out of sight.

President, I think the whole problem is ... a friend of mine has told me that if we are to figure out whether a man is truly kind-hearted, we have to observe his attitude towards his parents and servants. A man dressed in a suit may look presentable and he may talk about kindness and care glibly in a high-sounding tone, but if you drop by his home and see him keep scolding his Filipino domestic helper and tell his parents to fetch him shoes, he must be a bad guy.

To put it simply, today we are in this situation where there is a common perception that persons with disabilities (PWDs) are an encumbrance. I have listened to so many speeches for so long. A Member said we have to revert to — where is Ir Dr LO Wai-kwok? He mentioned about putting public funds to good use; to hell with it! As the saying goes, "Widowers, widows, orphans and the childless should all be maintained and cared for," right? This was also mentioned in the Confucian teachings of "the Grand Union" and "Small Tranquillity", which touched upon issues about the disabled. It was known ages ago that the disabled were not an encumbrance. Everyone has his own aspiration. President, I have come to realize it. I used to think that I would never be wheelchair-bound in my life, but unexpectedly, I have been confined to a wheelchair now. It is as simple as that.

Therefore, if we do not include PWDs in the scope of necessary expenditure on the whole community, but regard them as an encumbrance ... buddy, the most outrageous of all is that — "the peculiar Doctor LEUNG" will also talk about this later on — only those 100% incapacitated for work are eligible for Disability Allowance. Is this not ridiculous, Secretary Matthew CHEUNG? If I now ask you to hop to President Jasper TSANG with one of your arms and one of your legs tied up, and I will treat you to a late-night snack tonight if you can do it, do you think you can have the snack? Of course not, because you are definitely going to stumble and drop dead 100%, that is, lose your life, buddy. Secondly, it transpires that "the peculiar Doctor LEUNG" has also disclosed something new. The authorities had a discussion with him at half past six. They are really bad, as they turn to him only when they are in trouble but neglect him when nothing happens. The Government says that while the

phrase "a 100% loss of earning capacity" can be deleted, the part concerning those with disabilities which have rendered them unable to work in the original occupation and made them switch jobs has to be deleted as well. Buddy, what kind of government is it?

What I have to say is very simple. The Government's mistakes, which are too numerous to mention, are readily seen in areas such as education and travel subsidy. Given that LEUNG Chun-ying had visited the districts to listen to public opinion with a pen and a notebook before he came to power, may I ask if his manifesto has come to fruition? Is there one single initiative which seems to have materialized? I tell you what, President, it is very simple. As he is so fond of setting up committees or suchlike, he should set up one in this regard and we will see how it goes. Now that nothing has been done, he is just paying lip service.

So, my conclusion is simple. Mr LEUNG Yiu-chung, you really have to stand firm. If you filibuster, I will help you for sure and I will support you till the end. Actually, during the process of our filibustering, the President was indeed listening. I talked a lot about these problems, and I said that I would not give the Government any money as it had failed to address these issues. Buddy, we in this Council have been cheated by the Government year after year and day after day.

President, I really want you to ask Secretary Matthew CHEUNG how much funding he is prepared to apply for from Chief Executive LEUNG Chun-ying for the current year, in order to turn the empty promises in his manifesto into actions. Has he specified a certain amount of allowance for persons with loss of one limb? If not, he is lying to me.

President, I hope that Mr LEUNG Yiu-chung will initiate a filibuster, and I will definitely filibuster in concert with him. Dr LEUNG Ka-lau, will you join us in filibustering? *(The buzzer sounded)* ... No? Never mind.

**DR LEUNG KA-LAU** (in Cantonese): President, I originally did not intend to speak. Well, where had I been just now? I was at a meeting with four officials of the Labour and Welfare Bureau, discussing about the assessment form for Disability Allowance (DA). The one-and-a-half hour discussion eventually ended in acrimony. Feeling a bit disgruntled, I have thus prepared a four-page

remark and would now like to talk about DA. I hope that the Secretary will also listen to it.

The assessment form for DA is to be filled by doctors. What is this form about? Most importantly, it contains a sentence that reads, "The patient is in a position broadly equivalent to a person with a 100% loss of earning capacity due to the following reasons". So, what does "the following reasons" refer to? Let me offer some examples. It includes total paralysis, loss of both feet, loss of both hands, and total loss of sight. As doctors are very busy, they would not read further down the reasons after coming across the sentence "a 100% loss of earning capacity". They would take it as the most important factor, indicating that such patient can no longer make a living on his own.

In other words, if a patient who has lost both feet or is totally paralysed but can somehow work, he will be disqualified as he is not suffering from "a 100% loss of earning capacity". Such patients would certainly feel dissatisfied. Yet, doctors in fact have to face another difficulty. If that patient, having lost both feet and cannot work for the time being, come to see me, I cannot say he has "a 100% loss of earning capacity" either. He is only unable to work temporarily and that does not mean he has lost working ability. Therefore, doctors indeed cannot make an assessment. As such, doctors request that the form be amended and rephrased.

However, there is a checklist printed behind the existing form which explains that patients with the disabilities I just mentioned (loss of both feet, hands or total paralysis) are automatically considered as having 100% loss of earning capacity even if they are employed. It has been spelt out as such for one or two decades and I am really ashamed for not noticing that before.

Besides, it is written further down the form that if a patient's condition does not fall into the previously mentioned seven categories as specified in items (a) to (g), such as loss of both feet, he may also be qualified for allowance on grounds such as "a significant restriction or lack of ability or volition to perform the following activities in daily living to the extent that substantial help from others is required in any one of the following areas". It then lists out four conditions under which applicants are considered as qualified for allowance even though they have taken up employment. Three of the conditions listed there, such as being unable to maintain balance while standing or speaking unclearly like me, are relatively simple.

As far as those conditions are concerned, the first item is most important. Please be all ears, that is, "working in the original occupation and performing any other kind of work for which he/she is suited". It has a very important meaning. Why did my one-and-a-half hour discussion with the Labour and Welfare Bureau end in acrimony? Let me tell you a good news first. The Labour and Welfare Bureau has proposed to delete the wordings "a 100% loss of earning capacity". I believe the Secretary will speak about it later and it will be welcomed by all of you. In other words, the Bureau sticks to its original policy intent to allow those losing both feet to be automatically entitled to DA, no matter they have taken up employment or not.

As I found that the condition of "working in the original occupation and performing any other kind of work for which he/she is suited" have been deleted in the new form, I spoke out against it. If a person has broken his legs in an accident, he cannot perform the heavy work he had been doing before. That means he is unable to work in the original occupation. However, the Permanent Secretary for Labour and Welfare told me that the problem came down to the word "and" in that sentence. What did you hear me say just now? I said, "and performing any other kind of work for which he/she is suited". I asked her what did she mean by that. The Permanent Secretary told me to leave it behind until there was really a case in which an applicant cannot perform any kind of work for which he/she is suited. I then asked her what is meant by unable to perform any kind of work for which a person is suited. After rounds of explanations, it ended up meaning "without employment". I said, "Are you kidding? If that is the case, it would be better for it be directly written as "without employment". Why it has to be written in such a complex way? I pointed out that the sentence should be interpreted as "performing any other kind of work for which a person is originally suited". That means the kinds of work a person should be able to perform before becoming disabled, but cannot do so after becoming disabled.

Why did I want to include this sentence in the form? It is because if the condition just specifies the disability to work in the original occupation, a person will not be entitled to DA if he takes up employment in a similar occupation as his productivity may not be considered as being diminished. Therefore, the word "and" was written to indicate that the person concerned is unable to engage in similar occupation either. What will happen if it is deleted? I now understand this form quite well. If the aforesaid situation arises where a patient with loss of only one limb switches jobs or cannot work in the original

occupation, I can sign the assessment form for him if it is the old version, but not the case with the new version.

Why am I so furious? As told by the Permanent Secretary, the Department of Justice has read this form and opines that there will not be any problem to delete that sentence as it is not what the policy originally intended. I said that I can sign for the patient concerned to receive DA if it is the old form, but not the new form. The Permanent Secretary eventually said that nothing can be done even if I do not accept it. It cannot be amended and we have to wait for a review to be conducted next year.

Can you all understand what I said? That is to say, the problem lies in the old form's design, not the original policy intent. It is my fault that I have not read it clearly. However, persons who switch jobs after losing one limb are not entitled to the allowance after the form is amended. Secretary, how can I accept that? President, I so submit.

**MR KWOK WAI-KEUNG** (in Cantonese): President, I think we still remember that the Steering Committee on Population Policy has released its consultation document on population policy and is conducting public consultation in this regard. It is mentioned in the document that many industries are experiencing labour shortage and importation of foreign labour should be considered. Of course, it has drawn strong opposition from the labour sector. What we stress most is that Hong Kong still has a certain level of unemployment rate. The general unemployment rate stands at 3-odd percent, while the youth unemployment rate reaches 10-odd percent. However, the unemployment rate for persons with disabilities (PWDs) is actually not that low. As conservatively estimated, there are a total of 360 000 PWDs in Hong Kong. Official figures show that 10% of them are unemployed. However, data from other rehabilitation organizations suggests otherwise, with only 10% of them are really employed. A huge discrepancy exists between figures of the two sources. Of course, it is just a game of figures. The Labour Department probably has to prove that a person has been seeking jobs over the past few months in order to count him as unemployed. In fact, the market is actually not willing to absorb PWDs, making them feel frustrated and give up job searching. Therefore, the Labour Department indicates a low unemployment rate. In fact, if reference is made to the unemployment figures provided by social welfare organizations, the

actual unemployment rate for PWDs is as high as 89%. That is really worth our reference.

However, the population policy document mentions that we have 70 000 job vacancies. While our general unemployment rate indicates that more than 100 000 people are unemployed, the unemployment rate for PWDs also suggests that hundreds of thousands of disabled persons are unemployed. Even if we buy the Government's saying that their unemployment rate is only 10%, there is still 36 000 people who are unemployed. They can at least fill up some of the 70 000 job vacancies. Why does the Government not put more effort to absorb the potential labour force before considering importation of foreign labour? People very often say that "we should not let outsiders to ride our gravy train". However, why are employers in Hong Kong so eager to pass the "gravy" to outsiders and hire foreign workers? Why can they not just benefit local workers and PWDs?

President, I would like to cite some examples. As earlier reported in newspapers, it took many twists and turns for a female student with hearing impairment to be admitted to the Hong Kong School of Design (HKSD) after graduation from Secondary Five. She first studied in the Hong Kong Institute of Vocational Education (IVE) but had to drop out after a year or so because of inadequate complementary support. She then studied at the HKSD where small class teaching was implemented. With all the complementary support, she finally graduated there in 2009. Unfortunately, she could not find a job in the design field she studied in. She then worked as a packer, or was hired in a dessert house or a graphic design company, among others, for a meagre salary. No matter how well her designs were, she was fired as her hearing impairment had hindered her communication with other people.

