

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 27 June 2018

The Council met at Eleven o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE LEUNG YIU-CHUNG

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

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

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

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

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

THE HONOURABLE CHAN HAK-KAN, B.B.S., J.P.

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

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

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

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

THE HONOURABLE CLAUDIA MO

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

THE HONOURABLE STEVEN HO CHUN-YIN, B.B.S.

THE HONOURABLE FRANKIE YICK CHI-MING, S.B.S., J.P.

THE HONOURABLE WU CHI-WAI, M.H.

THE HONOURABLE YIU SI-WING, B.B.S.

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

THE HONOURABLE CHARLES PETER MOK, J.P.

THE HONOURABLE CHAN CHI-CHUEN

THE HONOURABLE CHAN HAN-PAN, J.P.

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

THE HONOURABLE KENNETH LEUNG

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

DR THE HONOURABLE KWOK KA-KI

THE HONOURABLE KWOK WAI-KEUNG, J.P.

THE HONOURABLE DENNIS KWOK WING-HANG

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

DR THE HONOURABLE FERNANDO CHEUNG CHIU-HUNG

DR THE HONOURABLE HELENA WONG PIK-WAN

THE HONOURABLE IP KIN-YUEN

DR THE HONOURABLE ELIZABETH QUAT, B.B.S., J.P.

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

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

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

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

THE HONOURABLE CHUNG KWOK-PAN

THE HONOURABLE ALVIN YEUNG

THE HONOURABLE ANDREW WAN SIU-KIN

THE HONOURABLE CHU HOI-DICK

THE HONOURABLE JIMMY NG WING-KA, J.P.

DR THE HONOURABLE JUNIUS HO KWAN-YIU, J.P.

THE HONOURABLE HO KAI-MING

THE HONOURABLE LAM CHEUK-TING

THE HONOURABLE HOLDEN CHOW HO-DING

THE HONOURABLE SHIU KA-FAI

THE HONOURABLE SHIU KA-CHUN

THE HONOURABLE WILSON OR CHONG-SHING, M.H.

THE HONOURABLE YUNG HOI-YAN

DR THE HONOURABLE PIERRE CHAN

THE HONOURABLE CHAN CHUN-YING

THE HONOURABLE TANYA CHAN

THE HONOURABLE CHEUNG KWOK-KWAN, J.P.

THE HONOURABLE HUI CHI-FUNG

THE HONOURABLE LUK CHUNG-HUNG

THE HONOURABLE LAU KWOK-FAN, M.H.

THE HONOURABLE KENNETH LAU IP-KEUNG, B.B.S., M.H., J.P.

DR THE HONOURABLE CHENG CHUNG-TAI

THE HONOURABLE KWONG CHUN-YU

THE HONOURABLE JEREMY TAM MAN-HO

THE HONOURABLE GARY FAN KWOK-WAI

THE HONOURABLE AU NOK-HIN

THE HONOURABLE VINCENT CHENG WING-SHUN, M.H.

THE HONOURABLE TONY TSE WAI-CHUEN, B.B.S.

MEMBERS ABSENT:

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

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

PUBLIC OFFICERS ATTENDING:

THE HONOURABLE MATTHEW CHEUNG KIN-CHUNG, G.B.M., G.B.S.,
J.P.

CHIEF SECRETARY FOR ADMINISTRATION

THE HONOURABLE JAMES HENRY LAU JR., J.P.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY

DR THE HONOURABLE LAW CHI-KWONG, G.B.S., J.P.

SECRETARY FOR LABOUR AND WELFARE

THE HONOURABLE JOHN LEE KA-CHIU, S.B.S., P.D.S.M., J.P.

SECRETARY FOR SECURITY

THE HONOURABLE FRANK CHAN FAN, J.P.

SECRETARY FOR TRANSPORT AND HOUSING

THE HONOURABLE EDWARD YAU TANG-WAH, G.B.S., J.P.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT

THE HONOURABLE MICHAEL WONG WAI-LUN, J.P.

SECRETARY FOR DEVELOPMENT

THE HONOURABLE KEVIN YEUNG YUN-HUNG, J.P.

SECRETARY FOR EDUCATION

DR RAYMOND SO WAI-MAN, B.B.S., J.P.

UNDER SECRETARY FOR TRANSPORT AND HOUSING

CLERKS IN ATTENDANCE:

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

MISS ODELIA LEUNG HING-YEE, DEPUTY SECRETARY GENERAL

MS DORA WAI, ASSISTANT SECRETARY GENERAL

MR MATTHEW LOO, ASSISTANT SECRETARY GENERAL

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

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

TABLING OF PAPERS

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

| Subsidiary Legislation/Instruments | <i>L.N. No.</i> |
|--|-----------------|
| Public Health and Municipal Services Ordinance (Public Pleasure Grounds) (Amendment of Fourth Schedule) (No. 2) Order 2018 | 119/2018 |
| Declaration of Increase in Pensions Notice 2018..... | 120/2018 |
| Widows and Orphans Pension (Increase) Notice 2018 | 121/2018 |

Other Papers

No. 113 — Sir David Trench Fund for Recreation
Annual Report 2017-2018

No. 114 — Securities and Futures Commission
Annual Report 2017-18

No. 115 — Investor Education Centre
Annual Report 2017-18

No. 116 — Airport Authority Hong Kong
Annual Report 2017/18

Report of the Bills Committee on Road Traffic (Amendment) Bill 2018

Report of the Panel on Public Service 2017-2018

ADDRESS

PRESIDENT (in Cantonese): Address. Mr POON Siu-ping will address the Council on the "Report of the Panel on Public Service 2017-2018".

Report of the Panel on Public Service 2017-2018

MR POON SIU-PING (in Cantonese): President, in my capacity as Chairman of the Panel on Public Service ("the Panel"), I submit its work report for this session and highlight several major areas of work.

The Panel welcomed that 6 700 new posts would be created in the civil service establishment in 2018-2019. Members of the Panel hoped that the new permanent posts created might further reduce the number of non-civil service contract staff.

The Panel continued to actively follow up on the latest updates on the Administration's extension of the service of civil servants. In the 2017 Policy Address, the Chief Executive announced the re-examination of allowing serving civil servants joining the Government between 1 June 2000 and 31 May 2015 to choose to extend their retirement age on a voluntary basis, so as to meet the challenges arising from the ageing population and shrinking labour force. The Civil Service Bureau had launched a consultation this year from 20 February to 30 April to seek views of the staff sides and grade/departmental management on the proposed implementation framework of the new initiative, and received 470 submissions. The Panel also consulted the civil service staff unions/associations and the public on the initiative, and a total of 19 submissions were received. After studying the views collected, the Administration announced the implementation details of the initiative last week, which was scheduled for launching in July this year.

The Administration regularly briefed the Panel on its provision of training and development for civil servants. This year, some members opined that the Civil Service Bureau should enhance the training of civil servants, particularly national affairs, the Basic Law and the relationship between the Constitution of China and the Basic Law. Since the Chief Executive had stated in the Policy Address that additional resources would be allocated for developing Hong Kong into a smart city to improve people's livelihood and make Hong Kong a more liveable city, members generally considered that the Administration should step

up its efforts and organize more relevant courses for civil servants, such as Big Data and application of innovation and technology, so as to enhance service efficiency and quality of departments.

Besides, members also welcomed the Chief Executive's proposal of establishing a civil service college. Members noted that the Administration had identified a site generally suitable for the construction of the civil service college, and was conducting further planning, studies and follow-up.

President, the written report has given a detailed account of the work of the Panel. I so submit.

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Collection of personal data of participants of public assemblies

1. **MR SHIU KA-CHUN** (in Cantonese): *It has been reported that some secondary school students arrived at the Victoria Park in the afternoon of the 4th of this month to get themselves ready for attending the June 4th candlelight vigil to be held there that night. During that time, a woman, for the reason of compiling statistics on the number of participating students, enquired with those students and jotted down the names of the schools they were attending, and she refused to disclose her identity to the reporters. Albeit not wearing a police warrant card, the woman was not stopped when she entered the Police Command Post on the spot. In this connection, will the Government inform this Council:*

- (1) *whether the aforesaid woman is a police officer; if so, of the duties she was discharging at that time and why she was not wearing her police warrant card; if not, the reasons why she was not stopped when she entered the Police Command Post;*
- (2) *whether the Police will deploy plain-clothed police officers to compile statistics on the number of students participating in public assemblies; if so, of the number of participating students in the past five years; if not, how it prevents lawbreakers from collecting the personal data from students under the guise of compiling statistics; and*

- (3) *of the ranks of police officers who are generally deployed by the Police to assess the number of participants of public assemblies, and whether they will also collect the personal data of the participants; if so, of the items, uses and retention periods of the data collected, and the measures to prevent such data from being misused?*

SECRETARY FOR SECURITY (in Cantonese): President, Hong Kong residents enjoy freedom of peaceful assembly, of procession and of demonstration. Over the past five years, a total of about 38 000 public meetings and about 6 000 public processions were held in Hong Kong, i.e. a daily average of 24 public events of different scales. The Police have always handled public meetings and processions in a fair, just and impartial manner in accordance with the law. They also endeavour to preserve public order and public safety by striking a balance between ensuring the smooth progress of lawful and peaceful public events and minimizing the inconvenience which they caused to other members of the public or road users.

To ensure that public events, particularly large scale assemblies and demonstrations, will not cause disorder, as well as to reduce public order and security risk, the Police have a duty to take lawful measures to manage such events as appropriate.

In handling each public event, the Police will first conduct a comprehensive risk assessment in order to formulate an overall strategy comprising staff and equipment deployments as well as contingency plans. The Police will take into account the number of participants and information provided by the organizers, past experience in handling events of similar nature or scale as well as other risk considerations in assessing necessary crowd management measures, road traffic arrangements and manpower deployment and division of work. To devise appropriate crowd management measures, the Police will implement special crowd control and arrange different routes for the participants' entry into the venue or access to the starting point of the procession, etc. They will also coordinate with the Transport Department and other relevant departments on traffic and public transport services, including diversions of and time restrictions on traffic.

The Police will communicate with the organizers on the detailed arrangements prior to the events. On the event day, the Police will maintain close liaison with the organizers and their marshals before, during and at the end

of the event. The Police Field Commander and other personnel will keep observing and assessing the situation at scene, stay alert and adopt necessary response measures in light of the actual environment to ensure that the public event concerned can be conducted in a safe and orderly manner.

My consolidated reply to Mr SHIU Ka-chun's questions is as follows:

In the evening of 4 June this year, a large scale public assembly was held in Victoria Park. According to the Police's statistics, about 17 000 people attended the assembly that evening. To facilitate the holding of the assembly, crowd safety management measures and special traffic arrangements were implemented by the Police at the streets in the vicinity of Victoria Park (Gloucester Road, Sugar Street, Paterson Street, Kingston Street and Great George Street). The Police also designated the South Boulevard and Middle Boulevard of Victoria Park as the emergency vehicle access so that emergency vehicles might reach the park quickly and provide emergency services to people in need as and when necessary. On that day, the Police made use of an underground multifunctional room adjacent to the tennis courts in Victoria Park, which belonged to the Leisure and Cultural Services Department, to set up a Provisional Police Command Post so as to facilitate the command of the frontline work and deployment of manpower. Beside police officers, representatives of other government departments and authorized persons participating in the operation on that day might also gain access to that Command Post.

Similar to their handling of ordinary large scale public meetings and processions, on that evening the Police deployed police officers from various units to implement crowd control measures and traffic diversions, maintain public order at the venue and its environs, prevent crimes and safeguard public safety. On that day, the Police implemented special traffic arrangements and crowd management measures beginning from 4:00 pm, the public entered the venue from 6:00 pm onward, the assembly reached its peak at around 9:00 pm and people began to leave when it came to an end at about 10:00 pm. The entire operation lasted for more than six hours. At each stage the Police had to assess whether there would be problems of over-crowdedness, congestion or collision crowds of people, whether unlawful elements would take advantage of the crowdedness to commit crimes of theft or offences against the person, and whether there would be any confrontation or trouble-makers deliberately provoking others to charge and act violently. As there were many people at the venue, it would be easy to cause chaos instantly and thus endangering the people

there. Therefore, it was necessary for the Police to deploy adequate manpower on that day to ensure the overall safety of the event and participants and to minimize the threats of crimes. While uniformed officers were responsible for crowd control, traffic control, etc., plainclothes officers were engaged in on-site observation and anti-crime duties, as well as the identification of suspected persons such as pickpockets, persons in possession of offensive weapons and persons who committed offences against the person.

The woman referred to in the media report mentioned in the question was one of the plainclothes police officers deployed to work on the spot. The Police's operational details on that day form part of the operational deployment and it is inappropriate for me to disclose.

As for the disclosure of a plainclothes officer's identity and production of his/her warrant card, a plainclothes officer shall identify himself/herself and produce his/her warrant card when exercising his/her police powers according to the prevailing requirement.

Regarding Mr SHIU's question about the Police's compilation of statistics on the number of participants, since the number of participants in public events will have direct impact on public order, safety and related risks, the Police will compile relevant statistics to facilitate the effective management of public events. The ranks of police officers deployed to assess the number of participants depend on the scale of the event. During the public assembly on 4 June, the Police deployed officers to assess the overall number of participants. However, they did not make separate assessments on the number of students or any specific groups, and therefore such breakdowns are unavailable. The Police assess the number of participants for the purposes of taking effective crowd management measures, directing and diverting people flow and keeping the order at the scene. The officers on the spot have to report information like the number of participants, movement of people flow and crowd sentiment so as to gain a clear picture of the situations at the scene for the purposes of making suitable manpower deployment, taking corresponding crowd management measures and formulating contingency plans. Such information does not contain any personal particulars. If members of the public suspect that their personal particulars are collected illegally, they can lodge complaints with the Privacy Commissioner for Personal Data or seek assistance from the Police for follow-up actions. If members of the public are dissatisfied with police officers' discharge of duty, they can complain under the existing complaint mechanism. The Complaints Against

Police Office ("CAPO") will process such complaints and then conduct independent investigations, while the Independent Police Complaints Council will examine the CAPO's investigation findings so as to ensure that the complaints are handled in a fair and just manner.

From the perspective of public order and public safety, large scale public assemblies, processions and demonstrations usually involve risks. In case an incident occurs, the situations may change rapidly and threaten safety of the persons. The Police have the responsibility to deploy suitable and sufficient manpower, including officers of different ranks and units, for such events, take all practical and legitimate measures to regulate the flow of people and traffic, maintain the order of the events and safeguard the safety of participants.

MR SHIU KA-CHUN (in Cantonese): *President, the Secretary has not answered my main question. The organizers and participants of the 4 June candlelight vigil are not criminals, why should plainclothes policemen be deployed to join the crowd? Regardless of whether the purpose is to regulate people flows or prevent crimes, what is the use of student information and the number of participants to the Police? The Police have not told us the ranks of police officers who access the relevant information, how the information will be archived and when it will be destroyed. This is basically political censorship and political intimidation. The Government must give a clear account.*

The 1 July march will be held this Sunday, will the Police collect information from the participants in the same way? Can the Secretary for Security give a clear explanation and make specific commitments?

SECRETARY FOR SECURITY (in Cantonese): President, Mr SHIU may not have clearly read my main reply. I have explained clearly in the main reply that we will not collect personal data but it seems that he has not noted this point. I have just explained clearly that crowd management is important to public order and public safety, and the Police must ensure that no one will take the opportunity to break the law.

In the major events held in the past, the Police had arrested persons suspected of possessing offensive weapons and they also found persons in possession of illegal articles or even committed indecent assaults. To ensure the

safe conduct of public events and the safety of participants, the Police have the responsibility to take lawful and feasible measures to protect the public from the threats of crimes. I reiterate that the Police have only compiled statistics on the total number of participants, but not on the number of participants of individual groups. The Police have also assessed the sentiments of the crowd at that time so as to formulate appropriate contingency measures.

PROF JOSEPH LEE (in Cantonese): *President, after reading the main question of Mr SHIU Ka-chun and the main reply of the Secretary, I have a series of questions. The main question is clear enough: some students who participated in an event were asked to give the names of the schools they were attending. The Secretary has also clearly stated in the main reply that "a plainclothes officer shall identify himself/herself and produce his/her warrant card when exercising his/her police powers according to the prevailing requirement". In the case of a public possession and assembly, the exercise of police power includes collecting information on the number of participants, the movement of people and crowd sentiment, and police officers will appropriately manage the event based on the relevant information.*

I would like to ask if the Secretary thinks that Mr SHIU Ka-chun's main question is fictitious. The Secretary said that the woman was a plainclothes police officer but she had not collected background information on the participants. However, it is clearly stated in the main question that she collected the names of the schools the students were attending. Is Mr SHIU Ka-chun's main question purely fictitious? The Secretary may answer in the affirmative if that is the case. As mentioned by the Secretary in the last paragraph of the main reply, if members of the public are dissatisfied with police officers' discharge of duty, they can lodge complaints with CAPO. If the Secretary thinks that Mr SHIU Ka-chun's main question is fictitious, will he encourage Mr SHIU Ka-chun and the students whose information has been collected to lodge complaints with CAPO about the police officer's abuse of power, given that she has collected the information without identifying herself?

SECRETARY FOR SECURITY (in Cantonese): President, Mr SHIU's main question has used the words "it has been reported". I will not comment on press reports because each day there are different versions on an event. After understanding the relevant situation, the Police think that what actually happened

was different from what was reported. We understand that different reports may have different perspectives and viewpoints, but I can explicitly tell Mr SHIU that the information collected in those actions does not involve personal data. I have clearly stated in the main reply that the Police generally do not need to collect personal data on these events and if any member of the public is dissatisfied with the conduct or actions of the Police, there is a complaints mechanism to ensure fairness to all parties. Members of the public can decide whether to lodge complaints or not, and they can lodge complaints through the complaints mechanism of the Police if necessary.

PRESIDENT (in Cantonese): Mr WONG Ting-kwong, please state your supplementary question.

(Prof Joseph LEE stood up)

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

PROF JOSEPH LEE (in Cantonese): *President, the Secretary has not answered my supplementary question. If the Secretary thinks that the incident has only been "reported", will the President please give me some time to explain ...*

PRESIDENT (in Cantonese): Prof LEE, you have not used the word "reported" just now.

PROF JOSEPH LEE (in Cantonese): *Mr SHIU Ka-chun has used the words "it has been reported" in the main question. If the Secretary thinks that the main question is fictitious, I would like to ask if the Secretary will encourage Mr SHIU Ka-chun and the students concerned to lodge complaints with CAPO.*

PRESIDENT (in Cantonese): I think the Secretary has answered your question. Secretary, do you have anything to add?

SECRETARY FOR SECURITY (in Cantonese): President, I have already answered Prof LEE's supplementary question.

MR WONG TING-KWONG (in Cantonese): *President, according to the relevant reports, a senior police officer pointed out that he has never heard of plainclothes policemen recording the identity of students in the Victoria Park. As it was unnecessary for the Police to collect such information, he also considered the case reported as rare and odd. Another senior police officer has also indicated that generally speaking, the Police would count the number of participants and maintain order at the scene to prevent conflicts. But as there were not many participants on that day, he thought that the Police did not need to identify the participants.*

The Police had previously announced the number of participants in various processions and assemblies, can the Administration inform this Council whether the purpose of counting or assessing the number of participants is to respond to media enquiries, facilitate crowd management or meet other policy needs?