Integrated education has been implemented in Hong Kong for more than a decade. Many disabled youngsters can basically completed secondary education. Yet, we can see that there is inadequate complementary support for them to further their education. More often than not, they would study the courses offered by the Vocational Training Council (VTC) right after secondary education. The VTC has a member institution named Shine Skills Centre. However, what courses can they study there? They are nothing but office practice, commercial and retailing service, programme assistant practice, printing, packaging service, basic catering service, beauty care assistant course, housekeeping practice, massage service, and so on. All can be classified as

professions of low-skill service industries. I am not saying that they should not take up such work, they can also engage in such professions. However, many PWDs are very smart indeed. They are just hindered by their physical disabilities. Apart from those servicing professions, I think we should also help them to explore more career choices and encourage them to further their education. We should also diversify our industries to let them enter the relevant trades, instead of just confining them to work in the retail, financial or logistic sectors.

Let me cite a simple example. A non-governmental organization named New Life Psychiatric Rehabilitation Association teamed up with some world-renowned designers to establish a social enterprise selling gifts with designs conceived by designers there. The organization's products are made by PWDs according to the conceived designs. By doing so, it has created lots of jobs for PWDs in the creative and cultural arena. Apart from this well-known service, the organization has also built farms for people in recovery of mental illness. By developing the organic farming market, it has created alternative job opportunities and different kinds of jobs that go beyond those of the four-pillar industries.

The aforesaid development can really help PWDs secure employment. Take for example the green industries which I mentioned before. Earlier, my colleagues and I went to various districts to inspect the waste-plastic-bottle collection stations which are sponsored or subsidized by the Environmental Protection Department. We noticed that quite a number of employees are hired to work in these collection stations. They include both the able-bodied and the ex-mentally ill people. This is also an opportunity for them. To put it simply, the Government should really make good use of the local labour force before considering importation of foreign labour, so that our "gravy" will flow to local workers first before passing to others, ensuring that local workers can at least feed themselves. The Government should not think right away that Hong Kong cannot handle this problem and pass the benefits to others, simply because it cannot come up with a solution. I hope that the Secretary will be more staunch and resolute to make further efforts to benefit members of the public. It should also diversify our industries to let people fully realize their potentials and make good use of their strengths.

Thank you, President.



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

**MS EMILY LAU** (in Cantonese): President, I speak in support of Mr LEUNG Yiu-chung's motion. I was sorry that I could not stay here for most of the debate to hear all your views. Some 50 to 60 members of up to 30 non-governmental organizations were waiting upstairs for me to discuss matters regarding the hearing of the United Nations Committee on Economic, Social and Cultural Rights (CESCR) for which we are going to attend in May next year, as well as the hearing arrangements of the United Nations Women's Convention Committee in October next year. I am very delighted to join force with so many civil organizations and we will definitely discuss the problems faced by people with disabilities (PWDs). They are now watching the television broadcast upstairs to support Mr LEUNG Yiu-chung and thank him much for moving this motion. I hope that "Ah Chung" will go with me to Geneva next year.

Many colleagues earlier praised Mr LEUNG for moving a motion year after year to discuss the transportation needs of PWDs. He has made some achievements, albeit not to our full satisfaction. Therefore, he widens the scope this year to discuss matters relating to the implementation of the United Nations Convention on the Rights of Persons with Disabilities (the Convention). President, I believe you also know that the Convention was set up in September last year by the United Nations Committee on the Rights of Persons with Disabilities. It is a good thing that Mr LEUNG raises this issue for discussion today. We should discuss in Hong Kong all the United Nations' arguments and proposals made on various aspects, and then travel in droves to attend the relevant conferences next year. I hope that the SAR Government will do more so that it will not be confounded by questions raised by United Nations Committees.

President, I am particularly pleased to see that the Secretary for Education is present here. After attending the hearing of the United Nations Committee on the Rights of the Child this year, we find that most of the questions arisen there are related to education. How can other Secretaries know how to answer such questions if he is not present here? As all the conventions and reports are related to the whole administration of the Government, relevant officials should all attend the Legislative Council meeting when issues under their purview are being discussed, as no one else is able to answer for them. Matters relating to education are so complicated that even the Secretary himself may not be able to give an answer. However, he still has to fulfil his responsibilities. You know

what? The United Nations committee members were all dumbfounded and could not fathom why Hong Kong, being such an affluent city, performed so badly in various aspects.

Many colleagues earlier mentioned the conclusions and recommendations made by the relevant United Nations Committee. I would like to say in particular that two committee members responsible for inspecting the implementation of the Convention on the Rights of the Child came to Hong Kong this year. The disabled children's plight, especially their learning disabilities, was still their most concerned issue. Those parents all poured out their grievances with tearful faces to complain about the authorities. The authorities had promised to conduct assessment for their children, so as to understand their problems and see what kind of assistance can be offered. Yet, they have woefully waited for years and still receive no assessment or any assistance, even though their children have exceeded the optimal age for treatment. They are at a loss, not knowing what they should do. Therefore, the United Nations Committee pointed out that the authorities must allocate more resources to meet the astonishing needs of the disabled children, so that they can fully realize their potentials. Let me add one more point, that is, to not let them lose at the starting line.

Apart from that, they also talked about the problem of barrier-free access and requested the Government to expand the existing regulations of the Design Manual to cover buildings constructed before. I believe that most architects in Hong Kong may not agree on this suggestion and it will meet with extreme difficulties. Some alternations of new buildings have yet to be made, let alone retrospectively regulating the old buildings. Retrospectively regulating the old buildings, I think, would just be a distant dream. Yet, I still hope that the authorities will do so. Thanks to the timely warning made by Mr LAM Woon-kwong, the former Chairman of the Equal Opportunities Commission, which has prompted the Government to make some efforts on this front. However, there is still much needed to be done. If you take a look around the city, there are still many private buildings that are not barrier-free.

The Committee also mentioned about sheltered workshop, agreeing that it is a benevolent measure that can help PWDs get employed. However, the Committee thought that the salaries offered by the workshop are so low that it is tantamount to exploitation. Therefore, it proposed the authorities to raise the salaries to prevent PWDs from being exploited.

On the educational front, integrated education was much discussed just now. As pointed out by the Committee, the student-to-teacher ratio is too high, the situation is very worse, and teachers are not adequately trained. They were particularly concerned about PWDs' admission to universities, pointing out that only very few disabled children are able to be admitted to universities after finishing secondary education. It came as a shock to them as Hong Kong is so affluent that they did not understand why the situation was so undesirable.

President, I noted in particular that Mr LEUNG Yiu-chung has mentioned in his motion that a quota system should be established as far as employment is concerned and minimum wage subsidies should be provided. I cannot agree more with him on this point. He also calls on all organizations, especially the large public organizations, like the Airport Authority (AA), to hire more PWDs. I will attend an event held by the Hong Kong Disneyland this Sunday. The event serves to announce its employment of a great number of PWDs. Actually, the number is not that great, but it stills underscores their effort. Mr Allan ZEMAN, the Chairman of the Ocean Park, has also indicated that he will try his best to do so. However, when I visited the AA last year, I found that only one PWD was employed. Therefore, I have made a request for these organizations to hire more PWDs.

As such, I very much agree with Mr LEUNG Yiu-chung's opinion. I hope that the Government, all public organizations, universities, as well as other publicly-funded organizations will set a good example. Most importantly, the Government and the Secretaries should make more effort, so that we can save some face when attending the next meeting of the related United Nations Committee. This is a topic that will definitely be discussed by the CESC and there is no need to wait for the report of the Convention. I hope that the authorities will not let us lose face again at that time.

I so submit.

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

**MR LEE CHEUK-YAN** (in Cantonese): President, today's topic has already been discussed in this Chamber for many years. However, we in fact see no progress has been made even the topic has been discussed for years. Frankly

speaking, our Government lacks nothing but a heart. Are we in lack of money? We could offer \$6,000 cash handouts for every resident. We also have tens of billion dollars of financial surplus every year. In addition, our Exchange Fund stands at over \$2,000 billion, among which there is \$800 billion to \$900 billion of financial and accumulated surpluses. It can be said that money is at its disposal.

What the Government likes to do is to lock money in the drawer now. It has injected \$15 billion into the Employees Retraining Fund to sustain its annual spending of about \$0.8 billion, accounting for 5% of the Fund. So, would the Government also earmark \$15 billion to set up a fund for persons with disabilities (PWDs) to sustain an annual spending of some \$0.7 billion to \$0.8 billion? Of course, I think there is no need to do so. Yet, I oppose the practice of locking money in the drawer. We actually have enough money to allocate funding from the recurrent expenditures to improve the situation. Therefore, I think the government official, that is, the Secretary, has to address this problem at the end of the day. They, of course, would say that they have a heart to address the problem.

However, if they really have a heart to address the problem, why do they not allocate resources to do so? The Secretary, of course, would say that he has done so. Yet, why are there still not enough resources? To put it simply, with regard to carer allowance, other Members of the Labour Party queried just now why such allowance cannot be extended to cares of PWDs, on top of carers of the elderly. That was just one of the points we have to make. We now know that carer allowance is given to those taking care of the elderly. But, why is it not the case for cares of PWDs? Of course, the Secretary can explain that some severely disabled persons are already receiving an allowance of \$4,000 now. However, the very fact that they are severely disabled means they are entitled to more allowances, and they are also recipients of the Comprehensive Social Security Assistance.

However, what I am saying now is ordinary families. Let us imagine a family having to take care of a PWD, how much mental and physical effort the carers have to make? I can almost say for sure that one of the family members cannot go to work as a result. So, what can they do? Dr Fernando CHEUNG already pointed out the various problems regarding waiting for admission to hostels just now. I am not going to repeat again. However, it all comes down to one point. Why the Government, being so wealthy, is still reluctant to allocate enough resources to do something to improve the life of PWDs, so that

they can feel being respected by the community and the Government? The Secretary always likes to say the term "effectively in place". However, I have never seen him put something "effectively in place". I do not know how far he has gone as the resources allocated always fail to meet the needs.

However, I would like to particularly raise one point this time. Apart from the resources problem I mentioned just now, another big problem is the employment of PWDs. If we can tackle their employment problem, many PWDs will benefit. In fact, these people want to work and make contribution, and they have the ability to work as well. Yet, the worst thing is that they do not have any opportunity. Why do they have no opportunity to do so? It is our society which does not offer them an opportunity.

We are currently discussing a number of issues. First, the Commission on Poverty Summit staged a "big show", calling on all employers to sign a charter to help PWDs get employed. However, apart from signing the charter, I do not know these employers have ever done anything else. Besides, there is no target set in the charter, specifying, for example, that the number of PWDs hired by employers should account for 2% of the total workforce in order to be awarded a plaque. That is workable. However, if employers just sign the charter and are then awarded a plaque, what is their commitment then? They do not have to make any commitment and can make a name, while PWDs are still out of work.

Therefore, if the Government really wants to encourage private enterprises to hire PWDs, I think it should first of all seek a pledge from them or ask them to promise an employment figure before awarding plaques. Is it possible? That is the first point. The second point is that the Government has to take up its responsibilities. We have raised time and again the employment of PWDs in the Civil Service. Later on, the Secretary will also say that the ratio of such employment is 2%. Of course, we now would ask where those 2% of disabled employees come from. Civil servants who become disabled after getting injured at work are counted in that 2% by the Government. Then, how about the number of new employees with disabilities? Is there any such employment? What is the ratio of PWDs applying for government positions? The answer is very few. Most of the disabled civil servants are old employees. Without any such new employment, it means there is no job opportunity for PWDs. What are the employment figures of PWDs in the Civil Service? Can the Government give us figures to prove that its employment of PWDs has reached 2%? That 2% should, in particular, exclude those old employees who became disabled after

getting injured at work. It should count those new disabled employees to whom it has offered a job opportunity.

The third point has been raised by us for years. Dr York CHOW raised this idea first but it has yet been accomplished. That is the employment of PWDs by subvented organizations. Every time the Government will say that it has written letters to subvented organizations to call on them to employ PWDs. But, it always bears no fruit. I request the Secretary to clearly specify the target and quota for subvented organizations, making it clear that the number of PWDs employed by them should reach 2% in order to receive subsidies from the Government. Or it can first target at 1% and ask them to strive to reach the target of 2%. In that case, at least the target of 1% can be reached. President, 1% involves a small number and it is a humble request. Can subvented organizations take the lead to do so?

Subvented organizations in Hong Kong, including the Hospital Authority and all government-subsidized organizations, are very influential as they currently have a 300 000-strong workforce. If the number of disabled employees accounts for 1% of their total workforce, that is already a huge figure. Yet, I still cannot see any effort made in this area. Can the Government give us a list of all subvented organizations, so that we can figure out how many PWDs each organization can hire?

Fourthly, we always say that the minimum wage arrangement is very unfair to PWDs. Of course, you would say that employers may even not hire PWDs if they are not required to go through an assessment so that employers can hire them below the minimum wage. If that is the case, can the Government subsidize the wage shortfall? The Government should at least do something for them and encourage PWDs to seek employment. It should also encourage employers to do their part if they are willing to conduct assessment for PWDs — some employers are not willing to do such assessment — and pay the shortfall. By doing so, it can create job opportunities for PWDs. Lastly, as Hong Kong is now experiencing labour shortage, if PWDs can really get employed (*The buzzer sounded*) ...

**PRESIDENT** (in Cantonese): Mr LEE, your speaking time is up.

**MR LEE CHEUK-YAN** (in Cantonese): ... that is what our society should do. Thank you, President.

**MR KENNETH LEUNG** (in Cantonese): President, the United Nations Convention on the Rights of Persons with Disabilities (the Convention) aims to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity. The Convention has been applicable to Hong Kong since 31 August 2008. According to the Convention, persons with disabilities (PWDs) are defined as including those who have long-term physical, mental, intellectual or sensory impairments.

The United Nations Committee on the Rights of Persons with Disabilities deliberated on China's (including Hong Kong's and Macao's) fulfillment of her obligations under the Convention on 18 and 19 September 2012, and officially published its concluding observations in late September. The Committee pointed out in its concluding observations that the policies adopted by Hong Kong were not in compliance with the human rights model established in the Convention. The non-compliances include the rank of Hong Kong's Commissioner for Rehabilitation being too low, the lacking of an independent monitoring mechanism, and the passive role adopted by the Equal Opportunities Commission. As a result, the rights that should be entitled to PWDs in many areas — including barrier-free access, mental health, access to information, living independently in society, education, medical treatment and employment — cannot be really ensured.

I am now going to briefly talk about the employment issue. Article 27 of the Convention stipulates that "States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities". President, the Committee however expressed deep concern in its concluding observations about the high unemployment rate of PWDs in Hong Kong and that their average wage level was far too low when compared with people without disabilities. Let us take a look at our Civil Service system. The employment rate of PWDs is also very low in the Civil Service. President, as at 31 March 2012, there were 3 391 disabled civil servants, accounting for 2% of the

total number of civil servants. That was really a very low ratio. Besides, the number of applications submitted by PWDs for government positions as referred by the Selective Placement Division of the Labour Department dropped from 3 849 in 2004 to 1 971 in 2012. President, in order to cultivate an inclusive atmosphere in society, all government departments should review their civil servant employment policies, and should create a culture that can help PWDs integrate into their workforce, and then promote such culture to all industrial and commercial sectors.

In fact, many private enterprises in recent years have offered many opportunities for PWDs, so as to fulfil their corporate responsibilities. Also, many social enterprises which mainly employ PWDs have started operation in Hong Kong. Yet, the Government has not provided any incentive to these enterprises. President, for example, the Internal Revenue Service of the United States has offered two tax concessionary measures. The first is to provide tax concession to companies which employ PWDs. Also, if companies provide barrier-free facilities for PWDs in their workplace — that means capital expenditure is involved — 100% tax concession will be provided for relevant expenses. In fact, can the Inland Revenue Department in Hong Kong consider implementing these tax concessionary measures?

According to the Special Topics Report No. 48 published by the Census and Statistics Department in 2008, the unemployment rate of PWDs was estimated to be 2.9 times of the overall unemployment rate at that time. President, that was estimated from statistics compiled five year ago. In other words, the estimates in 2008 may not accurately reflect the present situation. If such basic tasks such as regular data compilation and announcement of the unemployment rate of PWDs are not done by the Government, what grandiose plan does the Government have in place to implement measures to help PWDs get employed?

As regards whether it is necessary to establish a quota system for employing PWDs, I hold an open attitude in this regard. I think there is certainly room for discussion. As pointed out in paragraph 41 of the concluding observations, some people may worry that a quota system cannot effectively address the chronic problem of unemployment among PWDs or the deep-rooted causes of discrimination in employment. Sometimes, the employment offered is only of symbolic value. Yet, no matter whether an employment quota system is



to be established or not, the Government actually should put in place viable policies, such as tax concessionary measures mentioned by me earlier, so to encourage the employment of PWDs in all sectors.

Lastly, Hong Kong is an international city with a full-fledged legal system. It sets great store by not only the economic development, but also the values of equality and freedom. It definitely has enough resources to take care of every member of the public. I hope that the Government can immediately review the relevant policies to promote the social integration of PWDs.

President, I so submit.

**MR TANG KA-PIU** (in Cantonese): President, Mr Kenneth LEUNG pointed out just now that the number of persons with disabilities (PWDs) employed by the Government only accounts for 2% of its workforce. In fact, we have expressed in the relevant Panel that it is utterly a "cooked-up" figure, as it includes those who become chronically ill as a result of a long period of working or physical degeneration, and those who are struck with health problems because of severe work injuries. It does not mean that the Government would set aside two in every hundred of job vacancies to be filled by PWDs. In response to our enquiries, the Panel worked out that the ratio of PWDs newly employed by the Government over the past five years only accounted for less than 1% — about 0.5% to 0.6% — of the total new recruits. If the Government does not take the lead on this front, how can it encourage subvented and private organizations to do so?

Over the past two years, our unemployment rate stayed below 4%. It was even below 3.5% in the past one and a half years. Yet, why so many PWDs have difficulties in securing employment? Rehabilitation organizations have also expressed the same view. That is where the problem lies. In the past, there were more workers than jobs. Therefore, it was very difficult and unlikely for PWDs to get employed. At present, there are however more jobs than workers, but PWDs still find it hard to get a job, which exactly reflects that there is a problem.

However, how big is the problem? It is too bad that even the Government does not know the answer. Members have all tried to quote some figures, but those figures are quoted from the Special Topic Report No. 48 published as far

back as 2008. Who has the authority to tell us how the situation is at present? The answer is none. Therefore, we can only explain to the Secretary how serious the problem is with the information we have in hand. Another information source comes from some enthusiastic charity organizations which have gone as far as to conduct some surveys.

For example, the Hong Kong Society for Rehabilitation conducted a survey regarding the living condition of PWDs and chronic patients this year. Among the 1 000 respondents, only 22.5% of them had engaged in full-time or part-time work in the past three months, 23.2% of the respondents were unemployed or in search of work at that time. In short, their unemployment rate reached 50%. The unemployed is defined as people who think they are well-prepared to seek employment and have the desire to find a job but in vain. Of course, the scopes and methods of survey may vary from one organization to another. However, we would not consider the unemployment rate of 30% to 50% as indicated by various bodies or service organizations exaggerated. Rather, we doubt if it is underestimated.

There are various kinds of disabilities. They include those arising from chronic illnesses, physical and mental handicaps, as well as recovery from mental illnesses, among others. Mr WONG Kwok-hing stresses in particular persons with loss of one limb in his amendment. I guess it is not because that those persons particularly need assistance. On the contrary, it is out of the consideration that as their physical disabilities are not very severe, they can live like normal persons to participate in social activities and have a decent job if we give them some support. One measure to support them is to offer them the "concessionary fare of \$2 per trip". Is that possible?

In fact, formulation of policy is more important. As we often lashed out against the Government in the Panel on Welfare Services, the whole assessment system for PWDs is now riddled with problems. The authorities still adopt the eligibility criteria for Disability Allowance and assess PWDs in accordance with the Schedules of the Employees' Compensation Ordinance. First of all, chronic patients are not covered by the system. Besides, people losing one limb are not considered as PWDs entitled to comprehensive assistances or benefits. I believe many colleagues have already quoted numerous examples to illustrate all such absurdness.

Therefore, our first priority is to expeditiously establish a sound system to provide different supporting services suitable for different levels of disabilities. For example, as many organizations such as the Hong Kong Federation of Trade Unions (FTU) has often stressed, the authorities can draw reference from the International Classification of Functioning (ICF) system to assess the needs of PWDs and provide different levels of assistance. We hope that the SAR Government will answer our call for action, instead of just patching up and amending the form for Disability Allowance to insert one more option there for doctors to choose. That is not workable. It is either not a good idea to let specialists of the Hospital Authority to assess all cases in a hastily manner. As Dr LEUNG has said, the medical consultation time for each patient is just three to four minutes and it will hurt the doctor-patient relationship if 90% of the consultation time is spent on arguing the eligibility for Disability Allowance.