SECRETARY FOR SECURITY (in Cantonese): President, I thank Mr WONG for his supplementary question. As I have highlighted in the main reply, since the number of participants in public events will have direct impact on public order and public safety, the Police must assess the overall manpower requirements. As the number of participants will directly affect the manpower deployment of the Police, the Police will count the number of participants, but that is purely for the purpose of actual operational needs. A long time ago, the Police would not announce the number of participants counted. The Police would, based on its experience, decide how to tackle the situation when the number of participants reached a certain level. Since public events often draw the concerns of various parties and the media, especially during a certain period in the past, the media was eager to know the number of participants counted by the Police, the Police thus cooperated with the media to provide the public with the number of participants counted. Generally speaking, the methods adopted by the Police to count the number of participants include counting the number of participants at the entrance or exit of the assembly, especially at the most crowded places and integrating the numbers counted by different police officers. The statistics obtained will also be checked by the senior commander of each

event. Counting the number of participants only serves one purpose, i.e. the Police will make manpower deployment and formulate management proposals on the basis of the number of participants counted. There are no other purposes.

DR FERNANDO CHEUNG (in Cantonese): *President, the Secretary has clearly stated in the main reply that "a plainclothes officer shall identify himself/herself and produce his/her warrant card when exercising his/her police powers according to the prevailing requirement". He has also admitted that the woman who asked the students for the names of their schools on that day was a plainclothes police officer. I would like to ask the Secretary, as that plainclothes police officer indicated that the purpose was to count the number of attending students, was she exercising police power?*

SECRETARY FOR SECURITY (in Cantonese): President, I have made it very clear just now that I will not comment on the details of different reports. When the Police exercise powers conferred by law, they should definitely identify themselves, but very often, police officers do not need to exercise the powers conferred by law. For example, police officers responsible for police community relations often have contacts with local people to answer their questions or provide services. They are plainclothes police officers and do not need to exercise the powers conferred on the Police by law. In addition, the Junior Police Call or the Police Public Relations Branch often organize activities related to police duties but the police officers concerned may not necessarily have to exercise police power. According to existing provisions, plainclothes police officers need to identify themselves when exercising police powers.

(Dr Fernando CHEUNG stood up)

PRESIDENT (in Cantonese): Dr CHEUNG, which part of your supplementary question has not been answered?

DR FERNANDO CHEUNG (in Cantonese): *President, my question to the Secretary is whether the person who asked the students for the names of the schools they were attending on that day was exercising police powers, but the Secretary has not answered the question.*

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

SECRETARY FOR SECURITY (in Cantonese): I have stated time and again that I will not comment on the details of the reports.

PRESIDENT (in Cantonese): Second question.

Planning of facilities for the elderly and persons with disabilities

2. **DR FERNANDO CHEUNG** (in Cantonese): *President, regarding the planning of facilities for the elderly and persons with disabilities ("PWDs"), will the Government inform this Council:*

- (1) *whether the planning of various types of facilities for the elderly and PWDs has been conducted under the Hong Kong 2030+: Towards a Planning Vision and Strategy Transcending 2030, which is expected to be promulgated within this year; if so, of the standards adopted, as well as the numbers of various types of facilities (including residential care places) needed to be provided in accordance with the planning results, and the floor areas they will occupy;*
- (2) *as the Government indicated in October last year that it planned to reinstate "population-based planning ratios for elderly services" in the Hong Kong Planning Standards and Guidelines ("HKPSG"), of the progress of such work, the reasons for deleting such ratios in the past, the ratios and per capita space standards to be adopted in providing the various types of facilities, and how the new ratios and standards compare with the old ones; and*
- (3) *whether it has plans to include the planning ratios for services for PWDs in HKPSG; if so, of the timetable, and the ratios and per capita space standards to be adopted for the provision of various types of facilities; whether such ratios were included in the past; if so, of the reasons for the subsequent deletions, and how the new ratios and standards compare with the old ones?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, my reply to the Member's question is as follows:

- (1) According to information provided by the Development Bureau, the Development Bureau and the Planning Department ("PlanD") completed the public engagement exercise for the "Hong Kong 2030+: Towards a Planning Vision and Strategy Transcending 2030" ("Hong Kong 2030+") last year. They are now analysing the views received from the public, and planning to complete the relevant technical assessments within this year before finalizing the latest territorial development strategy. Hong Kong 2030+ study is a broad-brush assessment on the long-term land requirements of various uses including housing, economic as well as "Government, Institution and Community" ("G/IC") facilities, and facilities for the elderly and persons with disabilities ("PWDs") are among G/IC category. To update the territorial development strategy for Hong Kong, the Development Bureau and PlanD will discuss with the Labour and Welfare Bureau and other relevant Policy Bureaux on how to incorporate additional land requirements arising from the latest policy measures concerning elderly and rehabilitation services as well as other areas in our future development strategies.
- (2) The planning standards and guidelines on the facilities for the elderly are set out in Chapter 3, "Community Facilities", of the Hong Kong Planning Standards and Guidelines ("HKPSG"). In fact, the existing planning standards on the facilities for the elderly were amended in 2008. Prior to the amendment, the previous planning standards were 17 Care-and-Attention places for every 1 000 elderly persons aged 65 or above, one Day Care Centre for the Elderly per 17 000 elderly persons aged 65 or above, one Multi-service Centre for the Elderly⁽¹⁾ per 17 000 elderly persons and one Social Centre for the Elderly⁽²⁾ per 2 000 elderly persons aged 65 or above.

According to the existing planning standards and guidelines in HKPSG, in force since 2008, the number of District Elderly Community Centres ("DECCs") and Neighbourhood Elderly Centres

- (1) Multi-service Centre for the Elderly is now known as District Elderly Community Centre.
- (2) Social Centre for the Elderly is now known as Neighbourhood Elderly Centre.

("NECs") as well as the number of places for Day Care Centres/Units for the Elderly in a district should not only be determined with reference to the size of the elderly population, but also factors such as the demographic characteristics, geographical environment and actual demand and supply of the services, etc. As regards the number of subsidized residential care places, the demand, resources and the availability of suitable premises should also be considered.

As set out in the Elderly Services Programme Plan ("ESPP"), the development of public elderly facilities takes considerable time⁽³⁾. ESPP therefore recommended the reinstatement of population-based planning ratios in HKPSG to allow better forward planning of the relevant department(s) in reserving sites and premises.

According to the projections in ESPP, the indicative planning ratios for subsidized long-term care services in 2026 are 21.4 subsidized residential care places and 14.8 subsidized community care places per 1 000 elderly persons aged 65 or above. In addition, ESPP recommended that there should be one DECC in each new residential area with a population reaching 170 000. Where appropriate, there should be one NEC in each new and redeveloped public rental housing ("PRH") estate and one in private housing areas with a population of 15 000 to 20 000 in new residential areas. ESPP has also proposed that the planning ratios should be reviewed from time to time and where appropriate, be adjusted to reflect the changing demographic structure of the elderly population.

To follow up on the recommendations concerned, "The Chief Executive's 2017 Policy Agenda" sets out that the Government plans to reinstate the population-based planning ratios for elderly services in HKPSG. The Labour and Welfare Bureau and the Social Welfare Department have commenced discussions with the Development Bureau and PlanD in this regard, including the drawing up of specific amendments to HKPSG. After HKPSG has been amended, we will review and update the relevant planning ratios at suitable junctures, to ensure that the planning of facilities could meet the service demand.

(3) Based on past experience, the development of a new elderly facility takes around 10 years from site identification to actual service provision.

- (3) To ensure relevance of the services for PWDs, the Government has asked the Rehabilitation Advisory Committee ("RAC") to formulate a new Hong Kong Rehabilitation Programme Plan ("RPP"). RAC has commissioned the Hong Kong Polytechnic University ("Consulting Team") to provide consultancy service and launched a public engagement exercise for the formulation of the new RPP. The RAC's consultation work for the Scoping Stage will be completed soon, and RAC recommends the inclusion of planning of residential care and community support services in the scope of the current review. In view of the diverse service needs of PWDs and the different requirements on services from persons with different disabilities, the Consulting Team will examine the parameters and basis for the planning of rehabilitation services and facilities. For instance, whether a population-based planning ratio should be set as in the case of ESPP. The Consulting Team will consult stakeholders on the issues concerned in the next stage of consultation exercise. Depending on the progress of the consultation work, RAC aims to submit a report on the new RPP to the Government by end-2019. The Government has not included any planning ratio for rehabilitation services in HKPSG in the past.

DR FERNANDO CHEUNG (in Cantonese): *President, it is the duty of the Government to make land use planning for accommodating various public facilities, particularly social welfare facilities. One of the objectives of the so-called "grand debate on land supply" now underway is to study how sufficient space should be provided for social welfare facilities through land planning in the future. The Secretary, however, has failed to give a clear account in the main reply of the per capita space requirement for the social welfare facilities (particularly the facilities for the elderly and PWDs) covered by Hong Kong 2030+.*

According to the recommendation in ESPP, there should be 21.4 subsidized residential care places per 1 000 elderly persons aged 65 or above. May I ask the Secretary about the per capita space requirement for these places?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, neither ESPP nor the old HKPSG has stipulated the per capita space requirement for these residential care places.

DR CHENG CHUNG-TAI (in Cantonese): *President, I would like to ask the Secretary: In planning for the provision of facilities for the elderly and PWDs in the community, has the Bureau noticed that the sale of PRH shopping centres by Link REIT has resulted in the disappearance or phasing out of some of these existing facilities from the shopping centres? Is the Bureau aware of this potential problem when planning for the provision of facilities for the elderly and PWDs in PRH estates?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I have some difficulties understanding this supplementary question. If it is about the existing subsidized service units in PRH estates, according to my understanding, there has not been any change in these subsidized service units after the change in property ownership as previously mentioned.

PRESIDENT (in Cantonese): Mr WU Chi-wai, please raise your supplementary question.

(Dr CHENG Chung-tai stood up)

PRESIDENT (in Cantonese): Dr CHENG, which part of your supplementary question has not been answered?

DR CHENG CHUNG-TAI (in Cantonese): *President, does the Secretary want me to clarify my question? Or should I ...*

PRESIDENT (in Cantonese): Dr CHENG, the Secretary has already answered your question. Please sit down. Mr WU Chi-wai, please raise your supplementary question.

DR CHENG CHUNG-TAI (in Cantonese): *He has already answered my supplementary question?*

MR WU CHI-WAI (in Cantonese): *President, the provision of barrier-free access is fundamental for the elderly and PWDs to have an easy access. While it is believed that the Bureau will, in the future, introduce various new planning standards based on the findings of the consultancy study, the provision of barrier-free access is unsatisfactory at the moment in many places in the community, especially in older private housing estates and private buildings. Moreover, these places are not covered by the current accessibility programme of the Government.*

My question for the Secretary is: Will the Bureau collaborated with the Development Bureau to consider how to put private housing estates and private buildings under the accessibility programme so as to facilitate the access of the elderly and PWDs living there?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, this supplementary question goes beyond the scope of the main question, but I will answer briefly.

In fact, we will from time to time study and update the building requirements for the provision of barrier-free access. The updated requirements, however, will only apply to buildings which are newly-built or substantially renovated. Therefore, the standards adopted by a large number of old buildings (particularly those completed before 1987) differ greatly from the current accessibility requirements. The design of old buildings in areas like fire services also may not be in line with the current standards. As this issue has long been our concern, we wish to think of a solution someday. Recently, Members may have noted that the installation of facilities such as stair climbers can facilitate the access of elderly persons or PWDs.

MR SHIU KA-CHUN (in Cantonese): *President, over the years, there have been voices in both the Council and the community requesting the Government not to take the number of residential care places provided by homes under the Enhanced Bought Place Scheme ("EBPS") as a benchmark because many*

incidents of elderly abuse have happened in the EBPS homes. While the planning ratio of 21.4 residential care places per 1 000 elderly persons is proposed to be included in HKPSG by ESPP, these places can be provided either by the EBPS homes or subsidized residential care homes.

May I ask the Secretary to clarify, among the residential care places referred in HKPSG, how many of them will be provided by the EBPS homes? How many will be provided by subsidized residential care homes?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, the answer to this question is in the main reply. The additional residential care places proposed in HKPSG are subsidized residential care places.

MR GARY FAN (in Cantonese): *Earlier on, the Secretary talked about ESPP formulated by the Elderly Commission last year in the main reply. It is proposed in ESPP that population-based planning ratios and an "estate-based" approach be adopted in the planning for elderly service facilities. In other words, residential developments should have sites and premises reserved for the provision of elderly services.*

Yet, even if the service ratios relating to the elderly and PWDs is now incorporated into Hong Kong 2030+, how will such ratios be realized in the future? Has the Government considered how to implement the "population-based" and "estate-based" concepts? Past experience shows that many residents' groups do not really accept having elderly service facilities in their buildings. In the future, will the Government include the requirement for providing elderly service facilities in the conditions of sale or land leases of private domestic sites, instead of providing such facilities solely on the G/IC sites?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, we are now working on these tasks. Members may look up the relevant Government's submission to the Panel on Welfare Services.

DR FERNANDO CHEUNG (in Cantonese): *President, the Secretary just gave a wrong answer. It is clearly stated in Table 3 of HKPSG (relating to community facilities) that the net usable floor area required for every 100 places in residential care homes for the elderly ("RCHEs") is 1 754 sq m, but just now the Secretary said that there was no such a space requirement.*

May I ask the Secretary how sufficient land can be reserved for our future social welfare facilities under Hong Kong 2030+ in the absence of space standards?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, earlier on, Dr CHEUNG asked in his supplementary question whether there was a per capita space requirement in HKPSG. Nevertheless, the information cited by him just now has nothing to do with the per capita space. In that table, the figures so listed are only the ratios of some relevant usable land in two different circumstances. On this issue, the authorities have formed a committee to study the space requirements for RCHEs and residential care homes for PWDs in the future legislation. Upon the introduction of these standards, we will discuss the land arrangement with PlanD.

MR LEUNG YIU-CHUNG (in Cantonese): *President, the Secretary pointed out in part (2) of main reply: "ESPP recommended that there should be one DECC in each new residential area with a population reaching 170 000. Where appropriate, there should be one NEC in each new and redeveloped public rental housing ('PRH') estate and one in private housing areas with a population of 15 000 to 20 000 in new residential areas."*

In view of the aforesaid figures, I do not think there is any big problem if the size of population is taken as the sole consideration. However, has the Secretary considered the geographical environment of different districts? In some districts, there will not be sufficient population to meet the aforementioned planning ratios for services unless a very large area is taken into account. In addition, there may be elderly persons living uphill and downhill. If an elderly centre is built at a remote location, it will be difficult for the elderly to walk there. Apart from the size of population, will the Secretary also take into account the geographical environment of different districts? If the geographical

environment in a particular district is relatively special, will the authorities relax the population-based standard to build more elderly centres for the elderly in the district?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I think the crux of this issue lies in the identification of suitable sites and the accessibility design rather than the population-based standard stipulated in HKPSG.

MR GARY FAN (in Cantonese): *Secretary, I wish to follow up on my previous supplementary question. According to your earlier reply, the authorities are now working on the relevant tasks. Yet, my concern is that the authorities should provide elderly service facilities not only on the G/IC sites but also in places like private buildings in the future.*

What are the standards adopted by the Government in respect of the provision of elderly service facilities in private buildings? When and how will this task be carried out? Will this task be done systematically? Will there be clear standards for deciding which private residential developments will be imposed with the requirement for providing elderly service facilities in their conditions of sale or land leases? What are these standards?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, as I pointed out in the main reply earlier, the size of population is a major consideration in the relevant planning. In the case of RCHEs, we will have to consider the overall supply of RCHE places in Hong Kong as well as the distribution of RCHEs. Therefore, before deciding whether the requirement for building a RCHE should be imposed on a particular site, we will review whether there are sufficient RCHEs in the district and across Hong Kong. Wherever there are suitable sites for building RCHEs or other care homes, we have already tried our best to impose the requirement for building care homes on almost every site.

MR LEUNG YIU-CHUNG (in Cantonese): *President, in the Secretary's earlier reply to my supplementary question, he said that the crux of the issue lies in the identification of suitable sites. However, as I said previously, given the geographical environment of some districts, problems will arise no matter where an elderly centre is built. For example, in a district where there are residents living uphill and downhill, there will always be some elderly persons having to travel a long way before they can join the activities held in the elderly centre, be it built uphill or downhill. That was why I asked whether the authorities would deal with this kind of circumstances flexibly. They should not take the size of population as the sole consideration for setting up an elderly centre; instead, they should also give thought to the geographical environment and build more elderly centres for the elderly to have access to the services of these centres.*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): *President, we will take everything into account. However, in deciding the location of an elderly centre, we cannot set up a centre simply because there are two households living uphill. We have to weigh up many factors at the same time.*

PRESIDENT (in Cantonese): Third question.

Impact of the reduction in the maximum coverage for mortgage loans provided under the Mortgage Insurance Programme

3. **MR CHAN CHUN-YING** (in Cantonese): *President, in February 2015, the Hong Kong Mortgage Corporation Limited tightened the arrangements under the Mortgage Insurance Programme ("MIP") by reducing the maximum MIP coverage for eligible residential properties from 90% loan-to-value ("LTV") ratio to 80% LTV ratio, and suspending the acceptance of applications for mortgage loans exceeding 80% LTV ratio. However, those first-time home buyers with regular income and stronger repayment ability are still eligible for MIP coverage of 90% LTV ratio. Some members of the public have pointed out that in recent years, developers have calculated the maximum property price affordable to first-time home buyers on the basis of the maximum MIP coverage and the mortgage loan amounts generally approved by banks for first-time home buyers. For instance, when the per-square-foot price is \$10,000, a home buyer who can afford a property price of \$4 million will be able to buy a flat of 400 square feet;*

when the per-square-foot price rises to \$20,000, he can only buy a flat of 200 square feet. As the price per square foot of flats has been rising incessantly in recent years, the size of the residential flats built by developers according to the price affordable to buyers has become smaller and smaller. In this connection, will the Government inform this Council:

- (1) of the number of residential mortgages covered by MIP each year since the tightening of the arrangements under MIP and, among them, the number and percentage of such mortgages involving flats with saleable floor area less than 20 square metres; how such figures compare with the relevant figures for the two years immediately preceding the revisions;*
- (2) whether it has conducted studies on the correlation between the tightening of the arrangements under MIP and the prevalence of nano residential flats; if so, of the details; if not, the reasons for that; and*
- (3) whether it will consider regulating nano flats, such as stipulating the minimum size of residential flats through administrative measures?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, the Mortgage Insurance Programme ("MIP") was launched by the Hong Kong Mortgage Corporation Limited ("HKMC") in March 1999 to promote home ownership in Hong Kong. According to the guideline issued by the Hong Kong Monetary Authority ("HKMA"), banks have to comply with loan-to-value ("LTV") requirement on owner-occupied residential mortgage lending. MIP provides mortgage insurance to banks, thereby enabling banks to provide mortgage loans with higher LTV ratio without incurring additional credit risk. Under MIP, banks are the mortgage loan providers. The mortgage insurance aims to protect participating banks from losses, in general, on the portion of the loan over the 60% LTV threshold due to mortgage default by the borrowers. Therefore, in addition to promoting home ownership, MIP also contributes to the maintenance of banking stability.