Some organizations also pointed out that the existing assessment to decide the level of minimum wage for PWDs is a one-off exercise conducted by social workers. This practice is in fact undesirable. Therefore, the authorities have to expeditiously establish a sound system to provide different levels of assessment and assistance to PWDs. For example, it should appoint specialized and trained personnel to handle the related works. This of course takes time. However, I hope that the Secretary will kick start as soon as possible, rather than continuously patching up by amending the relevant form in response to the Office of the Ombudsman's report to avoid harsh criticism. I hope that the Bureau will expeditiously answer our call for action in this regard.

The employment of PWDs is a problem. Despite a relatively low unemployment rate, they still stand a grim chance of getting employed. It will just worsen the social problems. Therefore, the FTU makes it clear that it supports the establishment of a quota system for employing PWDs, and hope that the Government will take the lead to promote the system at all levels. There are many ways of doing so, including that proposed by Mr LEE Cheuk-yan. We agree on all of them. Yet, I think that the Government must make a pledge to set aside 2% of job vacancies for PWDs in its civil service recruitment every year. If the Government can make such a pledge, other organizations in the community cannot shun their responsibilities either. They will then take seriously the needs of PWDs and provide opportunities for them.

There are also other opinions too. For example, the two existing paid training programmes, namely the Sunnyway-On the Job Training Programme for

Young Persons with Disabilities and the On the Job Training Programme for People with Disabilities, have met with quite a lot of criticisms respectively. Some people pointed out that social workers will stop providing counseling services once the subsidizing period ends. As there is no social worker to follow up the case, it has discouraged PWDs from seeking employment and employers from hiring PWDs. Therefore, it is really necessary for the Government to comprehensively review its employment policies for PWDs.

I so submit.

**MR LEUNG CHE-CHEUNG** (in Cantonese): President, persons with disabilities (PWDs) is a community group with special needs in many areas. I believe that our society would not oppose providing care and support for PWDs. Many suggestions on healthcare, education, welfare, employment and transportation have been raised by Members in today's motion and amendments. I would like to focus on talking about the transportation issue today.

For visually impaired persons, having a guide dog is not easy. The training of guide dogs takes time. With huge demands and inadequate supplies, Hong Kong only imported the first guide dog from overseas in 2011. Until then, the public had known little about guide dogs. Even now though guide dogs have arrived in Hong Kong for several years, the public still do not know very well about such dogs. When a guide dog appears on the street, many people would think that it is just a dog. They would find it cute and would like to simply touch and hug it. In fact, it is a very improper behavior as the guide dog serves as the eyes of its visually impaired owner. Without the owner's consent, it would do harm by just touching or hugging the guide dog. Besides, it would affect the guide dog in carrying out its duties, or make it confused with its roles. Yet, many members of the public do not have such knowledge.

Deanna is a guide dog. Its existing owner, Mr TSANG, is the Vice-Chairman of the Hong Kong Guide Dogs Association. Mr TSANG is also visually impaired. With his frequent experience of bringing Deanna to travel around Hong Kong, he would record every bit of his travelling experience on his blog. He mentioned many times on his blog that he was refused or blocked from entering public places or taking public transport. On one occasion, Deanna was stopped by MTR staff when they took a journey on a MTR train after a customer complained of someone bringing dog on board the train. After explanation, Mr

TSANG was still troubled by the staff. However, guide dogs can be brought on board the public transport according to the law. Deanna also has enough identification on its body indicating it is a guide dog. After the incident went public, the MTR spokesman apologized and indicated that staff training would be strengthened. Who would have thought that similar incident happened two weeks later when Deanna was refused from boarding a MTR train again?

I quoted this example to indicate that even front-line workers of public organizations who have always served the public know little about the needs of PWDs and provide very inadequate support, not to mention the general public. Although the Government or senior management of organizations all indicates that they have put in place relevant guidelines and policies, PWDs in fact still encounter many difficulties when going out. In short, a few staircases are difficult enough for them to make their way.

Hong Kong has strived to create a barrier-free environment in recent years. Most of the new buildings and facilities are built with barrier-free access. However, as some are built "perfunctorily", they cannot meet the actual needs. Take Tin Shui Wai Station of the West Rail Line as an example. Only one of its three entrances/exits has a lift. The others are all featured with long slopes or staircases. Therefore, many PWDs or the elderly in need cannot go to the West Rail Line Station smoothly. They very often have to walk a long way in order to reach the West Rail Line Station. It still cannot satisfy the public needs after years of demands for improvement.

As regards the installation of barrier-free access in old public facilities, the progress is very slow and not comprehensive. Take for example Exist A of the Admiralty MTR Station which is nearest to the Legislative Council Building. A stair lift was only installed there last year. I saw many times that there were wheelchair users using this facility, indicating a high demand for it. However, this stair lift cannot benefit the elderly not in wheelchairs and people with baby strollers. I also saw with my own eyes that some mothers were forced to lift up their baby strollers. Therefore, these stair lifts may not be of use for a wider group of people.

The Chief Executive announced in 2012 a policy to provide a "universally accessible" environment by installing lifts at existing footbridges or subways. Some of the installation works are scheduled for completion as late as 2018, while others still have no timetable for installation. The progress of work is

really very slow. As indicated by the Department, at present the Government can only install lifts for three footbridges every year because of limited resources. Therefore, the works have to be put on a long waiting list. I really do not understand why all those works cannot be completed at an earlier time, as they have to be done sooner or later. I think there is really great room for improvement in the Government's support for PWDs.

President, I so submit. Thank you.

**MR YIU SI-WING** (in Cantonese): President, the United Nations Convention on the Rights of Persons with Disabilities (the Convention) became effective on the Mainland (including Hong Kong) on 31 August 2008. In 2010, the SAR Government's initial report drafted under the Convention was submitted to the United Nations as part of China's combined initial reports for deliberation. In September 2012, the United Nations made a series of improvement recommendations to Hong Kong.

As far as the recommendations are concerned, Hong Kong indeed still has some ways to go before achieving the target of an integrated society. For example, Hong Kong still cannot meet the target of creating a barrier-free environment for PWDs to go around. Even though the barrier-free facilities in government-managed buildings, leisure facilities, tourist attractions and public housing estates have gradually been enhanced in recent years, the overall coverage of barrier-free facilities in Hong Kong are still far from meeting the actual needs. Besides, there are also not enough channels of information.

President, with increasing access to information, PWDs would check relevant information before going out to ensure there are barrier-free facilities on the way. These facilities include lifts, ramps at building entrances, toilets for the disabled, and assistive aids for the visually impaired. The information of these barrier-free facilities in Hong Kong is quite scattered. PWDs would mainly check the website of their travel destinations to see if there are any barrier-free facilities. Or they would take reference from maps, small hints and information gathered by some rehabilitation associations and volunteer organizations. However, if they just depend on the support of the organizations mentioned above, there will surely be limitations in the sources and updatedness of the information. Besides, its effectiveness cannot be sustained due to inadequate subsidies.

As Hong Kong is an international metropolis, I suggest that the Government should be responsible for co-ordinating the information of barrier-free facilities, so as to provide a one-stop enquiry service on platforms like maps, websites and mobile applications for use by PWDs and tourists. The information provided has to be comprehensive and timely. The Government has to make a long-term commitment and undertake the necessary responsibilities in this regard.

To avoid overlapping of resources, the Government may consider working with the existing relevant service organizations and provide financial support to them, so as to better utilize their resources and enhance the service effectiveness. Meanwhile, it can consider hiring more PWDs to act as inspectors from a user perspective to gather information of barrier-free facilities in all districts, offer suggestions for improvement of facilities, and provide timely updates of information on the official platforms. By so doing, this project can also create some job vacancies for PWDs.

President, apart from enabling PWDs to walk out of their homes independently, our ultimate aim is to help them build up confidence, enjoy equality in their lives, and achieve self-realization. Encouraging and assisting them to seek employment is one of the important paths for them to integrate into society. Mr LEUNG mentioned in his motion that "the Government and subvented organizations should take the lead in employing more persons with disabilities, with 2% as the target rate". That is fine in principle. It is nice for the Government to take the lead, but caution is needed when promoting this practice to other enterprises.

As we all know, PWDs include those with physical handicaps, hearing or visual impairment, intellectual disabilities, mental illness, Autism, speech and language impairment, as well as chronic illness. In order to tackle their employment problems, it is necessary to help different types of PWDs find job positions that suit their needs. The most ideal way is to match them with different jobs in accordance with their physical characteristics. By doing so, they can receive effective support and work in a suitable environment where they can build up their social circles and develop a sense of belonging to the company.

Therefore, I am against using administrative orders to increase their employment figures without considering whether the job nature and work environment are suitable to them. If employments are offered just for the sake

of employment, it would probably end up as "doing bad things with good intentions" without any benefit for the physical and mental well-being of PWDs. Rather, it would probably trigger another kind of discrimination and complaint.

Mr CHAN Han-pan proposed in his amendment "to provide tax concessions to employers who employ persons with disabilities to encourage them to employ more persons with disabilities", and "to proactively support rehabilitation organizations to set up social enterprises, with a view to providing employment opportunities for persons with disabilities". I think these two proposals are more practical. It was earlier reported in the media that a restaurant boss earned much applause by proactively employing PWDs. In fact, many enthusiastic people working in large, medium or small enterprises are willing to help these disadvantaged groups. If the Government can provide tax incentives, I guess there will be more and more enterprises making such good deed.

President, I hope that this debate will prompt the Government to make a commitment to allocate more resources to enable PWDs identify their roles in society, and to create a genuine integrated society.

President, I so submit.

**MR DENNIS KWOK** (in Cantonese): President, the United Nations Convention on the Rights of Persons with Disabilities (the Convention) aims of course to promote, protect and ensure the full enjoyment of dignity, respect, human rights and fundamental freedoms by all persons with disabilities (PWDs). Education is certainly an important way to build up their lives. It not only helps PWDs develop their potentials, but also makes them independent and self-reliant, enabling them to enjoy equal opportunities in all aspects of their lives, such as employment and access to services and facilities in society, so as to fully integrate into society on an equal footing with others. According to Article 24 of the Convention, the right of persons with disabilities to education should be protected. This is also the main point of my speech now.