Having consulted the relevant bureaux, my reply to various parts of the question raised by Mr CHAN Chun-ying is as follows:

- (1) The numbers of loans drawn down under MIP of HKMC in the past few years were 4 925 for 2015, 7 145 for 2016 and 8 829 for 2017 respectively. The number of loans drawn down under MIP for residential properties with a saleable area equal to or under 200 sq ft accounts for a small percentage of the total number of loans drawn down. The corresponding numbers of loans drawn down in the past three years were 49 for 2015, 57 for 2016 and 164 for 2017 respectively, accounting for less than 2% of the total number of loans drawn down. On the whole, the ratios of loans drawn down in these years as well as those for the two years immediately preceding the revisions of MIP by HKMC in 2015 are low. Please refer to Annex for details on the number and ratio of loans drawn down under the MIP in the past five years.
- (2) The size of residential properties reflects changes in the supply and demand of the property market. As one of the financing tools, the MIP has no direct correlation with the size of residential properties.
- (3) We need to strike a reasonable balance between housing production and average living floor area per person, as both the increase in housing production to address needs for accommodation and the increase in average living floor area per person to improve living standard would require additional land. In view of the imbalance in supply and demand for land and housing, and given the fact that property prices are soaring continuously, our current priority is accorded to increasing housing production to meet the basic accommodation needs of the public. Besides, as a pluralistic society, there are diverse aspirations in respect of flat size. In the longer run, we consider that when the land shortage situation is alleviated, our society will be in a better position to explore whether a standard on average living floor area per person should be set.

The Government has reminded the public repeatedly on different occasions that buying a property is not only one of the most important decisions in life, it is also a financial transaction entailing significant leverage through borrowing. They must be mindful of their ability to cope with the potential risk that may arise from possible changes in the economic and market conditions as well as mortgage interest rates and do not overstretch themselves. In particular, prospective

buyers should ensure that they fully understand the detailed terms and conditions if they opt for the mortgage plans offered by property developers. While the incentives may look attractive in the short term, prospective buyers should take into account any changes that may occur in the future, assess carefully their repayment ability and make a shrewd and prudent decision.

The Government and HKMA will continue to monitor the property and mortgage markets closely, and will adjust the relevant supervisory measures as and when necessary to ensure that banks are managing their risk properly.

Annex

The number of loans drawn down under MIP of HKMC in the past few years is provided below:

| <i>Year</i> | <i>Number of loans drawn down</i> |
|-----------------------|-----------------------------------|
| 2013 | 4 245 |
| 2014 | 4 970 |
| 2015 | 4 925 |
| 2016 | 7 145 |
| 2017 | 8 829 |
| 2018 (January to May) | 4 097 |

The number of loans drawn down under MIP for residential properties with a saleable area equal to or under 200 sq ft in the past few years is provided below:

| <i>Year</i> | <i>Number of loans drawn down for saleable area equal to or under 200 sq ft</i> | <i>Proportion</i> |
|-----------------------|---|-------------------|
| 2013 | 13 | 0.31% |
| 2014 | 11 | 0.22% |
| 2015 | 49 | 0.99% |
| 2016 | 57 | 0.80% |
| 2017 | 164 | 1.86% |
| 2018 (January to May) | 65 | 1.59% |

MR CHAN CHUN-YING (in Cantonese): *President, apart from MIP which can help first-time home buyers, the Government also indicated in the Policy Address last year that "Starter Homes" for Hong Kong residents would be introduced. At the end of 2018, a site at Anderson Road would be selected to implement a pilot scheme to provide 1 000 units. Many members of the public would like to ask the Government about the progress of the pilot scheme and the implementation timetable. I understand that these matters are not within the purview of the Financial Services and the Treasury Bureau. Apart from the timetable, may I ask whether the Government will, after launching the pilot scheme, slightly increase the LTV ratio under MIP for first-time home buyer applicants with regular income and stronger repayment ability?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): *President, the current-term Government has paid special attention to various demands concerning the pilot scheme for first-time home buyers and we have listened to the views of society, including whether the LTV ratio under MIP can be raised, as pointed out by Mr CHAN. We are currently conducting analysis in this regard and after finalizing the particulars, we will announce the details of the "Starter Homes" Pilot Scheme for Hong Kong Residents in the middle of this year.*

MR TONY TSE (in Cantonese): *President, the Secretary pointed out in the main reply that the size of residential properties reflects changes in the supply and demand of the property market. However, the Government has, in selling land in the past, imposed conditions on flat sizes, so as to prohibit developers from only building large residential units. Surprisingly, with the rise in property prices, some people are now asking the Government not to restrict developers in only building small units. That is ironic in respect of the Government's housing and land policy. Thus, may I ask the Secretary whether the current-term Government will make reference to the approach of restricting flat sizes and imposing conditions when selling land, restricting the number of nano flats to be developed; or requiring developers to build a certain ratio of flats with two or three bedrooms; or leaving it to the market to decide the size of flats?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, as I mentioned earlier, we need to strike a reasonable balance between housing production and average living space per person, as an increase in housing production to address accommodation needs and an increase in average living space per person to improve living standard would require additional land. As I said earlier, in view of the imbalance in supply and demand for land and housing which has resulted in the continuous rise in property prices, the current priority of the Government is to increase housing production. The Member asked whether there would be special instructions or adjustment regarding average living space per person, or how to strike a balance between housing production and average living space per person. At present, we need some time to observe market development. In the long run, when the land shortage situation is alleviated in the future, our society will be in a better position to explore whether a standard average living space per person should be set.

MR MARTIN LIAO (in Cantonese): *President, given that housing supply is limited and property prices continue to rise, setting the maximum property price of MIP coverage has indirectly aggravated the prevalence of nano flats. The homes of Hong Kong people have become smaller and smaller with deteriorating living conditions, which goes against the objectives of our long-term housing policies. In October last year, the Chief Executive said that studies would be conducted on whether the maximum property price of \$4,500,000 at which mortgage loans of 90% LTV ratio were available could be adjusted upward. The Government said that adjustment of the LTV ratio was not intended to alleviate the "curb" measures, but to help young people without enough money for down payment to buy their first flats. President, may I ask about the progress of the studies? What are the factors for determining whether the LTV ratio will be relaxed and whether measures are in place to relax the restrictions on the LTV ratio?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, we understand the Member's concern. MIP was first introduced with the purpose of helping people who did not have enough money for down payment but met all the other requirements (including that of income) to buy their own homes. The maximum property price under MIP had been adjusted downwards a number of times and the market situation has changed too.

As reflected in the figures listed in the Annex, the number of loans drawn down under MIP in the past five years, particularly in the past three years, has increased to more than 8 000 each year. We will continue to review the situation according to changes in market situation and the demands regarding LTV ratio. In response to changes in market situation, HKMC will examine whether there is a need to amend the LTV ratio to 80% or 90% under MIP. At present, mortgage loans with 90% LTV ratio are only available for owner-occupied residential flats, whereas this condition does not apply in mortgage loans with an LTV ratio of 80% or lower. Thus, HKMC will review this condition. At the same time, it will consider the risk it can afford and the impact of any adjustments on the property market. After the review, we will make adjustments where necessary.

MRS REGINA IP (in Cantonese): *President, before banks lend money to people intending to buy property or approve any loan applications, they will conduct creditworthiness tests or assessments. However, does the Secretary know: first, whether property developers will conduct such tests when they lend money to potential buyers of their expensive properties and whether HKMA will exercise any regulation in this regard? Will too much liquid capital inflow into the private property market cause over-lending? Consequently, employees will have to pay mortgage instalments to property developers all their lives. Second, will too much liquid capital inflow make the property market more exuberant?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, the supplementary question raised by the Honourable Member is also our prime concern. Very often, property developers will launch different kinds of mortgage plans to attract buyers and boost the sales of their flats. Property developers offer a great variety of mortgage plans and incentives, which include interest holiday, no requirements for income proof and mortgage loans with LTV ratios of as high as 80% or more. As property developers are not within HKMA's scope of regulation, HKMA cannot regulate them. Nevertheless, as banks do lend to property developers, in order to ensure that banks are managing the relevant risks properly, HKMA introduced supervisory measures in May last year, under which banks have to set aside an adequate amount of capital for credit risk exposure to the property developers concerned, as well as to lower the financing ratios applicable to construction loans.

HKMA has also reminded the public repeatedly on different occasions that, as I said earlier, buying a property is one of the most important decisions in life, thus one should be mindful of his ability to cope with risks and that risks may arise from possible changes in the market, particularly those of interest rates and the general economic situation, and assess carefully their repayment ability. We will continue to remind the public to assess carefully their financial ability to determine whether they can accept the incentives offered by property developers and whether they are able to take the risks concerned.

DR ELIZABETH QUAT (in Cantonese): *President, many families in Hong Kong have tried hard to save money to buy a flat for self-occupation. These people are neither investors nor speculators; and they only aspire to have a cozy home. Nevertheless, under the policies and regulations currently introduced by the Government, they actually can only afford to buy nano flats. According to the existing requirements of MIP, the maximum monthly mortgage repayment to income ratio is 45% for fixed income earners and the highest LTV ratio for mortgage loans of the property purchased is 90%, but the maximum property price is only \$4.5 million. May I ask the Secretary whether there is still any flat priced below \$4.5 million? President, considering that property prices are soaring continuously, will the authorities adjust the maximum property price under MIP? If the Government wants to help first-time owner-occupiers, can it relax the age restrictions of mortgagors? At present, if a mortgagor is aged over 46, he/she cannot choose to have a repayment period of 30 years. Besides, there are various hurdles to overcome, e.g. purchasers have to pay stamp duties of some \$100,000, thereby compelling them to buy only nano flats. If the Government wants to help first-time owner-occupiers, will it consider introducing a series of relaxation measures?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, the Government is particularly concerned about first-time owner-occupiers. Dr QUAT is correct in saying that in MIP, the ratio of mortgage loans with 90% LTV ratio is low. Regarding the supply of flats in the market, as property price rises, the number of flats priced below \$4 million is fewer than before, but we do not have specific figures in this respect.

Nevertheless, President, as I said earlier, we will invite HKMC to review the changes in the market and the concerns raised by Members and examine whether there is a need to revise MIP to help first-time owner-occupiers.

MR GARY FAN (in Cantonese): *President, I would like to raise a similar supplementary question. As stated in the main reply by the Government, the number of loans drawn down under MIP for residential properties with a saleable area equal to or under 200 sq ft accounts for a small percentage of the total number of loans drawn down, which is only about 2%, and the percentage is getting smaller. The Government also admitted that the percentage was low. At present, it is pathetic that even if potential first-time owner-occupiers want to buy these nano flats, they cannot do so because of various regulations and restrictions, or because no such flats are available in the market. According to the figures provided in the Government's reply, we understand that investors, or even investors with huge capital, purchased these nano flats for rental to make money. Hence, the number of mortgages drawn down is small.*

Thus, may I ask how the Government will address the issue and how it will deal with the problem of potential first-time owner-occupiers failing to get mortgage loans with LTV ratio of 90%? Has the Government considered that one of the solutions is to change the current ceiling of LTV ratio? Has the Government thought about it?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, the factors mentioned earlier, including supply of land, supply of residential units, the trend of mortgage interest rates, interest rates, LTV ratios and whether the mortgagor is a first-time home buyer, etc. are rather complicated.

Nevertheless, we can clearly see that the normalization process of the United States interest rate market is gradually taking place and interest rates have increased four or five times already. There are also views that improvements in employment rate and unemployment rate, etc. are taking place in the United States. From the changes in the interest rate market in Hong Kong, it is noted that the interest rates in the interbank money market are increasing quickly. Will these factors render our review of MIP a disservice out of good intentions? Under these market conditions, how shall we make adjustment and conduct reviews cautiously and manage risks properly?

As I said earlier, members of the public hope that they can get mortgage loans with a 90% LTV ratio, but in fact, the maximum property price of \$4 million in MIP does not restrict the purchase of a 200-sq ft residential unit; that is only a lending arrangement. In the past three years, the number of loans drawn down has risen from 5 000-odd to 7 000-odd and 8 000-odd and some people have drawn down loans with LTV ratios of 70% or 80% under MIP. These figures show that there is a continuous rise in the number of loans drawn down under MIP, which can serve the public.

Nevertheless, as I repeatedly pointed out earlier, the authorities understand the demands of the public regarding first-time home ownership and the views expressed by Members. Thus, we will pay attention to the development of the market and ask HKMC to conduct timely review to examine the cyclical and other changes in the market and study how suitable measures can be introduced, as well as whether there is a need to make adjustment to MIP.

PRESIDENT (in Cantonese): Fourth question.

Law enforcement on crimes of rape and indecent assault

4. **DR PIERRE CHAN** (in Cantonese): *The number of requests for assistance from sex crime victims received by RainLily has risen continuously in the past 17 years. Only about 10% of the perpetrators in the rape cases involved in such requests were subsequently prosecuted. Regarding law enforcement on crimes of rape and indecent assault, will the Government inform this Council:*

- (1) *whether it knows, in each of the past five years, the respective numbers of victims in rape cases and indecent assault cases receiving treatment or undergoing examinations at the accident and emergency departments of public hospitals, with a breakdown by the gender of the victims and by whether the cases were reported to the Police, as well as the reasons why some victims did not report their cases to the Police;*

- (2) *among the rape cases mentioned in (1), of the number of cases in which the victims gave witness statements to the Police and underwent forensic examinations in public hospitals; the number of cases in which any of the two procedures was not conducted in public hospitals, as well as their respective reasons; and*
- (3) *of the prosecution rates of rape cases in each of the past five years; whether it has assessed if the prosecution rates were on the low side; if it has, of the criteria adopted for and the outcome of the assessment?*

SECRETARY FOR SECURITY (in Cantonese): President, the Hong Kong Police ("the Police") attach great importance to combating cases involving sexual violence, including cases of rape and indecent assault. In each case, the Police will fully investigate, make every effort to protect the victim's rights and safety, and lessen the stress and psychological trauma encountered by the victim when assisting in the investigation.

In the past five years between 2013 and 2017, a total of 367 rape cases were reported in Hong Kong, of which 349 cases were detected and the detection rate was 95.1%. As for indecent assault cases, a total of 5 742 cases were recorded, of which 4 341 cases were detected and the detection rate was 75.6%. The detection rates of rape and indecent assault were higher than the average detection rate of 45.2% for the overall criminal cases in Hong Kong during the same period.

Since March 2007, the Social Welfare Department ("SWD") has launched a 24-hour "one-stop" service for handling sexual violence cases. The "one-stop" services emphasis not only on the location of provision of services to victims, but also offers the victims with necessary services simultaneously and in a synchronized manner as far as possible, including medical care, forensic examinations, statement-taking, other services and support from a social worker, etc., with a view to reducing repeated description of traumatic experience by the victim and providing immediate and appropriate services.

"One-stop" services can be initiated on referral by social workers, medical personnel, police officers or other professionals. They can also be initiated directly by the relevant non-governmental organizations. Where practicably feasible and with the victim's consent, the Government will as far as possible

arrange for the victim to receive services in a convenient, safe, private and supportive environment, including medical treatment, statement-taking and forensic examination in the public hospital where he/she receives treatment so as to save the victim from the plight of travelling and speed up the investigation process. The victim may choose to be accompanied by social workers or other suitable persons when he/she is interviewed by police officers or undergoes forensic examination. SWD has a cooperation agreement with the Hospital Authority ("HA") to arrange designated rooms in 17 hospitals in Hong Kong to provide "one-stop" services where practicably feasible.

It should be emphasized that when providing "one-stop" services, organizations must examine and take into account the wills of the victims and their actual needs. If the victim only chooses or needs one of the services, the relevant organizations must respect the wills of the victim. Even if the victim accepts one of the services designated by him/her, it is also in line with the spirit of "one-stop" services.

The Government has been closely monitoring the effectiveness of "one-stop" services. SWD, the Police, and HA will hold a meeting before the end of this month to examine the existing collaboration among stakeholders and implementation of "one-stop" services, and explore areas for improvement.

My response to the three parts of Dr Pierre CHAN's question is as follows:

(1) and (2)

Regarding the sexual violence cases received by the Police in the past five years, the numbers of such cases by type of sexual violence and gender of the victims are at Annex 1. The Government does not maintain figures on victims of rape cases and indecent assault cases who received treatment or underwent examinations at the Accident and Emergency ("A&E") Department of public hospitals in the past five years. The Government also does not maintain figures on victims of rape cases who gave witness statements to the Police and underwent forensic examinations in public hospitals in the same period. However, according to the records reviewed by the Police, there were four cases among the rape cases which occurred in 2017 where medical services, forensic examinations and statement-taking were simultaneously provided through "one-stop" services. In

other cases, the staff of different organizations had provided some of the services among the "one-stop" services according to the actual needs and the wills of the victims at the material time.

It is the aim of the Police to reduce the stress and psychological trauma encountered by victims of sexual violence when assisting in the investigation. As such, police officers will arrange for the victim to give statement and receive forensic examination in the same public hospital in which he/she receives treatment as far as possible. As the case nature and the victim's wills vary case by case, and at times it may not be feasible to do so, the victims of certain cases will not give statements in public hospitals. Such situations include:

- (i) due to the high occupancy rate of wards, the public hospital is not able to arrange for the necessary facilities immediately. In this connection, the Police have made an enhanced arrangement with HA. Under the arrangement, police investigating officers may contact the health care officer-in-charge on duty in A&E Department via a direct line to arrange a room to provide "one-stop" services for the victim in advance as far as practicable;
- (ii) the case happened long before it is reported, or the victim reports the case at the police station in person and is of the view that immediate treatment in a hospital or forensic examination is not required;
- (iii) owing to personal reasons (e.g. emotional problem), the victim requests to first receive treatment in the hospital and/or undergo forensic examination before giving a statement to the Police;
- (iv) the Police need to take a statement from the victim by way of video-recorded interview but such facility is not available in A&E Department of the hospital. For example, if the victim is a child, the Police and SWD will form a Child Protection Special Investigation Team for joint handling and investigation. The victim will give a statement by way of video-recorded interview at a special interview suite of the

Police. Under such circumstances, the room in the hospital is not suitable for conducting the relevant video-recorded interview;

- (v) the victim requests to give a statement at a place with better privacy within a police station;
- (vi) the victim needs an interpreter to assist in the statement-taking, and the personnel providing services cannot immediately arrange an interpreter to assist in the statement-taking; and
- (vii) the victim refuses to undergo forensic examination.

In any event, the Police will make every effort to ensure that the victim is aware of the procedures that he/she will go through and his/her rights, and will also endeavour to assist and facilitate the victim's utilization of "one-stop" services where practicably feasible.

- (3) After the arrest of a suspect, the Police will consider all the circumstances of the case, such as the statements taken from the victim and witnesses, and the availability of circumstantial evidence, including images from closed-circuit televisions, the result of forensic examination, the medical report of the victim, etc. After investigation, the Police will consult the Department of Justice ("DoJ") before deciding whether to institute prosecution or not.

As mentioned above, during the past five years (2013-2017), the average detection rate for rape cases was about 95.1%. The numbers of persons arrested and prosecuted for the offence of "rape" under the Crimes Ordinance (Cap. 200) in the corresponding period are at Annex 2.

As regards prosecution, according to DoJ's Prosecution Code, there is no difference between the consideration for prosecuting cases of sexual violence and that for other crimes. There must be legally sufficient evidence to support a prosecution; that is, such evidence is admissible and reliable and, together with any reasonable inferences able to be drawn from it, likely to prove the offence. The test is whether the evidence demonstrates a reasonable prospect of

conviction. A prosecutor must consider the requirements of the public interest. According to the Prosecution Code, public interest includes:

- the attitude, age, nature or physical or psychological condition of the suspect, a witness and/or a victim;
- the likely final disposition of the case; and
- special circumstances that would affect the fairness of any proceedings, etc.

In respect of each rape or indecent assault case, DoJ will holistically consider the actual circumstances and evidence of the case to decide whether to prosecute and, if so, the most appropriate charge. The court will also make a fair decision based on legal principles and evidence.

Annex 1

The number of sexual violence cases received by the Police in the past five years

| <i>Sexual violence cases</i> | <i>Gender of victims</i> | <i>2013</i> | <i>2014</i> | <i>2015</i> | <i>2016</i> | <i>2017</i> |
|------------------------------|--------------------------|-------------|-------------|-------------|-------------|-------------|
| Rape | Female | 105 | 56 | 70 | 71 | 65 |
| Indecent assault | Female | 1 397 | 1 058 | 1 021 | 959 | 989 |
| | Male | 66 | 57 | 47 | 60 | 88 |

Notes:

For rape cases received by the Police, the eventual charges laid depend on the case circumstances and the evidence obtained. Beside "rape" under section 118 of the Crimes Ordinance (Cap. 200), other possible charges include "intercourse with girl under 16" under section 124 of the Crimes Ordinance and "indecent assault" under section 122 of the Crimes Ordinance.

Similarly, for indecent assault cases received by the Police, the eventual charges laid depend on the case circumstances and the evidence obtained. Besides "indecent assault" under section 122 of the Crimes Ordinance (Cap. 200), other possible charges include "indecent conduct towards child under 16" under section 146 of the Crimes Ordinance and "common assault" under common law.

Annex 2

The numbers of persons arrested and prosecuted for
the offence of "rape" under section 118 of the Crimes Ordinance (Cap. 200)
in the past five years

| | 2013 | 2014 | 2015 | 2016 | 2017 |
|------------------------------|------|------|------|------|------|
| Number of persons arrested | 106 | 62 | 70 | 65 | 63 |
| Number of persons prosecuted | 62 | 43 | 33 | 29 | 29 |

Note:

As the years of arrest and prosecution of the respective cases represented by the figures above may be different, the two sets of figures concerning the number of persons arrested and the number of persons prosecuted cannot be compared directly.

DR PIERRE CHAN (in Cantonese): *The handling of issues relating to sexual violence and child abuse require cross-departmental efforts, which include the Food and Health Bureau, the Labour and Welfare Bureau as well as the Security Bureau. Although these Policy Bureaux claim that efforts have been made and they are in control, they simply passed the ball around when Members sought to obtain information and held them accountable, as in the case of the ongoing World Cup matches.*

At present, there is only one crisis centre in Hong Kong which genuinely provides "one-stop" support services for victims of sexual violence, and it is situated in the Prince of Wales Hospital in Sha Tin. According to the information provided by SWD, the Yau Tsim Mong District has the highest number of sexual violence cases, followed by the Central and Western District. I would like to ask if the Government will consider the recommendation made by the United Nations Committee on the Elimination of Discrimination Against Women in 2006 and set up a "one-stop" crisis centre in each hospital cluster with recurrent provisions, so that the victims can genuinely complete all the necessary procedures at the same place, which include medical care, crime reporting, forensic examination and counselling services, unlike the "one-stop" services mentioned in the main reply, which may require the victims to repeat the incident at different times and places due to a lack of support, thereby causing them to be "assaulted a second time".

SECRETARY FOR SECURITY (in Cantonese): I thank Dr CHAN for his supplementary question. "One-stop" services have been provided for many years and we also agree that a review is warranted. Therefore, I have pointed out in the main reply that a cross-departmental meeting will be conducted towards the end of this year to review the operation of the "one-stop" services.

The views expressed by Dr CHAN just now will certainly be relayed to the relevant review group, which will review which areas of the "one-stop" services should be given more attention and be enhanced. However, I want to stress that such services are not stand-alone services. As I have clearly stated in the main reply just now, there are two major elements: First, we seek to provide 24-hour immediate services so that social workers and different professionals and departments can follow up on the cases simultaneously and help the victims tide over the difficult period. This is the first objective.

This second objective is concerned with investigation, and that is, to provide immediate services such as statement-taking and forensic examinations in certain places, for example, the 17 public hospitals in Hong Kong. The views expressed by Dr Pierre CHAN will surely be relayed to the relevant review group for follow-up. I must nonetheless stress that the idea of "one-stop" services can be realized through various means as our ultimate aim is to help the victims as far as possible. We do sympathize with and understand the needs of the victims in this regard, so we very much appreciate the views expressed by different parties on this issue and hope that the review group will holistically consider them.

MR CHAN CHI-CHUEN (in Cantonese): *In Dr Pierre CHAN's main question, it is mentioned at the outset that the number of requests for assistance from sex crime victims received by RainLily has risen continuously in the past 17 years, but the prosecution rates of perpetrators were on the low side at about 10%. This main question is very clear: the Secretary was asked if it was a problem for the low prosecution rates and whether the Government should be held responsible for this or what other measures could be taken. And yet, after listening for more than 10 minutes, I have yet to hear any response from the Secretary.*

In Annex 2, the Secretary provided the numbers of persons arrested and prosecuted for the offence of rape. Undeniably, the numbers of persons prosecuted are smaller than those arrested by one half in the past three years,

which is the fact. As highlighted by the Secretary in the main reply, since the launching of "one-stop" services for sex violence cases, such services were only provided in four cases in 2017. Hence, is it that the Government has nothing to do with the provision of such services, the low prosecution rates and DoJ's decision to institute prosecution.

According to the findings of a survey conducted by the Hong Kong Christian Council, among the 55 cases of sexual harassment, 28 involved sexual assault and 10 involved rape and attempted rape, and the victims have reported to the Police or sought help from the relevant organizations. However, the majority of the cases were eventually unsettled.

Secretary, what would you do to address this issue? Nowadays, the victims would rather issue online posts than report to the Police, in the hope of arousing public concern and compelling the perpetrators to turn themselves in to the Police. Does this imply that the system or procedures can be further improved to enable the prosecution rates to truly reflect the current situation?

SECRETARY FOR SECURITY (in Cantonese): Thank you, Mr CHAN. As a matter of fact, Mr CHAN's focus on this issue is very similar to that of mine as both of us seek to bring the criminals concerned to justice. Therefore, as stated in my earlier reply or when the Police are handing these cases, the aim is to protect the rights and interests of the victims and collect the most evidence as far as practicable.

Let me analyse from two perspectives. To institute prosecution against an arrested person, the Police must do their best to collect evidence. As regards whether prosecution will eventually be instituted, consideration must be given to the actual evidence collected. I have confidence in the prosecution and judicial systems of Hong Kong and trust that the Police will make an all-out effort to conduct full investigation into each sex crime. Under the existing legal system, we certainly have to abide by the spirit of the law that all parties will have fair and open trials. Therefore, on protecting the victims, apart from conducting active investigations, we must also ensure that they will not face any psychological barrier, resulting in their unwillingness to become prosecution witness. Numerous measures have been put in place to protect the witnesses, which include the provision of screens, the arrangement of special passageways

and even allowing victims of sex crimes to testify via video link. All these measures aim to encourage, as far as possible, the victims to come forward and become prosecution witnesses.

The majority of the indecent assault cases are handled in Magistrates' Courts and the conviction rate is about 70%, which is more or less the same as the 70% conviction rate of the total number of cases handled by the Magistrates' Courts. However, Members must understand that after all, it depends on the amount of objective evidence collected that is admissible, and that can be used to testify from a legal point of view. In this connection, I can assure that the Police will make an all-out effort to conduct investigations.

(Mr CHAN Chi-chuen stood up)

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

MR CHAN CHI-CHUEN (in Cantonese): *President, I asked about rape cases but the Secretary's reply is concerned with indecent assault cases. In a simple sentence, does the Secretary think that the low prosecution rates of rape cases constitute a problem?*

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

SECRETARY FOR SECURITY (in Cantonese): Mr CHAN, the prosecution or otherwise of each case will be determined on the actual evidence collected, and the decision to institute prosecution does not rest with the Police alone as the independent DoJ will examine all the evidence collected for each case. Any measure that may strengthen our consideration of the evidence collected will be carefully examined.

DR FERNANDO CHEUNG (in Cantonese): *President, as advised by the Secretary in the main reply, "one-stop" services were only provided in four rape cases in 2017, but there were 65 such cases in that year. President, the percentage was indeed too low.*

We learnt from the Secretary that "one-stop" services were very important, as victims did not have to repeat the particulars of their case to avoid being "assaulted a second time". And yet, we are not sure if the "one-stop" services currently provided are genuinely "one-stop" because as highlighted by the Secretary in the main reply, except for the Prince of Wales Hospital, 17 public hospitals in Hong Kong have only designated a tiny area in the extremely busy and overcrowded A&E Department for the provision of "one-stop" services, where the victims will undergo various examinations and give statements. The situation is utterly unsatisfactory. With regard to the meeting to be conducted at the end of this month about "one-stop" services, I would like to ask the Secretary if the organizations currently providing "one-stop" services, such as RainLily and Tung Wah Group of Hospitals, will be invited to attend this review meeting.

SECRETARY FOR SECURITY (in Cantonese): In response to Dr CHAN's main question earlier, I have explained why the victims of certain cases were unable to give statements and undergo forensic examination in the same hospital. I have at least listed seven situations where the objective conditions have rendered it impossible for the departments concerned to complete all the procedures in the same hospital. These seven objective conditions are completely out of the control of any department, including the victims' wishes and emotions as well as the absence of video-recording facility and interpreter. Notwithstanding that, I do agree that even if we are faced with certain objective conditions which render us unable to do what we want, especially the need to respect the victims' wishes, active consideration should be given to improving the system. I think Dr CHEUNG and I do see eye to eye on this issue, and both of us hope that the cases can be handled more properly.

The proposal put forward by me just now is that the review group will conduct a meeting to review the "one-stop" services at the end of this month, and SWD, the Police, HA, the Department of Health and the CEASE Crisis Centre will also attend. Of course, we will relay the views expressed by Members to the review group for careful consideration.

PRESIDENT (in Cantonese): Fifth question. Mr LAM Cheuk-ting, please raise your main question.

(Dr Fernando CHEUNG stood up)

PRESIDENT (in Cantonese): Dr Fernando CHEUNG, what is your point?

DR FERNANDO CHEUNG (in Cantonese): *One of the organizations providing "one-stop" services is RainLily, but the Secretary's reply has not indicated if RainLily will be invited.*

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

SECRETARY FOR SECURITY (in Cantonese): I have already mentioned in my earlier reply that all the views received today will be relayed to the review group for careful consideration.

PRESIDENT (in Cantonese): Fifth question.

Invocation of the Lands Resumption Ordinance by the Government

5. **MR LAM CHEUK-TING** (in Cantonese): *When she attended this Council's Question and Answer Session held on the 3rd of last month, the Chief Executive ("CE") advised that the Lands Resumption Ordinance should not be invoked arbitrarily because "owners whose private ownership is being infringed upon ... will apply for judicial review against the Government", and such lawsuits might last for as long as eight to nine years. However, in reply to a written question raised by a Member of this Council on the 30th of last month, the Government indicated that over the past two decades from July 1997 to December 2017, there were only eight judicial review cases lodged by landowners arising from the Government's invocation of the Ordinance for resumption of their private lands. For such cases, the time taken from the Court's granting of leave for judicial review to its handing down of judgments on the judicial review ranged from nine days, the shortest, to no more than one year, the longest. In this connection, will the Government inform this Council:*

- (1) *whether it has assessed if CE's aforesaid statement is erroneous, and if it will mislead this Council and members of the public into believing that invocation of the Lands Resumption Ordinance will*

very likely give rise to litigations; if it has assessed and the outcome is in the affirmative, whether it will advise CE to rescind that statement; and

- (2) *whether it will undertake that it will only invoke the Lands Resumption Ordinance and not adopt the public-private partnership approach, in order to tap into private developers' agricultural lands for carrying out housing development projects?*

SECRETARY FOR DEVELOPMENT (in Cantonese): President, both Articles 6 and 105 of the Basic Law mention about the protection of "the right of private ownership of property" by the Hong Kong Special Administrative Region in accordance with law. The Government must adhere strictly to the spirit of and the constraints imposed by the law, and cannot neglect the importance of respecting the right of private ownership of property when deciding to exercise its statutory power to resume private land.

According to the Lands Resumption Ordinance ("LRO"), the Government may invoke LRO to resume private land, having regard to the Government's needs, only for an established "public purpose" pursuant to LRO. In other words, the invocation of LRO cannot be possibly based on a slogan or an intention. The Government has no justification and power to invoke LRO to resume private land before the relevant "public purpose" has been established.

In the written reply to a Member's question on 30 May this year, the Government mentioned that a total of eight judicial review cases arising from the invocation of LRO for resumption of private land were lodged by landowners from 1 July 1997 to 31 December 2017 and the Government had lost none of the cases according to court rulings. This truly reflects that the Government has all along been acting strictly upon the spirit of and the constraints imposed by the law and invoking LRO to resume private land carefully and prudently for an established "public purpose" pursuant to LRO.

My reply to Mr LAM Cheuk-ting's question is as follows:

- (1) In the Question and Answer Session of this Council on 3 May, the Chief Executive's statement is fully in line with the Government's established policy stated in the preamble above. As regards the lawsuit over the Wan Chai Outline Zoning Plan ("OZP") quoted by

the Chief Executive in that Question and Answer Session, it was intended to demonstrate that judicial review proceedings involving land and the right of private ownership of property could be lengthy and the Government must therefore act prudently and carefully. Taking the above Wan Chai OZP as an example, it involved a number of judicial review applications since 2011 and as the arising follow-up work is still in progress, the OZP has yet to be submitted to the Chief Executive in Council for approval, thereby affecting the development of various sites within the district, including the former Wan Chai Police Station and its adjacent area.

- (2) Recently, there seems to be a view within the community that advocating public-private partnership to develop private agricultural land reserve in the New Territories would mean the Government giving up the right to resume private land through invoking LRO for development; or that when the Government invokes LRO to resume private land, it will no longer be necessary to allow land owners to use their privately-owned land for development. I must hereby clarify that this kind of view that regards land resumption by the Government and private development as mutually exclusive is incorrect, and the Government does not agree.

Firstly, the Government has been invoking LRO to resume private land for development after establishing a "public purpose". In future, resumption of private land will continue to take place as well for different new development areas ("NDAs") and public housing projects. For example, the Government resumed private land for different public housing projects, such as Sha Tin Areas 16 and 58D in the past, whereas an estimated total of about 500 hectares of private land within the boundary of a few mega land development projects in the coming years, which include Wang Chau Development Phase 1, Kwu Tung North and Fanling North NDAs and the Hung Shui Kiu NDA, is planned to be resumed and the Government will continue to resume private land for different public housing projects.

On the other hand, not all land is suitable for "public purpose" or public housing development. In fact, development needed by the community is not confined to those needs for a "public purpose". It is therefore normal that land owners (including developers) will

make use of their privately owned land for development. Many existing commercial and residential properties in Hong Kong were developed under this mode. Indeed, private development, including lease modification, land exchange and redevelopment, has been one of the major sources of land for private residential flats, and it has provided land for construction of more than 50 000 flats over the past decade. This development mode has been long standing in Hong Kong, which, as a free economy, respects the right of private ownership of property and allows the private market to play to its strengths.

One of the short-to-medium-term options that the Task Force on Land Supply ("Task Force") recently put forward in its public engagement exercise is the development of private agricultural land reserve in the New Territories through public-private partnership. The Task Force's intention was to explore a possible way out through unleashing the development potential of agricultural land in the short-to-medium term. The Task Force indicated clearly that the relevant discussion must be premised on the understanding that the Government would set up a fair, open and transparent mechanism for such public-private partnership in future, in order to create a win-win situation for the general public and the private land owners, including the provision of private and public housing on privately-owned land. There are views that it will be more straightforward for the Government to invoke LRO for public housing development given the public character. As explained above, whilst the Government will continue to invoke LRO timely for development, the balanced and healthy development of society cannot solely rely on the Government's power. As a matter of fact, it would be difficult for the Government to make planning and take forward development for all the different pieces of land simultaneously. When the Government implements the overall planning and development programmes in different districts according to priorities, we do not rule out the possibility of developers devising corresponding development plans on their privately-owned land. The Government considers it worthwhile for the community to keep an open mind to explore initiatives that are economically viable while meeting society's overall needs.

In fact, the Government has been providing reasonable incentives according to its policy objectives through various programmes and initiatives with a view to capitalizing on the forces of the market and non-governmental organizations to facilitate the implementation of different development projects in order to expedite the development and release the development potentials of private sites such that the public and the whole community can benefit earlier. Examples of such mode of cooperation include:

- (i) Industrial building revitalization measures—to provide more floor space for suitable uses while improving the safety of industrial buildings.
- (ii) "Facilitation Scheme for Provision of Pedestrian Links by the Private Sector"—to waive the land premium for lease modification with a view to facilitating and encouraging private landowners to construct footbridges or subways at their own cost for provision of a safe, comfortable and convenient pedestrian network.
- (iii) New town development—to allow private land owners of sites planned for private developments to pursue their individual private projects through lease modification applications, while being responsible for most of the land acquisition work.
- (iv) "Special Scheme on Privately Owned Sites for Welfare Uses"—to encourage non-governmental organizations to better utilize their own sites through expansion, redevelopment or new development to provide social welfare services.
- (v) "Youth Hostel Scheme"—to fully fund non-governmental organizations to construct youth hostels on sites owned by them. Upon completion, NGOs will operate the youth hostels on a self-financing basis.

President, the Government will continue with its standing practice of resuming private land for development by invoking LRO prudently under appropriate conditions and at the same time provide room for the private market and non-governmental organizations to optimize their land resources.

MR LAM CHEUK-TING (in Cantonese): *President, Mr Andrew WAN asked the Chief Executive in this Council whether she would exercise the statutory power, including invoking the power under LRO, to recover farm sites and brownfield sites hoarded by real estate developers, so as to resolve the housing problems. Carrie LAM replied that if LRO was invoked, owners who believed their private ownership was being infringed upon would apply for judicial review against the Government. She further cited the case of the Wan Chai Police Station, saying that the case had dragged on for eight to nine years and the development of the site was still shelved. She said, "Mr WAN, do you want to see every site in the New Territories going through these prolonged court proceedings, which means the sites cannot be released to cope with the housing demand of the people of Hong Kong?"*

As a matter of fact, in reply to a written question raised by Mr James TO, the Government indicated that it had faced only eight judicial review cases since the reunification. The applications concerning such cases were either rejected or withdrawn by the applicants on their own initiative, and the Government won all the eight cases, which lasted no more than one year. President, even if the Chief Executive was not deliberately telling a lie, she was providing wrong information and misleading the Legislative Council and the public. Will the Government retract the relevant remarks and offer an open apology for the Chief Executive providing wrong information and misleading the public and the Legislative Council?