I remember years ago, I had the opportunity to represent a group of children with intellectual disabilities to seek judicial review, demanding the Court to rule that children with intellectual disabilities should enjoy an equal right to receive education. Of course, seeking judicial review from court could hardly



enable this group of children to gain equal right to receive education, as the Court cannot make policy decisions. For equality of education to be achieved, it, after all, still hinges on the development of policies by the Government and the Education Bureau. However, the problem in Hong Kong lies in the lack of legislation on special education. Without any legislation on special education, the Administration cannot fully ensure the quality and quantity of special education under the legal framework. On the contrary, the Act of Special Education was passed in Taiwan in 1984 to safeguard the education right of children with physical and mental disabilities. The provisions of the Act set out different modes of special education to be adopted respectively at the four educational stages, namely pre-school education, primary education, secondary education and higher education, as so to ensure the learning needs of children with physical and mental disabilities at different stages are met. The Act of Special Education in Taiwan also provides that local governments' estimated expenditure for special education should not be lower than a certain percentage of the overall estimated expenditure for education every year. It even requires local governments to give priority consideration to the needs of children with physical and mental disabilities when compiling the estimates. All these measures serve to ensure sustainable development for which the Taiwan authorities have strived for years, and the continuous enhancement of special education. This is a very good example that really puts into practice the mandate of Article 24 of the Convention, that is, implementing an inclusive education system at all levels and lifelong learning directed to the development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential, so as to enable persons with disabilities to participate effectively in a free society.

The British Government published a green paper in May 2012 to review the effectiveness of the existing complementary measures and policies for children with special education needs. I think a number of recommendations outlined in the green paper are of much worth for Hong Kong's reference. One of which proposes that the authorities should conduct assessment as soon as possible for children who are found to have special education needs, and let these children and their family members know what kind of special education is needed. Apart from the education needs, the assessment should also cover areas of healthcare and social welfare. The assessment should be conducted in a 360-degree manner, reviewing the overall educational direction for the children concerned and how their future should be planned. After completing the all-round assessment, the authorities should work with the parents to draft a plan

for each child, setting out how many resources should be provided to the child, the parents' wish, and the child's individual needs, among others. It sounds like involving lots of resources. However, if we can make a more perfect planning for these children as early as possible, they can grow up under a plan of comprehensive support in terms of education, healthcare and social welfare. Their development will be far better than those who grow up without support from the education system and without comprehensive healthcare and welfare assistances. If we can set up this kind of assessment system as soon as possible, and provide complementary support to enable parents to have full right and freedom to plan for their children's future, I believe it will help these children develop better. In the long run, the community's commitment on this front can probably be reduced too. It is because if these children can develop their potentials, they will have a greater chance to get employed when they grow up. Therefore, I urge the authorities to study carefully the recommendations outlined in the United Kingdom green paper. I think they are also applicable to Hong Kong.

Lastly, I would like to say that Dr Fernando CHEUNG and I are now considering introducing a Member's Bill on special education to push forward the relevant work in Hong Kong. We of course know that it will be very difficult for this Member's Bill to get passed. However, if the Government still does not kick start the work on this front, we have no alternative but to introduce a Member's Bill to push forward such work.

President, I so submit.

**MR CHARLES PETER MOK** (in Cantonese): President, I support the original motion on "Facing up to the needs of persons with disabilities".

I would like to briefly elaborate on several areas. In respect of technology application, Hong Kong is at the forefront worldwide in technology infrastructure. However, quite a number of persons with disabilities (PWDs) in the community still have no opportunity to access or use these technologies, which pose a big obstacle for them to integrate into the community. According to the report published by the United Nations Human Rights Council in 2011, the Internet promotes the right to freedom of expression by individuals. It recognized that using the Internet is a fundamental human right. It is also mentioned in the 2014 Digital 21 Strategy Public Consultation Document and other government documents that only 24.8% of disabled persons in Hong Kong

use computers. The percentage is far too low in contrast to 90.8% for the mainstream community.

Unfortunately, the existing measures taken by the Government fail to specifically address the difficulties (such as the inability to afford computers/computer aids/mobile devices/Internet service, as well as the lack of relevant knowledge and skills) encountered by PWDs in using information technologies. The authorities should provide different supports to address the difficulties encountered by different types of PWDs.

I suggest that the authorities should provide extra allowance for PWDs to purchase or install such equipment via the Social Security Allowance Scheme under which Disability Allowance (including Normal and Higher Disability Allowance) is paid, and based on the Registration Card for Persons with Disabilities issued by the Labour and Welfare Bureau. The authorities should also provide more training to PWDs, addressing their special needs in information technologies. As for the PWDs earning lower incomes, we suggest that the Government should offer allowance to assist all CSSA households to purchase computers/mobile devices and pay Internet connection fee, as Internet usage has become a family's basic item of expenditure.

As regards transportation, I would also like to point out that the existing Rehabus Dial-a-Ride Service cannot meet the demands. During the period between April and September in 2013, there were about 9 000 applications received every month, among which about 1 000 applications cannot receive such service. During the morning and afternoon peak hours every day, there are only 34 Rehabuses offering Dial-a-Ride Service. One way to increase supply of such service is to boost the number of buses and bus captains to provide Dial-a-Ride Service during the morning and afternoon peak hours. In addition, the manpower for service co-ordination, support and management should also be strengthened. At present, there are only 18 staff members working in the office to manage the operation of 129 Rehabuses. They include customer service officers who answer phone calls to handle applications and enquiries. As such, the manpower is really not enough.

The Rehabus operator sought funding from the Government as early as three years ago. It hoped to fully computerize its operation and proposed the hiring of experts to conduct a comprehensive review and make recommendations for service enhancement, such as computerizing the operation and management

system. Customers have also indicated their wish for service computerization, including the provision of online booking and application status enquiry services. The Rehabus operator also sought funding from the Government to conduct a feasibility study in this regard. Few years have passed yet the Government has still not given the Rehabus a reply. I hope that Secretary CHEUNG can follow up on it.

As regards the flow of information, the World Intellectual Property Organization (WIPO) officially passed the Marrakesh Treaty at its diplomatic conference held in Morocco in June this year. It requests all States Parties to include additional requirements in their existing copyright legislation to prompt the copyright owners to allow print-disabled persons make copies of published works, or to issue and provide barrier-free version of their published works for the convenience of different visually impaired persons. The existing Copyright Ordinance in Hong Kong already allows visually impaired persons to convert copyright works into barrier-free formats for self use. Yet, publishers in Hong Kong seldom take the initiative to provide barrier-free version of published works. I suggest the Government consult members of the industry and related organizations in this regard, and further improve the copyright policies to benefit more PWDs. The consultation on the Copyright Ordinance has just finished. Unfortunately, this issue has not been covered in the consultation by the Government.

On the educational front, integrated education has been implemented for years. However, visually impaired students are still deprived of some learning opportunities by schools. They are denied from studying certain subjects or participating in some classroom and extra-circular activities, among others. During their secondary and tertiary studies, they have to make do with inadequate support in the supply of assistive aids, suitable campus facilities, braille textbooks, barrier-free learning materials, and so on. The Government must comprehensively review its integrated education policy.

As for sign language, apart from very few of those who cannot successfully undergo the cochlear implant surgery, many hearing impaired students and their parents indicate that sign language now can just serve as a supporting tool. They are not against the inclusion of sign-language courses as an alternative choice. However, what they hope more is the strengthening of the existing integrated education to help them integrate into the community using their language. For example, it can strengthen the workforce of school inspectors

under the Special Education Support Section of the Education Bureau and maintain the frequency of school visits (twice a year) made by these school inspectors. All such works can help co-ordinate the various needs of those students at schools.

Finally, I suggest that the authorities should engage different organizations for the disabled and related service providers when revising its policies. For instance, the Digital 21 Strategy Advisory Committee and its Task Force on Digital Inclusion can include representatives of different types of disabled PWDs so that they can express opinions on measures which are of use to them, making the measures more suitable to their needs.

President, I so submit.

**MR ALBERT CHAN** (in Cantonese): President, being born disabled is a misery of life. Being born disabled in Hong Kong is even a tragedy in life. This is a tragedy not only for the disabled person but also his family members, as they also play a leading role in the tragedy.

President, Hong Kong provides very little care and assistance to help persons with disabilities (PWDs) to lead a normal life. Over the years, our policies have neglected the needs of PWDs and their family members. I remember about 20 years ago, a young couple, who were both very eminent and successful professionals, lived nearby me. They gave birth to a baby soon after they got married. However, the baby was born disabled and the young couple thus decided to migrate to Canada. They thought that their child would not have any happiness and would face a very bleak future if he grew up in Hong Kong. In consideration of the baby's future, they made up their mind to give up their successful professions and migrate overseas. I believe the aforesaid is just an example of the choice available to the competent and young professional couples. More unfortunately, many disabled babies in Hong Kong are born to families which have no choice but to continue let them grow up and receive education in Hong Kong, in the face of a grim life of despair.

Despite such circumstances, Hong Kong in fact compares favorably with many European countries in terms of gross national product and economic achievements. However, when it comes to meeting the living needs of PWDs,

such as providing education and employment opportunities, and addressing their transportation needs, Hong Kong lags far behind others. It underscores Hong Kong's ignorance and inhumanity in this area, especially the extreme backwardness of relevant government policies.

Over the past few years, I had been raising a question on the progress of equipping buses with low floor trailers year after year in the Legislative Council. As replied by the authorities, the percentage of non-low-floor buses was initially targeted to drop from some 70% or 80% to 30% gradually. A clear timetable for all buses to be equipped with low floor trailers was only put forward until recently.

In addition, we have also fought for barrier-free access for years. The Finance Committee formally approved the construction of relevant government project in July 2011. The project number is 6167TB. The project name is "Provision of barrier-free access facilities at public footbridges, elevated walkways and subways — design works and phase 1 construction works". President, I would like to stress that the approval was made in July 2011. Time flies and it has been two years or so since then. The introduction of barrier-free access is not a benevolent measure proposed by "689", as described by some Members. They just bragged and boasted about it blindly. Although he did mention that in his Policy Address, it was a decision made by his predecessor as shown on the record. I definitely do not hope that the needs of PWDs become a "credit-claiming tool" of "689". I hereby would like to condemn the shameless politico for ruling Hong Kong with lies.

As we talk about meeting the needs of PWDs today, it can only be achieved with the promotion and support of the Equal Opportunities Commission. President, I would first like to thank and praise all those officials, organizations, Members and political parties who have fought for the interest of PWDs. However, the implementation of measures in this area has been progressing very slowly, and many cases of omission have been found. Therefore, I very much hope that the Government can continue checking if there is any room for improvement in this area. If some areas are found to be in lack of such facilities, the Government should not take project-in-progress or not-included-in-project as reasons to wait and address the problem later after the completion of works under that project phrase.

I went to Cheung Chau last Saturday. The Round Table Villages there are age-old villages established by the United States to assist the fishermen in Hong Kong. They are home to poor fishermen, with houses measuring only 100-odd square feet. Some of houses are even smaller, measuring only 10 feet by 14 feet. The houses of the Round Table Villages do not have toilets and villagers have to use public toilets. The public toilets there are only equipped with squatting-type water closets. There is no provision of pedestal-type water closet. Therefore, PWDs cannot use them. Can you imagine that there are still public toilets in Hong Kong not equipped with pedestal-type water closet nowadays? That is a great inconvenience for PWDs. Besides, the whole Round Table Villages, especially the Round Table I Village and the Round Table II Village, still do not have barrier-free access. As the Round Table Villages are situated on mountain peak, it will create huge problems to ageing villagers living there if barrier-free access facilities are not built as soon as possible. I would like to point out that there are countless such problems. I hope that the Government can provide more care to PWDs in this regard, so that they can access to suitable services, and that relevant facilities can also be built as soon as possible.