SECRETARY FOR DEVELOPMENT (in Cantonese): Thank you, Mr LAM. As I said in the main reply just now, regarding the eight judicial review cases concerning LRO, leave to judicial review was invariably refused by the Court, and this truly reflects that the Government has reasonably exercised this public power subject to the constraints imposed by the law.

In reply to the question of Mr WAN at that time, the Chief Executive made some remarks on LRO (please allow me to quote): "the Lands Resumption Ordinance may not be invoked arbitrarily. Seated in the Chamber are also some people who have received training in law. The Government must present sufficient proof to prove that the sites recovered are for public purposes. It is a matter of balancing, and we are not deliberately infringing private property rights in an arbitrary manner. This is particularly so after 1 July 1997, for private ownership of property is protected under Articles 6 and 105 of the Basic Law, and the Court will grant leave for relevant litigations."

As for the Wan Chai Police Station and its adjacent area, the Chief Executive indicated that the site "is in the outline zoning plan of Wan Chai, and certain developers consider the rezoning procedure of the Town Planning Board has infringed their private ownership". She further said that Mr Abraham SHEK was nodding constantly for he knew the reasons and developments of the case. She further said that the case "has dragged on for eight to nine years, not yet been settled to date. Hence, the site cannot be put on sale even now." She then said: "Today, Secretary Michael WONG cannot put the site on sale yet, for the plan is still shelved and a lot of proceedings are ongoing. When the proceedings are concluded, there are town planning procedures. It is only after all this that the plan can be submitted to the Chief Executive in Council for approval." As such, if we review the Chief Executive's remarks on that day, we will realize that, as I have clearly indicated in the main reply, the Chief Executive referred to the case of the Wan Chai Police Station for the purpose of making it clear that the Government should indeed be very careful in handling cases involving land, private ownership and planning.

PRESIDENT (in Cantonese): Mr James TO, please state your supplementary question.

(Mr LAM Cheuk-ting stood up and indicated that his supplementary question had not been answered)

PRESIDENT (in Cantonese): Mr LAM, I think the Secretary has already answered your question in detail. Secretary, do you have anything to add?

MR LAM CHEUK-TING (in Cantonese): *President, my supplementary question is whether the Chief Executive will retract the relevant remarks and apologize publicly, but the Secretary has failed to answer my supplementary question.*

PRESIDENT (in Cantonese): Mr LAM, you have already pointed out the part of your supplementary question which has not been answered. Please sit down. Secretary, do you have anything to add?

SECRETARY FOR DEVELOPMENT (in Cantonese): Thank you, Mr LAM. The remarks made by the Chief Executive on that day had fully reflected the consistent policies of the Government, so I think they did not need to be retracted.

MR JAMES TO (in Cantonese): *President, if a person who is not familiar with land issues serves as the Chief Executive, he or she will read out the answer prepared by his/her subordinates. Hence, in reply to a question about LRO, it is not surprising that the Chief Executive said that the Wan Chai site involved a judicial review lodged by some persons against the Wan Chai Outline Zoning Plan and the lawsuit has dragged on for eight to nine years. In the past, Mr TUNG could give such an answer as he was not familiar with this matter, but LEUNG Chun-ying could no longer use this reason. President, our incumbent Chief Executive used to serve in the present position of Secretary Michael WONG, so she should fully know what LRO is all about, the number of judicial review cases the Government had won, the duration of the judicial review cases, and the actions to be taken if a judicial review is lodged against an outline zoning plan. When she forcibly mixed up the two matters, what other intent did she have if she was not misleading the public? When the Chief Executive, being so professional and experienced, surprisingly gave an irrelevant answer, saying that the case had dragged on for eight to nine years, would members of the public watching the live broadcast be misled by the Chief Executive's remarks on LRO, given that they would think that she was an expert in this area as she used to serve as the Secretary for Development?*

SECRETARY FOR DEVELOPMENT (in Cantonese): I thank Mr TO for his supplementary question. I am afraid the Chief Executive is not the one who misleads the public. In the Legislative Council, I generally will not arbitrarily accuse a Member of misleading people. The fact is that the Government had lost none of the eight judicial review cases concerning land resumption in the past, and, as indicated by Mr LAM, the duration of such cases was not that long. However, does this mean that the Government can arbitrarily exercise the public power under LRO and resume any piece of land that it likes? As I have clearly explained in the main reply just now, that is not the case. The Government has all along opined that when exercising the public power under LRO, it must be subject to the constraints imposed by the law, and public power is not indefinite. The fact that we had lost none of the eight cases in the past truly reflects that we

act upon the spirit of the law. For this reason, will it be fair if one refers to the eight cases in saying that public power is indefinite and accuses the Chief Executive of misleading people?

I do not want to read out again the Chief Executive's remarks about the Wan Chai Police Station. The Chief Executive clearly indicated that the case involved some developers who were not satisfied with the preparation of the outline zoning plan by the Town Planning Board and therefore lodged a judicial review. As I have clearly explained in the main reply just now, this reflects that the Government must be careful and prudent in handling cases involving land, private ownership and planning.

MR ANDREW WAN (in Cantonese): *President, I have no intention to further argue with the Secretary over the answer given back then, for we have the transcript in hand. The text is clear enough. I believe any persons with normal comprehension capacity and have watched the television broadcast would know that the Chief Executive had cited wrongly. At that time, I pointed out that the example cited by the Chief Executive was wrong as that was not a case of judicial review arising from land resumption.*

President, the answer given by the official is highly undesirable. Let me quote Secretary Michael WONG's main reply just now: "the invocation of LRO cannot be possibly based on a slogan or an intention. The Government has no justification and power to ... resume private land before the relevant 'public purpose' has been established". He said repeatedly that the Government should not arbitrarily exercise the power under LRO.

President, I would like to raise the following supplementary question, and I hope the Government will clarify. Our request is very simple. We are not asking the Government to arbitrarily exercise the power under LRO. In the case of the Hung Shui Kiu NDA, the Development Bureau could determine the location of the NDA or the new town, but why is it that in the New Territories, the Government allows hoarding of large quantities of deserted agricultural land and brownfield sites by large real estate developers and has no plan to build public housing or develop new towns? Will the Secretary please tell us specifically whether that is a kind of "public purpose" as referred to in the main reply? If so, why does LRO only target at villagers of Wang Chau? The Secretary

mentioned Wang Chau Development in the main reply. The Government could treat villagers in this manner, but when facing real estate developers, is LRO not an "imperial sword" but rather a rusty sword?

SECRETARY FOR DEVELOPMENT (in Cantonese): President, I thank Mr WAN for giving me an opportunity to share my thoughts in this regard. As I have pointed out in the main reply, the Government will continue to invoke LRO to resume land in the future. In the case of the First Phase of the Kwu Tung North and Fanling North NDAs, we have confirmed that about 68 hectares of land would be resumed by invoking LRO. The Government will later submit funding applications to the Legislative Council for the planning and development works of the said NDAs. The land to be obtained by adopting an enhanced Conventional New Town Approach is 2.3 hectares. Under this approach, we exchange land with real estate developers, and this is a sort of a public-private partnership approach to some extent. In other words, as far as NDAs are concerned, land resumption by the Government is still the major approach. In the case of the Hung Shui Kiu NDA, I believe that invoking the public power under LRO to resume land will still be the major approach in the future. As the Government is still planning for the Hung Shui Kiu NDA, I am unable to provide an accurate figure concerning the resumption of land.

However, even if this approach is adopted, should we abandon Hong Kong's well-established practice of making optimal use of market forces? Let me simply state the four major recommendations of the Task Force concerning public-private partnership. First, on some pieces of land the Government may need to provide certain infrastructural facilities before increasing their population density. Second, real estate developers need to undertake to build a certain percentage of affordable housing for the Government in their development projects. Third, the required planning and lands procedures still need to be undertaken, but if a certain piece of land is already owned by a developer, the land resumption procedure will be much faster. Fourth, the criteria must be fair, transparent, objective and consistent, so that society will know that this is not the collusion between the Government and the business sector, but rather the releasing of the potential of private land through reasonable and fair measures.

PRESIDENT (in Cantonese): Dr Junius HO, please state your supplementary question.

(Mr Andrew WAN stood up)

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

MR ANDREW WAN (in Cantonese): *President, the Secretary has not answered my supplementary question at all. He referred to public-private partnership, but I asked him whether developing new towns and building public housing are for "public purpose". Does he dare not answer such a simple question?*

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

SECRETARY FOR DEVELOPMENT (in Cantonese): I thank Mr WAN for his question. I indeed failed to give a reply in this regard. In the case of the development of certain NDAs, the development scheme of Kwu Tung North and Fanling North was first proposed in 1998 and later halted due to social conditions. The development scheme was again proposed in 2008 and its planning has been concluded. We hope to commence the First Phase Works next year, and we will also commence land clearance correspondingly. It has been 20 years since 1998, and we are planning for the New Territories North, the outline zoning plan of which has been submitted to the Town Planning Board. This reflects that it may take a long time for the Government to make an overall plan for an entire development area.

As for individual pieces of land, as I said just now, first, the land resumption procedure may be foregone as the land has already been acquired. Second, if one is familiar with town planning procedures, he may know that the planning procedure concerning certain projects may be concluded as fast as two to three years or even a shorter time like half a year or one year, depending on what changes in terms of planning are proposed. I think this is why the Task Force considers public-private partnership to be a feasible way to provide us with much-needed land in the short to medium term.

PRESIDENT (in Cantonese): Last oral question.

Leak of public examination papers

6. **MRS REGINA IP** (in Cantonese): *President, in recent years, there have been a number of incidents of suspected leak of public examination papers. Although the Hong Kong Examinations and Assessment Authority ("HKEAA") has repeatedly stated that it attaches great importance to preserving the secrecy of examination papers and a mechanism is in place to tightly monitor and control the processes of design, review, printing, packing and distribution of examination papers, and that all personnel appointed or employed by HKEAA shall, under the law, preserve secrecy with regard to all matters coming to their knowledge in the performance of any function, some members of the public have indicated that they remain doubtful. In this connection, will the Government inform this Council:*

- (1) whether it knows if HKEAA, in the past three years, enhanced the mechanism for monitoring and preventing the leak of examination papers as well as for reporting suspected cases to the Independent Commission Against Corruption;*
- (2) whether the Education Bureau ("EDB") will review the mechanism for its monitoring the performance of HKEAA; if EDB will, of the details; if not, the reasons for that; and*
- (3) whether it knows the number of incidents of a leak of examination papers in the past five years in which HKEAA had obtained evidence on the leak; whether it has assessed if such incidents have reflected a dereliction of duty on the part of the personnel of EDB or HKEAA; if it has assessed, of the outcome?*

SECRETARY FOR EDUCATION (in Cantonese): President, the Hong Kong Examinations and Assessment Authority ("HKEAA") was set up under the Hong Kong Examinations and Assessment Authority Ordinance ("HKEAAO") (Hong Kong Ordinances, Cap. 261) in 1977. It is an independent statutory body. Its major function is to administer public examinations in Hong Kong and to conduct various professional and international examinations. HKEAA utilizes its own income and assets to support its daily operation according to HKEAAO and does not receive any recurrent subvention from the Government. It enjoys autonomy

in its day-to-day operation. The members of HKEAA are drawn from various sectors, including tertiary institutions, schools, business and the Government. Apart from ex officio members and members nominated by the Heads of Universities Committee, other members are appointed by the Chief Executive to perform the statutory functions of HKEAA, which include monitoring the work of its Secretariat.

My reply to the questions raised by Mrs Regina IP is as follows:

- (1) HKEAA has put in place a series of stringent measures and clear guidelines to ensure that public examinations are arranged and administered by examination personnel with strict confidentiality in accordance with the guidelines. According to section 15 of HKEAAO⁽¹⁾, every person appointed or employed by HKEAA shall preserve secrecy with regard to all matters coming to his knowledge in the performance of any function. Any person who contravenes the secrecy requirements commits an offence and is liable on conviction to a fine and to imprisonment for six months. This provision is applicable to examination personnel appointed by HKEAA to assist in the administration of the Hong Kong Diploma of Secondary Education Examination ("HKDSE"), including centre supervisors and invigilators nominated by school principals who must also abide by the secrecy requirements. Markers, oral examiners and other examination personnel hired by HKEAA must sign a confidentiality agreement and declare interest when they are appointed. HKEAA also reminds examination personnel to maintain the confidentiality requirement during briefing sessions and in the guidelines for markers/oral examiners. Fairness and confidentiality in public examinations are of the utmost importance
- (1) Section 15(1) of HKEAAO prescribes that "every person who has been appointed under or who is or has been employed in carrying out or assisting any person to carry out the provisions of this Ordinance:
 - (a) shall preserve and aid in preserving secrecy with regard to all matters coming to his knowledge in the exercise or performance of any duty or function under this Ordinance;
 - (b) shall not communicate any such matter to any person; and
 - (c) shall not suffer or permit any person to have access to any records in the possession, custody or control of any person to whom this subsection applies."

to HKEAA. HKEAA staff would report to law enforcement agencies according to the established mechanism and guidelines should there be any suspected cases identified.

HKEAA has also put in place a rigorous mechanism to ensure confidentiality of examination questions. Stringent security protocols and processes of designing, reviewing, printing, packing and distributing examination papers are established and implemented on the recommendations of the Corruption Prevention Department of the Independent Commission Against Corruption ("ICAC"). Each year, HKEAA conducts comprehensive post-HKDSE reviews on the relevant arrangements and processes. These post-examination reviews and different types of internal audits are carried out to identify areas for improvement and to ensure that different risks associated with HKDSE can be monitored and managed at a satisfactory level. To maintain the fairness, integrity and reliability of public examinations, HKEAA seeks and heeds advice on improvement from the Corruption Prevention Department of ICAC from time to time. For example, on the advice of ICAC, HKEAA has enhanced the guideline on nomination of invigilators by schools for the 2018 HKDSE. School principals have been advised against nominating as invigilators any person who has any association with tutorial schools.

- (2) HKEAA is an independent statutory body, performing its statutory function to conduct public examinations in Hong Kong in accordance with HKEAAO. HKEAA Council is the highest governing body for making decisions on and approving major plans, budgets, policies and regulations of HKEAA, as well as appointing senior executives of the Secretariat. It also appoints standing committees which carry out their work in accordance with their prescribed terms of reference to support the governance of HKEAA, or set up working groups and subcommittees to take on important tasks. The Permanent Secretary for Education or his representative serves as an ex officio member of HKEAA and the Education Bureau is also represented on different committees to take part in its governance. Besides, under HKEAAO, HKEAA is required to submit its annual estimates of income and expenditure and programme of its proposed activities to the Government for approval, and to table its annual audited accounts and report of activities at the Legislative Council every year.

The above governance structure serves to effectively monitor the daily operation of HKEAA. HKEAA Council supervises the operation and conduct of examinations from a strategic and macro perspective. Its relevant standing committee (namely the Public Examinations Board) oversees the implementation of public examinations.

The statutory function of HKEAA is to plan and administer public examinations. HKEAA is committed to ensuring the conduct of public examinations in a fair, effective and reliable manner. Under the supervision of HKEAA Council, there is a stringent and well-proven mechanism in place to monitor the conduct of public examinations. HKEAA will continue to strictly enforce procedures to safeguard confidentiality and will report any suspected breach to law enforcement agencies according to the existing guidelines.

- (3) According to the latest information provided by HKEAA, there is no incident of suspected leak of examination questions before examinations take place since the implementation of HKDSE in 2012, and there is no dereliction of duty on the part of any staff. As to suspected incidents of not preserving secrecy, HKEAA pointed out that there were only one confirmed case (involving uploading the marking schemes and oral questions of the 2012 HKDSE onto a tutorial website) while the few other suspected cases had been handled by HKEAA in accordance with the established mechanism.

MRS REGINA IP (in Cantonese): *President, I am quite disappointed with the answer given by the Secretary for Education. He kept saying that HKEAA was an independent statutory body and hence he had nothing to do with the problems concerned. I believe many people agree that the Secretary for Education should be held responsible for everything within the scope of education. In respect of the point mentioned by the Secretary for Education in his reply that "HKEAA has enhanced the guideline on nomination of invigilators by schools for the 2018 HKDSE. School principals have been advised against nominating as invigilators any person who has any association with tutorial schools", is such a guideline far from adequate? Are invigilators the only people to be monitored? How should those who design examination questions or have access to or knowledge of the contents of examination questions be monitored?*

President, as you are also aware, when Members of the Executive Council or of the Legislative Council are discussing a certain topic, if they have relatives engaging in the relevant trades, they have to declare interest. Will the Secretary for Education ask HKEAA to impose more stringent rules, requiring all staff to declare interest if they have relatives who have association with tutorial schools and may profit from the examination questions? HKEAA should not only require its staff to declare interest but also refrain from employing them in order to avoid arousing suspicion. In particular, as pointed out by the Secretary in Part (3) of the main reply, there was a case of someone uploading the marking schemes and oral questions of the 2012 HKDSE onto a tutorial website. Secretary, one such case is too many.

SECRETARY FOR EDUCATION (in Cantonese): President, Mrs Regina IP just asked a few questions. For the first question, HKEAA is an independent statutory body, which is a fact. It has the duty to ensure that all open examinations are conducted in a fair, open and orderly manner and no problems will arise. As the Secretary for Education, I am also duty-bound to ensure that HKEAA's work in this respect has met public expectations. And because I have this responsibility, I come to this Chamber to answer Legislative Council Members' questions on behalf of HKEAA.

In the main reply, I mentioned that HKEAA has enhanced the guideline on nomination of invigilators by schools for the 2018 HKDSE in order to respond to Mrs Regina IP's question of whether HKEAA has continued to review its mechanisms. I wish to draw the attention of Mrs Regina IP and other Members that HKEAA has continued to enhance its work in this respect, and it has added a new provision in the recent 2018 examination.

As regards other persons associated with the examination, HKEAA has also put in place a rigorous mechanism to ensure confidentiality. Stringent security protocols and processes of designing, reviewing, printing, packing and distributing examination papers are established and implemented on the recommendations of the Corruption Prevention Department of ICAC. Few people can participate in those processes before HKDSE takes place and only a small handful of people responsible for the designing, reviewing and production of examination papers have access to the examination questions. They have signed a confidentiality agreement and have declared interest upon appointment.

People who are associated with tutorial schools and textbook publishers, as well as teachers of candidates who are going to take the examination are not allowed to participate in the design of examination questions. As for other examination personnel like oral examiners, centre supervisors and invigilators, they cannot have access to examination papers before the examination day. After examination papers are printed, they are sealed up in plastic bags bearing bar codes and stored in confidential warehouses of HKEAA. They are delivered to the examination centres in the morning just before the examination takes place.

At the centre of written examination, the centre supervisor must unseal the examination papers in front of invigilators and candidates. This shows that HKEAA has put in place a very stringent system to prevent the leak of examination questions.

MR KENNETH LEUNG (in Cantonese): *May I ask the Secretary apart from civil and criminal procedures, as well as enhanced administrative and confidentiality work, what contingency mechanisms will the Bureau and HKEAA adopt to handle students who are affected? Will all their results be disqualified, will they be required to resit the examination, or will other measures be taken?*

SECRETARY FOR EDUCATION (in Cantonese): President, if irregularities are found in an examination, HKEAA will consider the situation on a case-by-case basis. If a student is found cheating in an examination, HKEAA can deal with the case in various ways, for example it can consider deducting marks from that examination paper, lowering the grade of the subject, or even disqualifying the result of that subject. All these measures are adopted according to the student's performance.

In respect of the suspected leak of information in 2012 mentioned in the main reply, no candidates in that year were affected and hence no adjustment of their results was needed.

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

(Mr Kenneth LEUNG stood up)

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

MR KENNETH LEUNG (in Cantonese): *No, I wish to follow up because he gave too many options.*

PRESIDENT (in Cantonese): Mr LEUNG, if you wish to ask again, please wait for your turn.

MR HOLDEN CHOW (in Cantonese): *President, once a leak of public examination papers is confirmed, what should be done to confirm which students can benefit from the leak? What is to be done to determine which students can actually benefit from the leak? I wish to follow up the case in this regard.*

SECRETARY FOR EDUCATION (in Cantonese): President, it is very difficult to state here how specific cases are handled. As regards the examination and assessment system, prevention is the prime task, that is, various measures should be drawn up within the system to prevent the leak of examination questions before the examination.

Of course, the Member has asked a right question as no one can guarantee that examination questions will never be leaked. What measures should be taken if there is a leak of examination questions? I think it depends on the severity of the leak and how far-reaching the impact is. Simply put, if owing to the leak, one half or even 70% to 80% of candidates have access to the examination paper or have learnt about the questions, the credibility of the examination is in question and it may be necessary to take more serious follow-up measures. If necessary, all candidates may be required to resit the examinations of the entire subject.

However, if we know that the person only leaks the examination questions to just a few people, such as his children, then only a small handful of people are affected. Hence, the situation must be assessed on a case by case basis to find out the source of the leak and the scope of impact before a decision can be made.

In view that many students have spent a long time preparing for the examination and have undergone great pressure, unless the leak affects many candidates, we will try to retain the results of candidates as far as possible. We will only consider adjusting the results of the candidates who have access to the leaked information beforehand.

MR GARY FAN (in Cantonese): *The Secretary has stressed time and again in his reply that HKEAA has put in place an internal mechanism to monitor the teachers of candidates who are going to take the examination and examination personnel; and in particular, HKEAA takes specific monitoring measures before the examination to prevent any leaks of examination questions.*

What I want to say is related to incentive. There must be people who engage in irregularities or even lawbreaking acts in order to gain profits. I am referring to tutorial schools. Has HKEAA or the Education Bureau monitored those self-proclaimed tutor kings who claimed, over the past period of time, to have correctly guessed the examination questions? Will such a task be listed as a standing measure as commercial interests are involved? If a tutorial school can correctly guess examination questions, it will have greater appeal and can attract more students. In this regard, what has HKEAA done?

SECRETARY FOR EDUCATION (in Cantonese): HKEAA basically requires that people designing and reviewing examination questions and overseeing the examination, as well as their relatives, should not have any association with tutorial schools. That is the fundamental principle.

Mr FAN said just now that certain tutorial schools or tutors claimed that they have correctly guessed certain examination questions. Frankly speaking, we believe it is a kind of publicity stunt. Have they ever correctly guessed an entire question and what is the evidence to prove their claim? We have yet to see an actual example.

There is one action that HKEAA will definitely take when marking the examination papers. If it is found that many candidates have the same answer, HKEAA will pay close attention and look into the matter. As regards whether someone has made the right guess of the examination questions and subsequently has affected the examination results, as a matter of fact, after two to three years, that is, in the exercises to be done by Secondary Four to Secondary Six students, a school or a tutorial school might have touched upon similar questions or similar

scope of areas. Teachers of day schools certainly will not claim that they have correctly guessed examination questions, but tutorial schools may make such claims. Under such circumstances, it is difficult to find solid evidence to prove that examination questions have been leaked. But as I have just said, a mechanism has been put in place and attention will be made when marking the examination papers. We can thus easily verify whether some people have learnt about the examination questions in advance and memorized the answers.

MR IP KIN-YUEN (in Cantonese): *President, owing to the far-reaching impact of open examinations, we all attach great importance to the strict compliance of the confidentiality requirements. In this incident, I have learned from ICAC's press release that the leak did not happen before the examination, meaning that it did not affect the fairness of the examination. However, I learnt that the persons involved include tutorial school staff and serving teachers. I find it odd that serving teachers dare to defy the law as they should be well aware that such acts would jeopardize their career and future. May I ask the Secretary whether teachers are aware that questions of open examination should be kept strictly confidential? Has the authority concerned conducted sufficient publicity? If teachers violate such regulations, will their career prospect be affected, such as their teachers' registration being disqualified?*

SECRETARY FOR EDUCATION (in Cantonese): President, I mentioned in the main reply that HKEAA would remind examination personnel, including teachers, to maintain the confidentiality requirement during briefing sessions and in the guidelines for markers and oral examiners. I believe that school principals or centre supervisors will also remind invigilators about the need to comply with this requirement. If individual teachers are found to have engaged in lawbreaking acts or irregularities, the Bureau will handle such cases according to the established mechanism. If teachers are found to have committed serious crimes or serious misconduct, we will consider penalizing them, including suspending their teaching qualification. But we will look at the actual situation of the cases first before making a final decision.

PRESIDENT (in Cantonese): Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS

Reproduction of Hong Kong currency notes and possession of counterfeit currency notes

7. **MR AU NOK-HIN** (in Chinese): *President, the owner of a film props production company and a staff member of a logistics company were earlier convicted of possessing counterfeits of currency notes and sentenced to four months' imprisonment, suspended for two years, because they had in their possession 220 000 replica banknotes with the words "PROPS" printed on them. Such case has aroused grave concerns among practitioners in the film industry and members of the public that the relevant legislation have failed to keep up with the times, caused confusion among practitioners in the film industry, and neglected the need of the film industry for using realistic props. In this connection, will the Government inform this Council:*

- (1) *of the number of applications for reproducing Hong Kong currency notes to which the Monetary Authority ("MA") gave consent in writing in the past five years and last year, and set out a breakdown by use of the replicas in the table below;*

| <i>Use</i> | <i>Past five years</i> | <i>Last year</i> |
|--|------------------------|------------------|
| <i>Production of textbooks</i> | | |
| <i>Production of advertisements</i> | | |
| <i>Production of television programmes</i> | | |
| <i>Production of films</i> | | |
| <i>Others</i> | | |
| <i>Total</i> | <i>250</i> | |

- (2) *of the respective numbers of persons (i) prosecuted and (ii) convicted, in the past five years for possessing counterfeits of currency notes;*
- (3) *as one of the functions of the Film Services Office is the provision of one-stop services in the application for various permits required for film production, whether the Office assisted the film industry in applying for the reproduction of banknotes in the past five years; if not, whether it will provide such service immediately;*

- (4) *given that the current procedure for applying for the reproduction of Hong Kong currency notes involves a number of organizations (including MA, note-issuing banks and the Hong Kong Government, which own the copyrights of their respective currency notes, and the Police, which regulate the reproduction process as well as issues relating to the custody and destruction of replicas), whether the authorities will set up a central platform to process such kind of applications, streamline the application procedure and shorten the time needed for processing applications; and*
- (5) *as some practitioners in the film industry have pointed out that certain conditions imposed by the authorities for granting permission for the reproduction of banknotes are stringent (e.g. the replicas shall be at least 20% smaller or larger than the actual size of the genuine notes), resulting in a deterioration of the quality of the films concerned due to the use of unrealistic props, whether the authorities will review and relax the relevant conditions, so that filmmakers may use more realistic prop banknotes?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President, in consultation with the Hong Kong Monetary Authority ("HKMA") and the Security Bureau, my reply is as follows:

- (1) The cases approved by HKMA for reproducing Hong Kong currency notes in the past five years, last year (full year) and this year (up to 15 June) are tabulated below by the uses of the reproduced materials:

| <i>Use</i> | <i>Past five years (2013 to 2017)</i> | <i>2017 Full year</i> | <i>2018 (Up to 15 June)</i> |
|--|---|---------------------------|---------------------------------|
| Textbook | 94 | 16 | 7 |
| Advertisement | 42 | 7 | 3 |
| Shooting of television/film with genuine notes | 71 | 28 | 23 |
| Shooting of television/film with prop notes | 1 | 0 | 3 |
| Others | 42 | 7 | 5 |
| Total | 250 | 58 | 41 |

From January 2013 to 15 June this year, HKMA has received a total of nine applications for producing prop notes. Four cases were approved, one was rejected, two were withdrawn by the applicants for different reasons (such as change of shooting plan), while the remaining two are under processing. For the rejected case, the reason for rejection was because the applicant was unable to provide a sample prop note that fulfilled the size requirement.

- (2) The number of persons prosecuted and convicted for "offences involving the custody or control of counterfeit notes and coins" under section 100 of the Crimes Ordinance (Cap. 200) in the past five years are tabulated below:

| | 2013 | 2014 | 2015 | 2016 | 2017 |
|------------------------------|------|------|------|------|------|
| Number of persons prosecuted | 13 | 7 | 2 | 5 | 6 |
| Number of persons convicted | 12 | 6 | 2 | 2 | 6 |

- (3) The Film Services Office ("FSO") of Create Hong Kong has been acting as a facilitator to liaise for the film industry with relevant departments and organizations to help handle filming issues. FSO received enquiries from the industry in the past about use of prop money for filming purposes. From 2013 to April 2018, FSO received a total of 13 such enquiries, of which eight were about film production. FSO then suggested the production crew to lodge application with HKMA pursuant to the relevant laws.

In view of the recent concerns raised by the film and television sectors over application for reproducing Hong Kong currency notes for filming purposes, FSO has been following up proactively and liaising with different industry organizations and listening to their views. On 19 June, FSO has lined up a meeting for the industry to meet with HKMA and the Police direct, to enable the industry to have a better and more comprehensive understanding of the relevant application guidelines, so as to strike a suitable balance between meeting the industry's expectations and effective crime prevention. At the meeting, in response to the concerns raised by the industry, HKMA agreed to simplify the application procedures and set out facilitating measures, details of which are at part (4) below.

- (4) Under section 103 of the Crimes Ordinance (Cap. 200 of the Laws of Hong Kong), a person who, without the consent in writing of the Monetary Authority, reproduces on any substance whatsoever, and whether or not to the correct scale, any Hong Kong currency note or any part of a Hong Kong currency note, commits an offence. Applicants who wish to reproduce Hong Kong currency notes should apply to HKMA. After obtaining the HKMA's written approval, the applicant should seek the consent of the copyright owner of the banknote image for use of the design.

HKMA, upon confirmation that the sample(s) and details submitted are in compliance with the requirements, would issue a written approval. Generally speaking, the processing time would take around two weeks. HKMA would, to facilitate follow-up work, provide contact details of the copyright owner(s) and the Police to the applicants, and copy the approval to the copyright owner(s) and the Police. HKMA has all along been providing relevant written guidelines and conditions upon receipt of applications and enquiries from the public.

To address the concerns of the industry, HKMA has met with the industry at the aforementioned meeting arranged by FSO on 19 June to discuss possible measures to simplify the application procedures, including uploading the general guidelines and general conditions on production of prop money onto the front page of the HKMA's website, so that applicants could easily obtain the relevant information. HKMA would next attach to the guidelines a template on the size of prop notes, and set out the design and wording of prop notes so that the public could differentiate prop notes from genuine notes. An application form would also be included in the guidelines.

HKMA can only handle applications under section 103 of the Crimes Ordinance. The Crimes Ordinance is targeted at, inter alia, counterfeits and related offences (including that relating to reproduction of currency notes) to protect the public. The copyrights of the banknote images belong to the note-issuing banks and the HKSAR Government. An applicant needs to liaise with the copyright owners and obtain their consent for use of the designs.

To ensure that the prop money would not be in circulation, causing loss to the public, HKMA and the Police request that the film industry exercise due diligence and keep the prop money in safe custody. Meanwhile, the Police takes actions for monitoring, documentation and destruction of the prop money. HKMA will keep in view the effectiveness of the aforementioned facilitative measures and will continue to consult the industry to assess and study the feasibility and effectiveness of a centralized platform to handle such applications.

- (5) The aforementioned section 103 of the Crimes Ordinance (Cap. 200) is targeted at counterfeit notes and reproduced notes with a view to safeguarding the general public. The current size requirement for reproducing Hong Kong currency notes serves to facilitate differentiation by the public between reproduced notes and genuine notes, so that the public would not be deceived to believe or mistake a reproduced note for a genuine note, resulting in pecuniary loss. Hence, there is practical necessity to establish the approval conditions for reproduction of notes.

Reserve Licensee Mechanism established under liquor licence

8. **MR TOMMY CHEUNG** (in Chinese): *President, under the existing legislation, liquor licences may be issued only to natural persons but not body corporates and companies. For trade facilitation, the Government has implemented since March last year a Reserve Licensee Mechanism ("RLM"), allowing a liquor licensee to identify and nominate at an early stage a suitable person as a reserve licensee to take over the duty of the licensee within a short period in case of sudden departure of the licensee. In this connection, will the Government inform this Council:*

- (1) *of the respective numbers of applications for nomination of a reserve licensee received and approved by the authorities since the implementation of RLM; among the bars and other types of restaurants which have been issued with liquor licences, the respective current numbers and percentages of those that have a reserve licensee;*

- (2) *as some members of the catering industry have relayed that under the existing requirements, an application for nomination of a reserve licensee may only be submitted together with an application for new issue, transfer or renewal of liquor licence, whether the authorities will consider permitting liquor licensees to submit applications for nomination of a reserve licensee at any time during the licence period, with a view to enhancing the flexibility of RLM; if so, of the implementation timetable; if not, the reasons for that;*
- (3) *of the number of applications, received by the authorities since the implementation of RLM, for authorization of a reserve licensee to manage a liquor-licensed premises (together with a breakdown by whether the liquor-licensed premises were bars or other types of restaurants), as well as the average time taken for processing those applications; and*
- (4) *whether it has reviewed the effectiveness of RLM; if it has reviewed and the outcome is that RLM is ineffective, whether the authorities will consider afresh the proposal of permitting liquor licences to be held by body corporates or companies; if so, of the implementation timetable; if not, the reasons for that?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, the Liquor Licensing Board ("LLB") implemented the Reserve Licensee Mechanism ("RLM") on 28 March 2017, under which a liquor licensee can identify and nominate at an early stage a suitable person as a reserve licensee. The reserve licensee can take over the role of the licensee as soon as possible in case of his/her departure under predictable or unforeseen circumstances, so as to avoid disruption to the liquor selling business and allay the concern of the trade over the sudden departure of the "natural person". At present, an application for nomination of reserve licensee can be submitted together with the application for new issue, renewal or transfer of liquor licence. Should there be a sudden departure of the liquor licensee, the business owner or operator can apply for authorization of the nominated reserve licensee to temporarily manage the liquor-licensed premises, and the owner or operator can meanwhile formally apply to LLB for transfer or new issue of liquor licence.

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

- (1) From 28 March 2017 to 31 May this year, LLB received 2 733 applications for nomination of reserve licensee, of which 1 652 were approved. As at 31 May this year, the numbers and percentages of liquor-licensed premises where their applications for nomination of reserve licensee have been approved, with a breakdown by the type of liquor licence (with or without bar endorsement), are set out as follows:

| <i>Type of liquor licence</i> | <i>Total number of liquor-licensed premises</i> | <i>Nomination of reserve licensee</i> | | |
|-------------------------------------|---|--|--|--|
| | | <i>Number of applications received</i> | <i>Number of applications approved</i> | <i>Percentage in the total number of liquor licences of the type</i> |
| With bar endorsement ⁽¹⁾ | 1 236 | 588 | 318 | 25.7% |
| Without bar endorsement | 7 004 | 2 145 | 1 334 | 19% |
| Total: | 8 240 | 2 733 ⁽²⁾ | 1 652 | - |

Notes:

- (1) It means a bar operates on the particular premises. According to section 2 of the Dutiable Commodities (Liquor) Regulations (Cap. 109B), a "bar" means any place exclusively or mainly used for the sale and consumption of intoxicating liquor.
- (2) As at 31 May 2018, a total of 2 733 applications for nomination of reserve licensee were received. Among them, 1 652 applications were approved, 1 was rejected and 205 required no further actions due to withdrawal by the applicants or other reasons, such as applicants failing to provide relevant documents before the deadline. The remaining 875 applications were being processed.
- (2) At the initial stage of the implementation of RLM, to avoid delay in processing the applications caused by a sudden surge in workload of the departments concerned, LLB only accepted applications for nomination of reserve licensee submitted by the applicants (including existing licensees) together with their applications for new issue, renewal or transfer of liquor licence. LLB will monitor the implementation of RLM from time to time and conduct timely

reviews. For instance, it will look into the feasibility of relaxing the arrangement to allow the licensees to submit nomination applications separately, and increasing the number of reserve licensees to be nominated with a view to facilitating the trade. In addition, to further minimize the disruption to business operation in case of sudden departure of the licensee, since July last year, LLB has started to accept applications for transfer of liquor licence from liquor licenced business owners or operators even without consent of the current liquor licensees. Overall speaking, we believe that the two trade facilitation initiatives mentioned above could further minimize the impact of sudden departure of the licensee on the trade.

- (3) From 28 March 2017 to 31 May 2018, LLB received 21 applications for authorization of reserve licensee, of which 14 were approved. The numbers of applications for authorization of reserve licensee received and approved, with a breakdown by the type of liquor licence (with or without bar endorsement), are set out as follows:

| <i>Type of liquor licence</i> | <i>Authorization of reserve licensee</i> | |
|-------------------------------|--|--|
| | <i>Number of applications</i> | <i>Number of applications approved</i> |
| With bar endorsement | 5 | 3 |
| Without bar endorsement | 16 | 11 |
| Total | 21 ^{Note} | 14 |

Note:

As at 31 May 2018, a total of 21 applications for authorization of reserve licensee were received. Among them, 14 applications were approved and the remaining seven were being processed.

Under normal circumstances, the LLB Secretariat may grant approval-in-principle to the authorization of reserve licensee within four working days after receiving the application. The application will then be circulated to the Police for comment. Upon receiving the comments of the Police, LLB will consider whether or not to formally approve the authorization. At present, it takes an average of 25 working days to process an application.

- (4) According to the Dutiable Commodities (Liquor) Regulations (Cap. 109B), a liquor licence should only be issued to a "fit and proper person". The legislative intent of this provision is to make a natural person instead of a company the holder of a liquor licence. As the regulatory work relies heavily on the licensees' fulfilment of their legal and administrative responsibilities, it is a licensing condition that the licensee must personally supervise the operation of the premises. As for the trade's suggestion of allowing a body corporate to be issued with a liquor licence for the purpose of facilitating business operation, the Government is conducting preliminary studies on it.

Moreover, some trade members suggest that consideration should be given to classifying liquor licences into different categories in accordance with the types of risks involved, in a bid to strengthen the risk management of various types of liquor-selling premises. The Government will consider making use of the risk assessment principles to set the criteria for classifying liquor-licensed premises into different risk types. The criteria may include the term of the liquor licence, past records of the liquor-licensed premises (e.g. whether the premises had caused any noise nuisance to nearby residents or received complaints during the licence period), records of contravention of licensing conditions, location and operation mode of the premises, and liquor-selling hours. Specific criteria will also be followed when considering the feasibility of allowing a body corporate to be issued with a liquor licence.