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

**DR HELENA WONG** (in Cantonese): President, as I just heard many Members citing statistical figures, I also checked it out myself. According to figures of 2007, there were 361 300 persons with disabilities (PWDs) in Hong Kong, with more females than males. The numbers of female and male PWDs were 203 200 and 158 200 respectively. The figures did not include persons with intellectual disabilities. There is no genuine PWD among the 70 Members, except one who is temporarily wheelchair-bound. So, we can rarely hear their voices in this Chamber. Today, we have to particularly thank Mr LEUNG Yiu-chung for moving this motion, so that we can address the needs of some of those being neglected in society — the PWDs and their family members — in this Chamber.

If we pay attention to the composition of the 300 000 to 400 000 PWDs by the types of disabilities, we would find out some gender differences that we have never thought of before. The statistics I quoted in particular were from the

Women's Commission (WC) and the 2013 Edition of the Women and Men in Hong Kong — Key Statistics published by the Census and Statistics Department. The report analysed the types of PWDs in Hong Kong. We found that there were more females than males among those with restriction in body movement, seeing difficulty, hearing difficulty, mental illness/mood disorder. Some figures were stunningly high, especially the category of those with restriction in body movement. The number of females in this category was 116 400, while males only made up of 71 000. That was a significant discrepancy. Besides, there was a huge gender imbalance among those with hearing difficulty, with 76 300 females but just 46 300 males.

There were far more females than males among the aforesaid types of PWDs. However, male disabled persons stunningly outnumbered their female counterparts when it came to three types of disabilities in particular. We should pay attention to these three types of disabilities. Among which is those suffering from autism, with only 600 females but 3 200 males. There were 7 500 males with specific learning difficulties, several times higher than their 2 300 female counterparts. Next was those with attention deficit/hyperactivity disorder, with only 1 400 females but 4 100 males. The three types of disabled persons mentioned just now are all the major categories of those with special educational needs (SEN).

Therefore, the Democratic Party supports the motion moved by Mr LEUNG Yiu-chung today. It is mentioned in the motion that the Government should allocate more resources on integrated education. I think that will particularly benefit male students with SEN. Of course, there are however far more females than males when it comes to those classified as having mood disorders, mental illness, seeing and hearing difficulties and restriction in body movement. I mentioned much about gender differences because I hope that government officials can really take a gender mainstreaming approach to handle all such policies. If we ignore integrated education, it will do more harm to male students. If we do not care for those with restriction in body movement, seeing and hearing difficulties, or provide not enough services to mood disorder patients, we will find that females will suffer more. Therefore, we very much hope that the Government will consider gender differences when devising policies.



The welfare benefits provided by the Hong Kong Government are very few. We often said that we have low tax and low welfare policies. As far as the welfare and care for PWDs is concerned, we often requested Secretary Matthew CHEUNG to provide more in this regard. Yet, it has never been enough. Who have ended up taking care of the disabled then? It is the families of PWDs who are eventually forced to take up this responsibility. How do families take care of their disabled family members? As pointed out in the 2013 Edition of the Women and Men in Hong Kong — Key Statistics, there were a total of 7 900 non-working household members who had quit a job because of the need to take care of members with disabilities. Maybe due to a slight margin of error in statistics, the number of females and males among the 7 900 people were 6 000 and 2 000 respectively. Therefore, we support the motion that those who take care of their disabled family members should be given more assistance, including the provision of carer subsidies.

President, we of course hope that the Government will include more representatives of PWDs in all kinds of advisory committees and public organizations, such as the WC we mentioned just now. We very much hope that the Labour and Welfare Bureau will seriously consider including female disabled members in the WC. As far as we know, the Equal Opportunities Commission has already included female disabled representatives in its membership. Can the WC add such membership seats? Can other committees do so then?

President, today, I particularly hope that the Bureau will care and pay attention to the obstacles encountered by women in their access to healthcare services, and make relevant improvements.

President, I so submit.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Mr LEUNG, you may now speak on the amendments.

**MR LEUNG YIU-CHUNG** (in Cantonese): President, first of all, I would like to thank the four Members who have proposed amendments to my original motion. If we look at these four amendments carefully, we will find that most of the colleagues have added extra points to my original motion instead of deleting the points I raised. I think this is very normal. I heard many colleagues point out in their speeches that even with the amendments added, not all the problems are covered and there are still recommendations to be put forward to address a number of problems. This reflects that the issue on the rights of persons with disabilities (PWDs) is so wide in scope that we cannot finish discussing the issue in today's debate.

President, many organizations came to the Legislative Council Complex this morning to support my original motion. One of their slogans is "Years of fighting only brings nothing — pain without gain for PWDs". This slogan can truly relay their voices and also reflect the facts. PWDs should have a lot of rights but the Government has only granted them a few, so few that they seem to have none. Therefore, the amendments proposed by a number of colleagues have added some points to the original motion. I thank them and I welcome their amendments.

Nevertheless, I would like to highlight one point regarding Mr CHAN Han-pan's amendment. On the issue of employment, he has deleted one of my viewpoints by replacing "minimum wage subsidies" with "tax concessions to employers who employ persons with disabilities to encourage them to employ more persons with disabilities". We have heard just now that some colleagues agree with this suggestion. However, even if tax concessions are provided to encourage employers to offer job opportunities to PWDs, there is still the problem that we cannot ensure a reasonable level of income for PWDs. This is what we are most concerned about.

I propose to provide minimum wage subsidies in the original motion. In fact, during the discussion on the minimum wage, we had already told the Secretary that under the assessment mechanism introduced by the Government ... although we do not oppose an assessment mechanism, some PWDs had, upon assessment, a very low rate of productivity. For example, some PWDs have a productivity rate of only 20% to 30%, how then should they be remunerated? Assuming the hourly minimum wage is \$30, they can only get a pay of \$2 to \$5 per hour. Such an amount can hardly enable them to make a living and the wage has somewhat turned into alms. We do not want to see such a situation because

it is also provided in the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) that we should facilitate PWDs to lead a life of dignity. But with such a low wage, how can they lead a life of dignity? It is impossible.

For this reason, we propose to provide minimum wage subsidies under which the Government will subsidize the difference so that PWDs will be paid wages at the minimum wage rate and can lead a life of dignity. This is provided in the UNCRPD and it is also stated on the government homepage that PWDs will be helped to lead a life similar to ordinary people in Hong Kong. However, if their wages fail to reach the minimum wage level, how can they lead a life similar to ours? As such, I consider Mr CHAN Han-pan's amendment not desirable.

In fact, the relevant committee of the United Nations opines that the provision of sheltered workshops is not a good way to put the UNCRPD into implementation. Worse still, it is found that the daily allowance for PWDs at sheltered workshops is so low that it is close to exploitation. We are worried that if employers hire PWDs simply for the tax concessions without providing any allowance to these employees to supplement their wages, another form of exploitation may exist. Therefore, I hope that Members will support my original motion.

President, I so submit.

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, I would like to thank Mr LEUNG Yiu-chung again for moving the motion and also the 26 Members who have spoken today. They have put forward very substantive and valuable opinions. Let me give a concise reply.

The Government is as concerned as Honourable Members about the employment issue of persons with disabilities (PWDs) because employment can indeed ensure their integration into the community.

Some Members have proposed to establish a mandatory quota system for employing PWDs. Based on international experience, the quota systems introduced by a number of overseas countries to help the employment of PWDs are not effective and some of them have already been abolished. To promote the

employment of PWDs, the international trend is the enactment of anti-discrimination legislation and introduction of other enhanced support measures for PWDs. As such, apart from providing vocational training and stepping up efforts to assist PWDs in terms of employment support, the SAR Government continues to adopt positive encouragement measures to promote the employment of PWDs.

To encourage the concerted efforts of employers in promoting the employment of PWDs, we are currently launching the Talent-Wise Employment Charter and Inclusive Organisations Recognition Scheme (the Charter Scheme) in collaboration with the Rehabilitation Advisory Committee (RAC), the Hong Kong Council of Social Service and the Hong Kong Joint Council for People with Disabilities. The Charter Scheme aims to mobilize the Government, business sector, public and subvented bodies to work together and introduce a series of sustainable measures that cater for the business model of organizations, with a view to promoting the employment of PWDs.

Following the launching ceremony of the Commission on Poverty Summit on 28 September this year, I have written in person to encourage employers across the territory to participate in the Charter Scheme. The Scheme is also promoted to different sectors of the community through various networks and a series of publicity programmes.

A Member has proposed to provide tax concessions to employers who employ PWDs. Under the low tax environment of Hong Kong, a further tax concession may not constitute an incentive to employ PWDs.

To encourage employers to hire PWDs, the Social Welfare Department (SWD) has, since June this year, started to provide subsidies to employers of PWDs for procuring assistive devices or carrying out workplace modification works. An employer can receive a maximum subsidy of \$20,000 for each employee with disabilities. In parallel, the Labour Department has also stepped up its support to employers under the Work Orientation and Placement Scheme. An employer who employs a PWD with employment difficulties and provides him/her with training and support during the work adaptation period will be paid an additional allowance up to a ceiling of \$5,500 per month for two months. Together with the existing allowance up to a ceiling of \$4,000 per month for a maximum period of six months, employers can get an allowance for a maximum of eight months.

Apart from encouraging employers in all sectors to hire PWDs, we spare no efforts in creating job opportunities for PWDs. Under the Enhancing Employment of People with Disabilities Through Small Enterprise Project, the SWD directly creates job opportunities for them through subsidizing non-governmental organizations (NGOs) to set up small enterprises.

On creating a barrier-free environment, all new buildings as well as alterations and additions to existing buildings will have to comply with the latest barrier-free design standards as set out in the current version of the Building (Planning) Regulations and Design Manual. At the same time, the Equal Opportunities Commission (EOC), a statutory body responsible for the implementation of the Disability Discrimination Ordinance, will follow up complaints about barrier-free access. Currently there are also various funds subsidizing eligible private property owners to upgrade barrier-free access of their premises.

To speed up the process of improving the accessibility of government premises, public housing and connecting road facilities, we have taken forward a comprehensive retrofitting programme to upgrade the barrier-free facilities for about 3 500 existing government premises and facilities, as well as about 240 public housing estates at a total cost of \$1.3 billion. The programme covers all government venues with frequent public interface. Retrofitting works for around 90% of these venues were completed as scheduled by June last year while the remaining works will be completed by end-June next year as scheduled.

Regarding the new policy on "universal accessibility" which aims to upgrade the barrier-free access facilities of existing public walkways, the Government has in the first half of this year consulted the District Councils on the priorities of implementing the lifts retrofitting proposals put forward by the public. Initial technical feasibility studies are currently being conducted on those projects given priorities.

We will also closely co-operate with public transport operators to facilitate the use of public transport services by PWDs. The MTR Corporation Limited will continue to carry out barrier-free transportation upgrading works along the railways to facilitate the use of the MTR service by wheelchair users and other people in need. Pre-recorded station announcements are also provided along all railway lines so that visually impaired passengers are notified of the next station and interchange information.

All franchised buses have been retrofitted with video and/or audio bus stop announcement systems and will become wheelchair accessible in 2015-2016.

The Government is aware of the pressing demand for the Rehabus service by PWDs and hence a review will be conducted annually in this regard. More funding will be bid to procure more vehicles in the light of the demand with a view to enhancing the service. Over the past three financial years, the Government has procured an additional 14 buses for the Rehabus fleet and replaced a total of 27 buses of high vehicle age. In 2013-2014, the fleet size will be further increased to 135 vehicles.

The Government is also committed to strengthening residential care and community support services for PWDs, with a view to meeting the needs of PWDs and their carers.

In line with the strategic directions enshrined in the Hong Kong Rehabilitation Programme Plan, we have been adopting a three-pronged approach to encourage participation from different sectors in providing various residential care services for PWDs.

First, we will continue to increase the number of subvented residential care places. According to our present planning, between 2013-2014 and 2017-2018, we estimate that an additional 2 713 places will be available. We will strive to identify suitable sites for constructing new residential care homes for persons with disabilities (RCHDs) so as to provide more subsidized care places.

In addition, the Government has implemented a licensing scheme for RCHDs to regulate their standards and operation since November 2011. It has also launched a pilot Bought Place Scheme for private RCHDs with a view to encouraging private operators of RCHDs to upgrade the service standard and increase the supply of subsidized residential care places. We will also continue to subsidize and encourage NGOs through the Lotteries Fund to develop self-financing RCHDs.

On community support, apart from the existing 16 District Support Centres for PWDs in the territory, we have also implemented the Pilot Scheme on Home Care Service for Persons with Severe Disabilities to provide a package of home-based personal care, rehabilitation training and nursing care for persons with severe disabilities who are living in the community and are on the waiting lists for subvented residential care services. The SWD will regularize the

service in March next year and extend it to persons with severe disabilities in all the districts in Hong Kong, irrespective of whether they are on the waiting list for residential care services or not.

Furthermore, the Community Care Fund has introduced a series of assistance programmes to provide special care subsidies for eligible PWDs (especially persons with severe disabilities) and to provide subsidies to persons with severe physical disabilities for renting respiratory support medical equipment and purchasing related medical consumables. Meanwhile, the SWD and the Hospital Authority are studying the feasibility of introducing a case management-oriented service programme to assist persons with severe physical disabilities who require constant nursing care and do not receive Comprehensive Social Security Assistance (CSSA). The programme is designed to relieve their financial burden in terms of medical equipment, consumable items and care services.

A number of Members have proposed to provide allowance to the carers of persons with severe disabilities. In fact, the Community Care Fund Task Force set up under the Commission on Poverty will explore the feasibility of a pilot scheme of introducing a carer allowance for the elderly. We will closely monitor the development of the pilot scheme to review if corresponding measures may be applicable to persons with severe disabilities.

To promote the wider use of sign language and enhance social inclusion, the RAC under the Labour and Welfare Bureau has set up a working group with a view to advising the Government on ways to promote the use of sign language. The working group has mapped out the strategic directions in promoting the use of sign language covering four major areas, namely sign language training, daily life application, community promotion and education. Jobs involving the use of sign language are also promoted.

We understand the needs for community information by persons with hearing impairment. The Administration will continue to pay heed to public opinions and explore how broadcasting licensees may further enhance their services to facilitate persons with hearing impairment and other special needs to enjoy television programmes.

Quite a number of Members have expressed their views on the Disability Allowance System. The Disability Allowance has been introduced since 1973

to assist persons with severe disabilities to meet their special needs arising from their severe disabilities. Only persons with severe disabilities who badly need the assistance from others in their daily life are eligible for Disability Allowance.

The Labour and Welfare Bureau established a working group early this year to study the subject of allowing people with loss of one limb to apply for Disability Allowance. The working group is aware that the community in general hopes that its review can be completed as soon as possible. However, as the subject is rather complicated which will touch on the criteria on assessing the severity of disabilities, the projection of the number of people involved and the financial implications, the review is expected to complete by the end of next year.

We note that some Members are concerned about the reference of "100% loss of earning capacity" in the medical assessment form for Disability Allowance. The Panel on Welfare Services has also requested the working group to review the medical assessment form. We will report the latest progress at the meeting of the Panel on 9 December.

At present, Disability Allowance, which serves to assist persons with severe disabilities to meet their special needs, is non-means-tested. Other PWDs and their families with financial needs may apply for CSSA under which recipients with different severity of disabilities and practical needs may be provided special grants and higher standard rates to meet their needs. Recipients will receive free medical services in public hospitals or clinics in Hong Kong.

Some Members have suggested that PWDs be allowed to apply for CSSA on an individual basis. I would like to point out that families constitute the core units of a community. Members of the same family should provide support and assistance to each other. Against this principle, CSSA applicants living with their families including PWDs are required to apply on a household basis. Under special circumstances, the Director of Social Welfare may allow PWDs with special needs to apply for CSSA on their own.

Members are very interested in the Public Transport Fare Concession Scheme for the Elderly and Eligible Persons with Disabilities (Fare Concession Scheme). I would like to point out that we are proactively studying the technical arrangements for extending the Fare Concession Scheme to eligible children with disabilities aged below 12. The extension is estimated to come into force in the second quarter of next year.



On the proposal of extending the Fare Concession Scheme to green minibuses, earlier we have collected the relevant information from green minibus operators for analysis purpose. We will also proactively study the government policies, actual operation and financial implications, and so on.

Just now a Member has asked about the present operation of the Fare Concession Scheme. Let me give a brief account here. Currently there are 1.02 million elderly persons aged 65 or above and 130 000 eligible PWDs who benefit under the Fare Concession Scheme. According to the latest figures, the average daily patronage benefiting is about 670 000, among which 590 000 (88%) are elderly persons while 80 000 (12%) are eligible PWDs. In other words, among the 130 000 eligible PWDs, there is a patronage of 80 000 every day who benefit from this "\$2 Fare Concession Scheme". This reflects the popularity of the Scheme.

A Member has also asked whether the SWD may adopt a more lenient and flexible approach in vetting the application for buying electrical wheelchairs under the CSSA. My response is that I will explore with the SWD the room for improvement in the current mechanism and scheme. I will further explore on this with the authorities concerned.

A Member has also asked whether more female PWDs should be appointed to the Women's Commission. The answer is in the affirmative. In fact, there is already one female PWD serving in the Commission.

President, it is the development direction of our rehabilitation policy to build a barrier-free environment, help PWDs develop their potential, ensure they enjoy equal opportunities and promote their integration into the community. We will continue to uphold the spirit and core values enshrined in the United Nations Convention on the Rights of Persons with Disabilities. Close co-operation will be maintained with the Legislative Council, RAC, EOC, PWDs groups, rehabilitation sector and other sectors in the community to promote the rights of PWDs and equal opportunities, as well as to build a caring, inclusive and barrier-free society.

With these remarks, President, the Secretary for Education will give a reply regarding education. Thank you.

**SECRETARY FOR EDUCATION** (in Cantonese): President, first of all, I thank Mr LEUNG again for his original motion, the four Members who have proposed amendments and a number of Members who have expressed their views, for they have enabled the Government as well as Members and people from both inside and outside the Legislative Council who care about the development of integrated education and special education to engage in the relevant discussion.

Mr LEUNG hopes that the Government will comprehensively review the integrated education policy. Here, I wish to reiterate that the whole school approach to integrated education currently implemented in Hong Kong dovetails with the development trend and policies of integrated education in the rest of the world. From our communication with schools and observation, they do support integrated education and the whole school approach has become more and more popular. With the support of policies, culture and initiatives, proper care has been provided to students special education needs.

In fact, the Education Bureau has been reviewing the implementation of integrated education and a Task Force on Integrated Education in Mainstream Schools (the Task Force) was set up in 2005. Through regular meetings with the school sector, tertiary institutions, other government departments, non-governmental organizations (NGOs) and parent groups, the Education Bureau briefs members of the Task Force on the progress of implementing integrated education and seeks their views on improvement measures. We have also kept in touch with various school councils, NGOs and other organizations to strengthen communication and co-operation. We notice that in the course of policy implementation, it is imperative to secure the support of teams of teachers who have qualifications and a sense of commitment, and this is also supported by the experiences of the United Kingdom and Taiwan.

To effectively implement integrated education, the key is the professional abilities of teachers. Some Members considered that serving teachers do not have sufficient training on special education as the Education Bureau has only required 10% to 15% teachers of an ordinary school to complete the relevant elementary course, which is insufficient to effectively take care of students with special education needs. I wish to provide Members with some updated data. As at July 2013, some 41% of teachers from ordinary public sector primary schools and about 17% of teachers from ordinary public sector secondary schools have received at least 30 hours of systematic training on special education. I

hope Members may notice that a new round of training course on the theme of caring students with special education needs has been launched in the 2012-2013 school year. We will continue to appropriately fine-tune the details, modes and goals of the training programme in light of the training provided to various schools and teachers. I wish to highlight that this is not a standalone training programme as the teachers' training institutions have also included this topic as a compulsory module in their pre-service teacher training programmes to enhance prospective teachers' knowledge in this area.

As a Member has mentioned the staff-to-student ratio earlier, I wish to make a brief supplement. In some ordinary schools, there are 1.7 teachers in each primary and junior secondary class and 1.9 to 2.0 teachers in each senior secondary class. Special schools, on the other hand, are provided with additional teachers and non-teaching specialist staff such as speech therapists. Concerning the 2013-2014 school year, I wish to highlight two examples. In a school for students with severe intellectual disability, the class size is eight students and the staff-to-student ratio is 1:4.4. If other specialist staff are also included, the ratio will become 1:2.7. This is just an example to illustrate that proper adjustment has been made in response to the needs.