Tree management

9. **MR HUI CHI-FUNG** (in Chinese): *President, last month, two 80-year-old Chinese banyan trees located at Bonham Road in front of Tang Chi Ngong Building of the University of Hong Kong were removed by workers sent by the Government for the reason that the trees had health and structural problems. It has been reported that some tree experts queried that (i) the risk assessment for the two trees conducted prior to the removal by an arborist of an outsourced service contractor was sloppy, and (ii) the Government had all along failed to maintain and manage the two trees in accordance with the standard for management of stonewall trees. In this connection, will the Government inform this Council:*

- (1) *as the contractor engaged by the Lands Department was required to conduct regular inspection and maintenance of the two trees (including pruning) every six months since mid-2015, whether such maintenance work included (i) improving the soil at the trees' trunk bases, (ii) stabilizing the structure of the low-rise wall which was wrapped around by the trees' roots, and (iii) taking measures to enhance the trees' immunity;*
- (2) *given that the two trees met the definition of stonewall trees (i.e. most of the roots spreading on or penetrating through the wall face, and with the trunk bases situated within the confines of a wall), of the reasons why the Government had never maintained and managed the two trees in accordance with the standard for stonewall trees; and*
- (3) *whether the Government conducted, in the past three years, any review on the system of outsourcing tree management, including reviewing whether the practice of awarding service contracts based on the "lowest bid wins" principle had led to poor quality of risk assessments for trees, thereby causing the Government to make wrong decisions on the need to remove trees?*

SECRETARY FOR DEVELOPMENT (in Chinese): President, since 2015, the Government has closely monitored the conditions of the two Banyan trees and the wall that they are attached to. Qualified arborists of the tree maintenance contractor of the Lands Department ("LandsD") conducted risk assessments for the two Banyan trees every six months. Upon receiving the assessment report every time, LandsD reviewed the report in detail and verified the assessment on site. Resistance drilling test using tree inspection equipment on the trunk of one of the trees had also been conducted to determine the extent of rot inside the trunk. Similar resistance drilling test on the other tree was not possible due to site constraints.

Four officers in the Tree Unit of LandsD are involved in reviewing and conducting on-site verification. All of them possess arboriculture qualifications, including Certified Arborists of the International Society of Arboriculture ("ISA"), Tree Risk Assessment Qualification of ISA, etc., and have more than 10 years of experience in tree risk assessment and maintenance. Amongst them, a

senior tree management officer possesses a master degree in arboriculture and urban forestry from the United Kingdom and has more than 20 years of experience in tree management.

Upon receiving the tree removal proposal from LandsD in December last year, Certified Arborists with extensive experience in tree management from the Tree Management Office ("TMO") also conducted site inspections and examined the conditions of the two Banyan trees and the wall. Having comprehensively considered all factors, including stability of the trees and the wall, the health and structure of the trees, their location, usage of the nearby community facilities, public consequence of tree and wall failure, and availability of practicable mitigation measures, TMO agreed that it was necessary to remove the trees before the wet season in the interest of public safety.

TMO also invited tree experts from the Urban Forestry Advisory Panel ("UFAP") to conduct field visits to stonewall and wall trees in Hong Kong on 26 April, including the Banyan trees at Bonham Road, and discussed the tree removal proposal with them. The UFAP members agreed that other mitigation measures were not feasible and tree removal was necessary, taking into account their threat to public safety.

The tree risk assessments for the two Banyan trees were checked and verified by several ISA Certified Arborists and qualified arborists with extensive experience. The assessment was undertaken according to established procedures in a professional and rigorous manner.

My reply to the questions raised by Mr HUI Chi-fung is as follows:

- (1) Since mid-2015, LandsD has arranged qualified arborists of the tree maintenance contractor to inspect and maintain the two Banyan trees every six months, including pruning to reduce the weight of the canopy and removal of fungal infected parts. For other proposed maintenance works such as improving the quality of the soil around the basal area of the trees and enhancing the defence system of the trees, as the growth environment of the two Banyan trees was undesirable, for instance, half of the root system was covered by footpath and road surfaces, and the other half was separated by the wall of Tang Chi Ngong Building, soil improvement would have a negligible effect in addressing the fundamental causes of tree

deterioration. In addition, as the "self-repair" mechanism of the trees has failed and internal decay was observed in the old cut wounds of the two branches, the two trees showed irreversible health problems. Measures to strengthen the trees' defence system would have little effect.

Given that the footpath along Bonham Road is very narrow and the roots of the two Banyan trees have already wrapped around the wall, reinforcing the structure of the walls is technically not feasible.

- (2) The two Banyan trees did not grow on stone retaining wall but have only wrapped around the adjacent wall. They are not considered as stonewall trees. This notwithstanding, LandsD has closely monitored their health and structural stability since 2015, carrying out tree risk assessment every six months and implementing practicable measures to retain the trees, such as pruning to reduce the load and removing fungal fruiting bodies at the infected tree root .
- (3) The Government reviews the system of outsourcing tree management works from time to time with a view to bringing in latest good practices. LandsD's current tender evaluation process follows the established guidelines, which takes into account tenderers' past performance in previous public works projects as well as tender price. It is not based solely on lowest bidding. Furthermore, qualified tenderers must be listed in the "Landscaping Category, Group II" under the "List of Approved Suppliers of Materials and Specialist Contractors for Public Works" of the Development Bureau. In addition, all tree management departments must strictly comply with the "Guidelines for Tree Risk Assessment and Management Arrangement" to clearly stipulate the requirements for professional qualifications in arboriculture, training and related work experience in the contract. Only qualified personnel can be deployed to carry out relevant tasks in accordance with the requirements specified in the contract.

As mentioned above, the tree risk assessments for the two Banyan trees were checked and verified by several ISA Certified Arborists and qualified arborists with extensive experience. The structure of the adjacent wall has been adversely affected by tree growth, showing deformations and multiple cracks. The wall has tilted

towards Bonham Road, indicating high likelihood of collapse. In the event of heavy rain, the runoff may wash away the soil around the tree roots through the cracks on the wall, compromising base support and leading to tree and wall collapse. Tree failures are sudden, and it is not possible for passers-by and vehicles to escape in time. Therefore, when failing trees pose high risk to the public, removing them is necessary. The decision to remove the two trees at Bonham Road is justified and professional in the interest of public safety.

Fresh water supply in Hong Kong in times of droughts in Guangdong Province

10. **MR KWOK WAI-KEUNG** (in Chinese): *President, at present, 70% to 80% of the fresh water in Hong Kong comes from Dongjiang water. Regarding fresh water supply in Hong Kong in times of droughts in Guangdong Province, will the Government inform this Council:*

- (1) *whether it is stipulated in the Agreement for the supply of Dongjiang water to Hong Kong signed between the Hong Kong Government and the Guangdong Provincial Government that the two governments may discuss the adjustment of quantities of water to be supplied to Hong Kong in times of severe droughts in Guangdong Province; if so, of the details;*
- (2) *whether it has formulated measures to cope with the situation that the supply of Dongjiang water to Hong Kong is inadequate due to severe droughts in Guangdong Province; if so, of the details, and under what circumstances water rationing will be imposed; and*
- (3) *given that the daily water supply of the Tseung Kwan O Desalination Plant, upon completion of its first stage construction works, will only meet around 5% of the daily water consumption of the whole territory, and that global water resources are getting increasingly tight, whether the authorities will study the setting of a target percentage of the fresh water output of the desalination plant in the water consumption at 30%?*

SECRETARY FOR DEVELOPMENT (in Chinese): President, the Government is committed to maintaining the reliability of water supply in Hong Kong. Currently, the fresh water supply for Hong Kong comprises the imported Dongjiang ("DJ") water from Guangdong and rainwater from local water gathering grounds, representing 70% to 80% and 20% to 30% of our total fresh water consumption respectively. The "package deal lump sum" approach has been adopted for the DJ water supply agreements since 2006. This approach enables us to import DJ water as needed according to the amount of local yield collected each year up to an annual supply ceiling. The annual supply ceiling in the current supply agreement is set at 820 million cubic metres ("mcm") based on fresh water demand analysis conducted by Water Supplies Department to ensure water supply reliability of 99%, such that water supply can be maintained round-the-clock even under extreme drought condition with a return period of one in 100 years.

My response to the three parts of Mr KWOK's question is as follows:

(1) and (2)

Although the agreement signed between the Hong Kong Government and the Guangdong Provincial Government for the supply of DJ water to Hong Kong does not have provision for the adjustment of supply quantities by negotiation between the two governments in times of severe droughts in the Guangdong Province, the annual supply ceiling of 820 mcm under the current supply agreement represents only about 3% of the annual mean flow of the main stream of DJ. Furthermore, there are three large reservoirs, namely Xinfengjiang Reservoir, Fengshuba Reservoir, and Baipenzhu Reservoir, in the middle-upper stream of the DJ River Basin with a total storage capacity of 17 060 mcm. The storage in these reservoirs can be utilized to balance the flow of DJ, enabling us to import DJ water up to the annual supply ceiling as stipulated in the current supply agreement.

As mentioned above, water supply can be maintained round-the-clock even under extreme drought condition in Hong Kong with a return period of one in 100 years under the current water supply arrangement. If Hong Kong suffers from persistent extremely dry weather leading to insufficient water supply, we will

take into account a host of factors including fresh water demand, supply situation of various water resources and rainfall forecast etc., for implementing appropriate responsive actions, such as imposing restriction on non-essential supplies including landscape irrigation, filling of swimming pools and street cleansing.

- (3) Tenders are being invited for the "Design, Build and Operate" contract of the first stage of Tseung Kwan O desalination plant, which is anticipated for commissioning by 2022. The first stage of desalination plant will have a water production capacity of 135 000 cubic metres per day to meet about 5% of fresh water demand in Hong Kong. There is also provision for future expansion to the ultimate water production capacity of up to 270 000 cubic metres per day if necessary. The Government will study the programme for implementing the second stage of Tseung Kwan O desalination plant having regard to the supply situation of various water resources, the water demand forecast and the development of desalination technology, etc.

Besides, we are also exploiting two other new water sources which are reclaimed water and recycled grey water/harvested rainwater to supplement the three existing water sources, namely local yield, DJ water and seawater for flushing, thus increasing the water sources from three to six, making the water sources in Hong Kong more diversified. Currently, we do not have plan to study if the output of the desalination plant should be set at a target percentage of 30% of the total water consumption. We will conduct regular review on the positioning of the desalination plant and the percentage of its output against the total water consumption based on the supply situation of various water sources, reliability, environmental impact, technological development, sustainability and cost effectiveness, etc.

Engagement of land surveyors in public works projects

11. **MR TONY TSE** (in Chinese): *President, some members of the surveying sector have pointed out that the work carried out by land surveyors (e.g. providing information on ground features for construction works, establishing site boundaries and setting piling positions for piling works) can reduce disputes caused by unclear land boundaries and ensure that works are*

carried out at accurate locations. Nevertheless, the Government has not made it mandatory for public works contractors to engage, according to the project scale and complexity, a specified number of registered land surveyors to participate in the projects. Such a situation may impact on the progress and quality of the works, and is not conducive to providing job opportunities to attract new blood. On the other hand, the Highways Department ("HyD") issued the Highways Department Technical Circular No. 5/2003 ("the Technical Circular") in 2003, providing guidelines on the qualification and experience requirements of surveyors engaged by contractors in highway projects. In this connection, will the Government inform this Council:

- (1) as it is stipulated in the Technical Circular that in respect of road works the contract value of which is over \$500 million, contractors must engage land surveyors who are members of The Hong Kong Institute of Surveyors in the Land Surveying Division (or persons with equivalent professional qualifications) with relevant experience, and such surveyors should be full time on site, whether the authorities know how the relevant requirements are implemented;*
- (2) given that the Technical Circular has been issued for over a decade since 2003, whether the authorities have reviewed if the Circular can still cater to present-day needs; if the authorities have, of the outcome; if not, the reasons for that and whether they will conduct a review expeditiously;*
- (3) whether government departments other than HyD have followed the guidelines set out in the Technical Circular when implementing works projects; if so, of the details; if not, the reasons for that; and*
- (4) whether it will consider formulating guidelines to stipulate that, in respect of public works projects the contract value of which is over \$500 million or those with complicated site boundaries, contractors must engage a specified number of registered land surveyors (or persons with equivalent professional qualifications and work experience) to participate in works planning, and such surveyors should be full time on site; if so, of the details; if not, the reasons for that?*

SECRETARY FOR DEVELOPMENT (in Chinese): President, the Government always accords high priority to the quality and cost-effectiveness of public works. The Development Bureau and works departments review technical requirements of various aspects for public works contracts from time to time so as to align with the development of technology and project requirements. At present, the qualification and experience requirements of land surveying staff engaged by contractors are stated in the "General Specification for Civil Engineering Works"⁽¹⁾ or the particular specifications prepared according to the situations of the individual projects.

My reply to Mr Tony TSE's question is as follows:

- (1) Since the site boundaries of road works projects are in general more extensive and complicated, land surveying staff with higher qualifications may be required to carry out some of the land surveying work. As such, the Highways Department ("HyD") has promulgated its technical circular no. 5/2003⁽²⁾ to set out the guidelines for preparation of particular specifications for individual projects for reference by its project offices. Although the technical circular has listed out the qualification and experience requirements for land surveying staff engaged by the contractors in different scale of projects, such as engagement of a member of the Hong Kong Institute of Surveyors in the Land Surveying Division or equivalent plus three years relevant working experience for works contracts with value over \$500 million, it is not a hard rule for including such requirements. The technical circular allows the project offices to determine the appropriate requirements in the particular specification to suit the actual situations and surveying demand of individual projects. The technical circular also requires the project offices to consult its departmental survey division on the relevant qualification and experience requirements of land surveying staff engaged by the contractor to be specified in the works contracts. HyD advised that the operation of this technical circular has long been satisfactory.

- (1) For the General Specification for Civil Engineering Works (English version only), please refer to the link below: <http://www.cedd.gov.hk/eng/publications/standards_handbooks_cost/doc/stan_gs_2006/GS%202006%20Vol%201%20Rev%2022-180119.pdf>
- (2) For the HyD Technical Circular No. 5/2003 (English version only), please refer to the link below: <https://www.hyd.gov.hk/en/publications_and_publicity/publications/technical_document/hyd_technical_circulars/doc/2003/05/TC0503.pdf>

- (2) HyD has conducted reviews on the above mentioned technical circular regularly. At present, it considers that the details of this technical circular are still applicable. HyD will continue to review this technical circular at appropriate times and update its details if considered necessary.
- (3) Works departments set out the appropriate contract requirements with respect to the nature, complexity and surveying demand of their projects. If other works departments have public works projects involving road works, they would make reference to the above mentioned HyD's technical circular in preparing the contract requirements. Generally speaking, for projects involving substantial surveying work, works departments would consult their respective survey division on the requirements of land surveying staff engaged by contractors in order to suit the latest development of the technology and the market.
- (4) In general, public works projects managed by different works departments vary in the nature and complexity of works as well as the extent of the surveying work required. It may not be desirable to set out unique requirements on the qualification and experience of land surveying staff together with their number for all works departments. We consider it is more appropriate for works departments to determine the relevant requirements of land surveying staff based on the characteristics, complexity, site constraints, etc. of the respective projects. With regard to this issue, the Development Bureau and works departments will continue to keep in view of the development of the technology and the market and will conduct reviews and update the relevant requirements if considered necessary.

Safety of lifts

12. **MR CHAN HAN-PAN** (in Chinese): *President, in April this year, a serious lift accident occurred in a housing estate, causing injuries to two residents who needed to be sent to hospital for treatment. It is learnt that lift contractors often have difficulty in keeping aged lifts under proper repair and maintenance because they are unable to source parts, thereby posing safety*

hazards. As at the end of last year, 20 0430 out of the some 66 200 lifts across the territory were more than 30 years old. In this connection, will the Government inform this Council:

- (1) *regarding the Integrated Building Maintenance Assistance Scheme, the Building Maintenance Grant Scheme for Elderly Owners and the Building Safety Loan Scheme, of the respective numbers of applications involving lift repair and maintenance or replacement works (i) received and (ii) approved by the authorities in each of the past five years; in respect of the approved applications, of the respective total numbers of lifts involving (iii) replacement and (iv) repair and maintenance/parts replacement, and (v) the total amount of funding granted (set out in tables of the same format as the table below);*

Name of scheme: _____

| <i>Year</i> | <i>(i)</i> | <i>(ii)</i> | <i>(iii)</i> | <i>(iv)</i> | <i>(v)</i> |
|-------------|------------|-------------|--------------|-------------|------------|
| <i>2013</i> | | | | | |
| <i>2014</i> | | | | | |
| <i>2015</i> | | | | | |
| <i>2016</i> | | | | | |
| <i>2017</i> | | | | | |

- (2) *of (i) the number of staff members of the Electrical and Mechanical Services Department responsible for lift inspections and (ii) the number of such inspections conducted by them, in each of the past five years;*
- (3) *as some lift repairmen have pointed out that manpower shortage has resulted in them having to work overtime excessively and long working hours have caused recruitment difficulties, thereby creating a vicious cycle, of the measures the authorities have in place to encourage new blood to join the trade; and*
- (4) *as the authorities have indicated that they will, by making reference to the approach adopted in schemes such as the Operation Building Bright 2.0, allocate funding to subsidize property owners in need to carry out lift repair and maintenance or replacement works, of the*

implementation timetable of the relevant scheme; apart from providing subsidy, the measures the authorities have in place to encourage lift owners to replace aged lifts expeditiously?

SECRETARY FOR DEVELOPMENT (in Chinese): President, the operation of lifts in Hong Kong is regulated by the Lifts and Escalators Ordinance (Cap. 618) ("the Ordinance"), which was put into operation on 17 December 2012, to replace the repealed Lifts and Escalators (Safety) Ordinance (Cap. 327). The Ordinance introduces a series of new and enhanced regulatory measures including stipulating clearly the responsibilities of the Responsible Person (i.e. owner of the lift/escalator and any person who has the management or control of the lift/escalator), the Registered Contractor, the Registered Engineer and the Registered Worker. Since the Ordinance came into operation, the number of incidents⁽¹⁾ that must be reported to the Electrical and Mechanical Services Department ("EMSD") involving failure of lift and escalator equipment has been remarkably reduced as compared with that before the Ordinance was put in effect, with a reduction of 72% from an average of 28 cases per year in 2010 to 2012 to an average of 7.8 cases per year in 2013 to 2017. EMSD will continue to strictly enforce the Ordinance and is committed to introducing various measures to enhance the safety of aged lifts, so as to ensure that the public can enjoy safe lift services.

Our reply to the question raised by Mr CHAN is as follows:

- (1) In accordance with the Ordinance, the Responsible Person for a lift must notify the Director of Electrical and Mechanical Services of the following lift incidents:
 - (i) A person dies or is injured and the death or injury involves a lift or any associated equipment or machinery of a lift;
 - (ii) A failure of the main drive system of a lift;
 - (iii) A breakage of any suspension rope of a lift;
 - (iv) A failure of any brake, overload device, safety component or safety equipment of a lift; or
 - (v) A failure of any interlocking device for any door of the lift-way of a lift.

Upon receiving notification of the above lift incidents, EMSD will arrange on-duty staff for an investigation as far as practicable.