Regarding the continuous education arrangements for students with special education needs, the Government has all along strived to provide young people (including students with special education needs) with quality and diversified study pathways with multiple entry and exit points. Students may make diversified choices according to their abilities, interests and aspirations, especially in vocational training. I wish to highlight that in the 2012-2013 school year, one more youth college has been set up to provide specialized support for ethnic minorities students and students with special education needs, so as to provide them with professional education and training opportunities that best suit them.

Earlier, a Member has proposed to legislate for the protection of students with special education needs. I must point out that according to the Code of Practice on Education under the Disability Discrimination Ordinance, all education institutions must provide all eligible students (including students with special education needs) with equal opportunities for education. In other words, under the existing laws of Hong Kong, effective protection has basically been provided to the rights of students with special education needs.

Mr KWOK just now mentioned the situation in the United Kingdom and Taiwan. We have also paid special attention to their cases and I think there are two important points to note. First, we must be aware that the implementation of laws in different places will be affected by different factors, especially the readiness of teachers. Take the United Kingdom as an example. After implementing the relevant laws, the authorities noticed that the training and standard of teachers are of paramount importance. However, as learnt from the experience of other places over the past few years, following the enactment of the relevant laws, emphasis had instead been placed on the statutes, forms and instruments. This shows that the need varies with the different places.

Mr IP Kin-yuen just now highlighted the school facilities and considered them pretty important. We do agree that in order for students with special education needs to enjoy school life, the provision of hardware is very important. New school premises built after 1997 should all comply with the new requirements on barrier free access facilities issued by the Buildings Department at that time. As Secretary Matthew CHEUNG has talked about it, I am not going to repeat. I nonetheless wish to point out that the School Improvement Programme and other projects have been launched in a row.

I also wish to highlight one point. At the end of last year, two Members and I had visited a special school, the Chi Yun School, which Mr IP has just mentioned. We have informed the school early this year that in view of its dilapidated school premise, a new school premise in Kai Tak has been allocated to it. We will continue to address the school's relevant needs.

Secretary Matthew CHEUNG has also mentioned sign language just now. I wish to make a brief supplement that teachers are encouraged to adopt appropriate strategies to teach students with hearing impairment according to their abilities and needs. Apart from the provision of hearing aids, we will also teach by using visual strategies, contextual cues, body language, text, gestures, and so on, to teach them to communicate with people orally.

In February 2012, we had used the provision from the Quality Education Fund to support the Lutheran School for the Deaf to launch a three-year project called the "Development of New Vocabulary of Sign Language for Special Education Need on NSS Curriculum". I wish to point out that in Hong Kong, there are currently a number of sign language systems, and the use of different sign language systems serves different purposes in various occasions. Yet, we now have a difficult time being as the different kinds of vocabularies have yet to

be fully developed. We will therefore, from the teaching and learning perspectives, support the schools to expeditiously conduct the relevant research.

President, the Government is committed to providing special education and integrated education, and we are serious. While we think that the measures implemented over the past few years have achieved certain improvements, we also understand that there is still plenty of room for improvement and fine-tuning. When formulating our future measures and plans, we will gear towards this direction and use this as the guideline. Thank you, President.

**PRESIDENT** (in Cantonese): Mr IP Kin-yuen, you may move your amendment.

**MR IP KIN-YUEN** (in Cantonese): President, I move that Mr LEUNG Yiu-chung's motion be amended.

**Mr IP Kin-yuen moved the following amendment: (Translation)**

"To add ", as the resources and support currently provided by the Government to persons with disabilities are very insufficient," after "That"; to add "(4) to allow the expeditious relocation, redevelopment, alteration or improvement of the premises of certain special schools which are excessively dilapidated, cramped and substandard; (5) to allocate additional resources for assisting primary and secondary schools as well as tertiary institutions which provide integrated education in upgrading their hardware facilities, including improving the designs of classrooms and public space, and procuring assistive devices such as font magnifiers, etc., so as to build up truly barrier-free campuses; (6) to allow schools which admit a relatively large number of students with disabilities and special learning needs to employ more permanent teachers as well as professional support and counselling personnel, so as to strengthen the support for such students; (7) to enhance the subsidies and support services for students with disabilities to purchase, repair and maintain assistive devices;" after "special learning needs;"; to delete the original "(4)" and substitute with "(8)"; to delete the original "(5)" and substitute with "(9)"; to delete the original "(6)" and substitute with "(10)"; to delete the original "(7)" and substitute with "(11)"; and to delete the original "(8)" and substitute with "(12)"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr IP Kin-yuen to Mr LEUNG Yiu-chung's motion, be passed.

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

(Members raised their hands)

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

(No hands raised)

Mr IP Kwok-him rose to claim a division.

**PRESIDENT** (in Cantonese): Mr IP Kwok-him has claimed a division. The division bell will ring for five minutes.

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

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

Functional Constituencies:

Mr James TO, Prof Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Dr LAM Tai-fai, Dr LEUNG Ka-lau, Mr CHEUNG Kwok-che, Mr Frankie YICK, Mr YIU Si-wing, Mr Charles Peter MOK, Mr Kenneth LEUNG, Mr KWOK Wai-keung, Mr IP Kin-yuen, Mr POON Siu-ping, Mr TANG Ka-piu, Ir Dr LO Wai-kwok and Mr CHUNG Kwok-pan voted for the amendment.

Ms Starry LEE, Mr CHAN Kin-por, Mr IP Kwok-him, Mr NG Leung-sing, Mr Steven HO and Mr MA Fung-kwok abstained.

Geographical Constituencies:

Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr WONG Kwok-hing, Ms Cyd HO, Mr WONG Kwok-kin, Mr Alan LEONG, Mr Albert CHAN, Mr WONG Yuk-man, Ms Claudia MO, Mr Michael TIEN, Mr James TIEN, Mr Gary FAN, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Miss Alice MAK, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr SIN Chung-kai and Dr Helena WONG voted for the amendment.

Mr TAM Yiu-chung, Mr CHAN Hak-kan, Mrs Regina IP, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Dr Elizabeth QUAT and Mr Christopher CHUNG abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 23 were present, 17 were in favour of the amendment and six abstained; while among the Members returned by geographical constituencies through direct elections, 28 were present, 20 were in favour of the amendment and seven abstained. Since the question was agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was passed.

**MR ANDREW LEUNG** (in Cantonese): President, I move that in the event of further divisions being claimed in respect of the motion on "Facing up to the needs of persons with disabilities" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

I order that in the event of further divisions being claimed in respect of the motion on "Facing up to the needs of persons with disabilities" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

**PRESIDENT** (in Cantonese): Members have already been informed, as Mr IP Kin-yuen's amendment has been passed, Mr CHAN Han-pan has withdrawn his amendment.

**PRESIDENT** (in Cantonese): Mr WONG Kwok-hing, as the amendment of Mr IP Kin-yuen has been passed, you may now move your revised amendment.



**MR WONG KWOK-HING** (in Cantonese): President, I move that Mr LEUNG Yiu-chung's motion as amended by Mr IP Kin-yuen be further amended by my revised amendment.

**Mr WONG Kwok-hing moved the following further amendment to the motion as amended by Mr IP Kin-yuen: (Translation)**

"To add "; and Healthcare — (13) to allow persons with loss of one limb to also receive Disability Allowance" immediately before the full stop."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That Mr WONG Kwok-hing's amendment to Mr LEUNG Yiu-chung's motion as amended by Mr IP Kin-yuen be passed.

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

(Members raised their hands)

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

(No hands raised)

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

**PRESIDENT** (in Cantonese): Dr Fernando CHEUNG, as the amendment of Mr IP Kin-yuen and Mr WONG Kwok-hing have been passed, you may now move your revised amendment.

**DR FERNANDO CHEUNG** (in Cantonese): President, I move that Mr LEUNG Yiu-chung's motion as amended by Mr IP Kin-yuen and Mr WONG Kwok-hing be further amended by my revised amendment.

**Dr Fernando CHEUNG moved the following further amendment to the motion as amended by Mr IP Kin-yuen and Mr WONG Kwok-hing: (Translation)**

"To add "; (14) to introduce a special disability allowance at a rate higher than that of the existing higher disability allowance, so as to target persons with severe disabilities who require intensive care to help them meet the related expenditure; Welfare — (15) to allow persons with disabilities to apply for Comprehensive Social Security Assistance on an individual basis; and Transportation — (16) to expeditiously install MTR platform screen doors and screen door warning lights, so as to protect the safety of visually impaired persons, the deaf and persons with hearing impairment" immediately before the full stop."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That Dr Fernando CHEUNG's amendment to Mr LEUNG Yiu-chung's motion as amended by Mr IP Kin-yuen and Mr WONG Kwok-hing be passed.

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

(Members raised their hands)

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

(No hands raised)

Mr IP Kwok-him rose to claim a division.

**PRESIDENT** (in Cantonese): Mr IP Kwok-him has claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

Mr James TO, Prof Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Dr LAM Tai-fai, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr CHEUNG Kwok-che, Mr Frankie YICK, Mr Charles Peter MOK, Mr Kenneth LEUNG, Mr KWOK Wai-keung, Mr IP Kin-yuen, Mr POON Siu-ping, Mr TANG Ka-piu, Ir Dr LO Wai-kwok and Mr CHUNG Kwok-pan voted for the amendment.

Ms Starry LEE, Mr IP Kwok-him, Mr NG Leung-sing, Mr Steven HO, Mr YIU Si-wing and Mr MA Fung-kwok abstained.

Geographical Constituencies:

Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr WONG Kwok-hing, Ms Cyd HO, Mr WONG Kwok-kin, Mr Alan LEONG, Mr Albert CHAN, Mr WONG Yuk-man, Ms Claudia MO, Mr Michael TIEN, Mr James TIEN, Mr Gary FAN, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Miss Alice MAK, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr SIN Chung-kai and Dr Helena WONG voted for the amendment.

Mr TAM Yiu-chung, Mr CHAN Hak-kan, Mrs Regina IP, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Dr Elizabeth QUAT and Mr Christopher CHUNG abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 23 were present, 17 were in favour of the amendment and six abstained; while among the Members returned by geographical constituencies through direct elections, 28 were present, 20 were in favour of the amendment and seven abstained. Since the question was agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was passed.

**PRESIDENT** (in Cantonese): Mr LEUNG Yiu-chung, you may now reply and you have 12 seconds.

**MR LEUNG YIU-CHUNG** (in Cantonese): I thank Members for their speeches and support for the motion. Thank you, Members.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr LEUNG Yiu-chung, as amended by Mr IP Kin-yuen, Mr WONG Kwok-hing and Dr Fernando CHEUNG, be passed.

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

(Members raised their hands)

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

(No hands raised)

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

**NEXT MEETING**

**PRESIDENT** (in Cantonese): I now adjourn the Council until 11 am on Wednesday 4 December 2013.

*Adjourned accordingly at fourteen minutes past Eleven o'clock.*