- (1) At present, the Government has made available financial assistance to owners of private buildings in need to modernize or replace their lifts. These include the "Integrated Building Maintenance Assistance Scheme" provided by the Urban Renewal Authority ("URA"), the "Building Maintenance Grant Scheme for Elderly Owners" administered by the Hong Kong Housing Society ("HKHS") under the Government's entrustment and the "Building Safety Loan Scheme" provided by the Buildings Department ("BD").

URA, HKHS and BD do not compile statistical information regarding the number of applications received or approved involving repair and maintenance/parts replacement or replacement of lifts and the corresponding total number of lifts. However, the Government notices that owners may tend to use such financial support on the maintenance or improvement of other common areas based on the conditions of the buildings rather than on the lift modernization works.

In the past five years, the information of applications processed by URA under the "Integrated Building Maintenance Assistance Scheme" is as follows:

Integrated Building Maintenance Assistance Scheme

| <i>Year</i> | <i>Number of applications received</i> | <i>Number of applications approved</i> | <i>Number of approved applications involving lift repair and maintenance/parts replacement/lift replacement</i> | <i>Total number of lift replacement</i> | <i>Total number of lift repair and maintenance/parts replacement</i> | <i>Total amount of funding subsidized for approved applications (see the third column) (\$million)</i> |
|-------------|--|--|---|---|--|--|
| 2013 | 169 | 17 | 1 | No relevant statistical information | | 3.26 |
| 2014 | 189 | 25 | 2 | | | 6.46 |
| 2015 | 344 | 69 | 2 | | | 21.42 |
| 2016 | 365 | 159 | 3 | | | 43.3 |
| 2017 | 305 | 187 | 4 | | | 55.57 |

In the past five years, the information of applications processed by HKHS under the "Building Maintenance Grant Scheme for Elderly Owners" is as follows:

Building Maintenance Grant Scheme for Elderly Owners

| <i>Year</i> | <i>Number of applications received</i> | <i>Number of applications approved</i> | <i>Number of approved applications involving lift repair and maintenance/parts replacement/lift replacement</i> | <i>Total number of lift replacement</i> | <i>Total number of lift repair and maintenance/parts replacement</i> | <i>Total amount of funding subsidized (\$million)</i> |
|-------------|--|--|---|---|--|---|
| 2013 | 3 448 | 2 402 | No relevant statistical information | | | 51.72 |
| 2014 | 2 972 | 2 766 | | | | 48.96 |
| 2015 | 3 301 | 2 889 | | | | 80.89 |
| 2016 | 3 293 | 2 533 | | | | 71.49 |
| 2017 | 2 695 | 1 978 | | | | 54.34 |

In the past five years, the information of applications processed by BD under the "Building Safety Loan Scheme" is as follows:

Building Safety Loan Scheme

| <i>Year</i> | <i>Number of applications received</i> | <i>Number of applications approved</i> | <i>Number of approved applications involving lift repair and maintenance/parts replacement/lift replacement</i> | <i>Total number of lift replacement</i> | <i>Total number of lift repair and maintenance/parts replacement</i> | <i>Total amount of funding subsidized (\$million)</i> |
|-------------|--|--|---|---|--|---|
| 2013 | 2 697 | 2 068 | No relevant statistical information | | | 141 |
| 2014 | 1 827 | 1 516 | | | | 117.6 |

| <i>Year</i> | <i>Number of applications received</i> | <i>Number of applications approved</i> | <i>Number of approved applications involving lift repair and maintenance/parts replacement/lift replacement</i> | <i>Total number of lift replacement</i> | <i>Total number of lift repair and maintenance/parts replacement</i> | <i>Total amount of funding subsidized (\$million)</i> |
|-------------|--|--|---|---|--|---|
| 2015 | 1 246 | 722 | | | | 42.8 |
| 2016 | 998 | 1 016 | | | | 71.1 |
| 2017 | 725 | 578 | | | | 41.3 |

- (2) EMSD attaches great importance to lift and escalator safety, and has set up a dedicated team responsible for regulating lift and escalator safety throughout the territory. In the past five years, the numbers of staff members in the team are 26 (Year 2013-2014), 36 (Year 2014-2015), 36 (Year 2015-2016), 27 (Year 2016-2017)⁽²⁾ and 34 (in 2017-2018).⁽³⁾ The numbers of inspections conducted by them in the past five years are as follows:

| <i>Year</i> | <i>2013</i> | <i>2014</i> | <i>2015</i> | <i>2016</i> | <i>2017</i> |
|---------------------------------|-------------|-------------|-------------|-------------|-------------|
| Number of lift inspections | 9 258 | 10 850 | 10 090 | 8 808 | 8 801 |
| Number of escalator inspections | 1 306 | 1 423 | 1 708 | 1 363 | 2 430 |
| Total | 10 564 | 12 273 | 11 798 | 10 171 | 11 231 |

- (2) The increase of staff members in Year 2014-2015 and Year 2015-2016 was based on risk assessment, requiring more staff members to enhance inspections of lifts/escalators. The number of staff members in Year 2016-2017 resumed to its normal level.
- (3) The increase of staff members in Year 2017-2018 was due to the continuous increase in number of lifts and escalators, so as to maintain the level of control on lift and escalator safety.

In 2018-2019, EMSD has increased the manpower of the dedicated team to 43 staff members, in order to strengthen the inspections of aged lifts. EMSD will make greater efforts to inspect the maintenance and examination of lifts, in particular those components which may affect the safe operation of lifts. It is expected that the number of inspections this year will increase to about 14 000, i.e. an increase of 25%. In addition, regarding the new series of measures which are to be implemented in the future, EMSD will further examine the manpower requirements to cope with the additional workload.

- (3) EMSD has been closely monitoring the manpower situation of the market. Apart from maintaining close communication with the industry, the following series of measures have been implemented in recent years to attract more new bloods to join the industry:
- The Vocational Training Council ("VTC") and the Construction Industry Council ("CIC") jointly introduced the "Earn & Learn" Scheme in 2014. The number of new apprentices enrolled each year has increased remarkably, from about 70 in the past to more than 200 in 2015 and more than 250 in both 2016 and 2017;
 - In 2016, VTC and the HKU School of Professional and Continuing Education launched two different courses related to lift and escalator for the practicing workers to acquire the required academic qualifications to meet the registration requirements of Registered Workers;
 - CIC has implemented the "Contractor Cooperative Training Scheme" for the Electrical and Mechanical ("E&M") trades (including lift and escalator mechanics) to provide financial support to those who wish to join the lift and escalator industry;
 - Since 2016, EMSD has started to invest more than \$600 million in recruiting over 1 000 technician trainees in five years to provide new bloods for the entire E&M industry (including lift and escalator trade) to cope with future challenges; and

- In early 2018, EMSD collaborated with the industry to produce a promotional video to attract newcomers to the industry. Production of the video has been completed, which has been uploaded onto the department's website for public viewing.

In light of the fact that more new bloods have joined the industry in the past three years and most of them are still undergoing apprenticeship training, these apprentices are expected to be graduated in the next two to three years and join the industry.

- (4) Lifts must have proper periodic examinations and maintenance to ensure their safe use. However, as the lifts get aged, the maintenance problems encountered will be more and more in terms of number and complexity. Owing to rapid technological advancement in recent years, modern lifts are equipped with more comprehensive safety devices than the aged ones. There are thus rooms for improving and enhancing aged lifts from the lift safety perspective. In view of this, EMSD promulgated "the Guidelines for Modernising Existing Lifts" in 2011, which aims at recommending that the Responsible Persons should install safety devices (including the unintended car movement protection device) for their aged lifts to make the lifts safer, more reliable and comfortable.

As of the end of 2017, there were about 66 200 lifts in Hong Kong, of which about 80% were not equipped with safety devices of the latest standard. Owing to the fact that the lift modernization is carried out on a voluntary basis, modernization works of different level have been carried out to about 5 200 lifts since 2011. The progress is not remarkable.

As we briefed Members at the meeting of Legislative Council Panel on Development on 29 May 2018, the Development Bureau and EMSD are actively formulating short-term, medium-term and medium to long-term measures to enhance the safety of aged lifts, thereby further protecting public safety:

Short-term measures: EMSD will step up its surveillance checks of the maintenance and examination of lifts, in particular those components that may affect the safe operation of lifts. At the same time, the department is also studying how the Responsible Persons and contractors can strengthen the maintenance of aged lifts that have not yet been modernized.

Medium-term measures: The Development Bureau and EMSD will consider the feasibility of allocating funding to subsidize those owners in need by making reference to the ongoing "Operation Building Bright 2.0 Scheme" and "Fire Safety Improvement Works Subsidy Scheme", and providing them with appropriate professional support, so as to encourage them to speed up the lift modernization works.

Medium to long-term measures: The Development Bureau and EMSD will study the feasibility of mandating the lift modernization works in phases. In this regard, we will make reference to the practices of other countries, and take into account the impact on the community and the trade.

We will brief Members on the details of the new measures as soon as possible, especially the subsidy scheme related to the medium-term measures.

Management of water resources

13. **MS CLAUDIA MO** (in Chinese): *President, on the management of water resources, will the Government inform this Council:*

- (1) *of the latest progress of the works for the first stage of the desalination plant at Tseung Kwan O; whether it will adopt measures to facilitate the completion of the construction works for the plant ahead of the target date of 2022; of the progress of the works for the second stage and whether an implementation timetable is in place; if there is no timetable, of the reasons for that;*

- (2) *of the latest progress of the following measures on new sources of water supply:*
- (i) *supplying reclaimed water to the north-eastern part of the New Territories in phases for non-potable uses, and*
 - (ii) *wider use of grey water recycling and rainwater harvesting systems under suitable new government projects;*
- (3) *whether it has studied exploring new water sources to diversify water resources, thereby reducing the reliance on Dongjiang water; if not, of the reasons for that; and*
- (4) *regarding the consultancy review of the Total Water Management Strategy expected to be completed within this year, of (i) its preliminary findings and (ii) the outstanding work?*

SECRETARY FOR DEVELOPMENT (in Chinese): President, Water Supplies Department ("WSD") promulgated the Total Water Management Strategy ("the Strategy") in 2008 to ensure sustainable and reliable water supply in Hong Kong. The Strategy puts an emphasis on containing the growth of water demand through water conservation and exploiting new water resources. WSD is currently exploiting three new water sources, namely desalinated seawater, reclaimed water and recycled grey water/harvested rainwater, to supplement the three existing water sources, being local yield, Dongjiang water and seawater for flushing.

My response to the four parts of Ms MO's question is as follows:

- (1) Tenders are being invited for the "Design, Build and Operate" contract of the first stage of Tseung Kwan O desalination plant, which is anticipated for commissioning in 2022. The first stage of desalination plant will have a water production capacity of 135 000 cu m per day to meet about 5% of fresh water demand in Hong Kong. We have made provision for its future expansion to the ultimate water production capacity of 270 000 cu m per day when necessary.

Under the contract of the first stage of desalination plant, the period for design and construction is 39 months which has been compressed as far as possible. At this stage, we are endeavoring to complete the invitation and assessment of tenders as soon as possible, and seek support of the Public Works Subcommittee for obtaining funding approval from the Finance Committee of the Legislative Council with a view to commencing the contract of the first stage of desalination plant as soon as possible. During the period of design and construction, we will closely supervise the contractor with a view to commissioning the first stage of desalination plant in 2022 as scheduled. The Government will study the programme for implementing the second stage of Tseung Kwan O desalination plant having regard to the supply situation of various water resources, the water demand forecast, and the development of desalination technology, etc.

- (2) We plan to supply reclaimed water for toilet flushing in the north-eastern part of the New Territories in phases starting with Sheung Shui and Fanling from 2022 onwards. We are currently taking forward the implementation of the associated infrastructure works. Whilst the construction of a service reservoir of flushing water and laying of truck water mains commenced in April 2017, we plan to start laying the first stage of the local distribution mains in Sheung Shui and Fanling in the third quarter of this year. Furthermore, we are continuing with the design of the remaining works, including a chlorination plant for production of reclaimed water, a pumping system and the second stage of the local distribution mains in Sheung Shui and Fanling.

Besides, we plan to launch a public consultation for the supply of reclaimed water this year and commence the related legislative amendment work subsequently. This will match the programme to start providing reclaimed water for toilet flushing in Sheung Shui and Fanling in 2022.

We have also been advocating the adoption of grey water reuse system and/or rainwater harvesting system in suitable government works projects. A joint technical circular on Green Government Buildings has been issued by the Development Bureau and the Environment Bureau (i.e. the Development Bureau technical circular

no. 2/2015/ENB circular memorandum no. 3/2015). This circular requires the utilization of grey water recycling and/or rainwater harvesting to reduce fresh water demand for non-potable uses as far as practicable. As for private buildings, we make use of the assessment tools in Building Environmental Assessment Method Plus for Existing Buildings Version 2.0 issued by the Hong Kong Green Building Council to encourage the adoption of grey water reuse and/or rainwater harvesting systems by awarding bonus credits to private buildings with these systems. Apart from these measures, we will construct a centralized grey water recycling system in the Anderson Road Quarry development site to treat grey water collected from end users within the development for flushing use.

- (3) WSD is currently exploiting three new water sources, namely desalinated seawater, reclaimed water and recycled grey water/harvested rainwater, to supplement the three existing water sources, i.e. local yield, Dongjiang water and seawater for flushing. The water sources of Hong Kong will thus increase from three to six, becoming more diversified. In addition, we will continue to study the feasibility of exploiting other water resources, including their reliability, environmental impact, technological development, sustainability, cost effectiveness, etc. We will also keep in view the development of new water resources in different parts of the world and their feasibility of application in Hong Kong.
- (4) The consultants employed by WSD are conducting a review on the Strategy. The review includes evaluating the effectiveness of the Strategy currently being implemented, forecasting the long-term water demand and supply up to 2040, exploring new water management initiatives and assessing the need of adjusting current measures in the formulation of the new Strategy.

The consultants have reviewed the various water management initiatives. They are currently reviewing the long-term water demand for Hong Kong based on the latest available data and the corresponding water management initiatives. The review of the Strategy is expected to be completed by end 2018.

Regulation of ingredients and labelling of personal care products and cosmetics

14. **DR CHIANG LAI-WAN** (in Chinese): *President, it has been reported that some facial cleansing products available for sale in Hong Kong contain dyes that have been banned by the European Union ("EU"). In the past, some sunscreen lotions and hair dye products were found after tests to contain estrogenic endocrine disruptors which were carcinogenic and allergens respectively. On the other hand, personal care products and cosmetics for sale in Hong Kong are now required to comply only with "the general safety requirement" in the Consumer Goods Safety Ordinance (Cap. 456). In this connection, will the Government inform this Council:*

- (1) whether the authorities will, by making reference to the relevant practices applied in EU or internationally, formulate product safety standards applicable to personal care products and cosmetics, so as to enhance the protection for consumers; if so, of the details; if not, the reasons for that; and*
- (2) as some personal care products and cosmetics available in the market either do not have their ingredients labelled or have their ingredients labelled only in the language of the place of origin (neither Chinese nor English), and those products may contain ingredients that may cause allergies or even deaths, whether the authorities will amend the legislation to require that those products must have their ingredients labelled in both Chinese and English, so as to enhance the protection for consumers?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President, having consulted the Food and Health Bureau, my reply to the two parts of the question is as follows:

- (1) The safety of consumer goods which are ordinarily supplied for private use or consumption in Hong Kong, including personal care products and cosmetics, if not covered by other legislation, is subject to the regulation of the Consumer Goods Safety Ordinance (Cap. 456) ("CGSO") and its subsidiary legislation, Consumer Goods Safety Regulation (Cap. 456A) ("CGSR"). According to the CGSO, manufacturers, importers and suppliers should ensure that

the consumer goods comply with the "general safety requirement", which means that they are reasonably safe. In determining whether consumers goods are reasonably safe, one should have regard to all of the circumstances, including the use of any mark in relation to the consumer goods and instructions or warnings given for the keeping, use or consumption of the consumer goods; and reasonable safety standards published by a standards institute or similar body for consumer goods of the description which applies to the consumer goods or for matters relating to consumer goods of that description.

Customs and Excise Department ("C&ED") is responsible for enforcing CGSO. For regulating the safety of personal care products and cosmetics, C&ED will, in accordance with CGSO, consider relevant reasonable safety standards, including the standards or requirements published by the European Union, the United States and the Mainland to determine whether a product is reasonably safe. If unsafe products are found, C&ED will take appropriate enforcement actions to protect consumers.

- (2) The relevant standards or regulations published by the European Union, the United States and the Mainland all require that personal care products and cosmetics be marked with precautions if they contain ingredients with health hazards. Beside, CGSR stipulates that, where consumer goods are marked with any warning or caution with respect to their safe keeping, use, consumption or disposal, such warning or caution should be in both the English and the Chinese languages, as well as legible and conspicuous.

To ensure that personal care products and cosmetics available for sale in the market comply with relevant requirements under CGSO and CGSR, in addition to investigating into complaints, C&ED will proactively conduct spot checks on wholesalers and retailers and test-purchase products for testing. C&ED will also monitor relevant reports as well as alerts issued by organizations related to product safety. When necessary, C&ED will seek advice from the Department of Health ("DH") to examine the products' impact on human health and the risks involved in order to take appropriate enforcement actions, including the issue of prohibition notices or recall notices and initiating prosecution.

Moreover, personal care products and cosmetics which fall within the definition of "pharmaceutical products" under the Pharmacy and Poisons Ordinance (Cap. 138) ("PPO"), must satisfy the criteria of safety, quality and efficacy and be registered with the Pharmacy and Poisons Board before they can be legally sold in Hong Kong.

In addition, hair dye preparations containing phenylne diamines, toluene diamines or other alkylated benzene diamines or their salts are Part 2 poisons under PPO and should only be sold at registered premises of Authorized Sellers of Poisons (commonly known as pharmacies or dispensaries) or Listed Sellers of Poisons (commonly known as medicine companies). When selling these hair dye preparations, they are also required to comply with the relevant labelling requirements under PPO including displaying the name of the poison on the container and its proportion in the total composition of the preparation, together with the text of "Caution. This preparation may cause serious inflammation of the skin in certain persons and should be used only in accordance with expert advice." etc.

Products which fall within the definition of proprietary Chinese medicines under the Chinese Medicine Ordinance (Cap. 549) must fulfil the requirements set by the Chinese Medicine Council of Hong Kong ("CMCHK") in terms of safety, quality and efficacy, and be registered with the Chinese Medicines Board under CMCHK before they can be imported, locally manufactured and sold.

To ensure the safety and quality of pharmaceutical products and proprietary Chinese medicines, DH has put in place a regular market surveillance system under which samples of these products are regularly collected from the market for testing. DH has also established a mechanism for adverse incident reporting relating to drugs and Chinese medicines, so as to conduct risk assessment, management and reporting. If substandard pharmaceutical products or proprietary Chinese medicines are found, DH may take actions such as requesting the traders concerned to recall the products, prosecuting the traders concerned and referring the cases to the relevant board/council for follow-up actions, and issuing relevant press statements.

Support for children suffering from attention deficit/hyperactivity disorder

15. **MR WU CHI-WAI** (in Chinese): *President, an incessant increase in the number of new referrals (including suspected cases of attention deficit/hyperactivity disorder ("ADHD")) to the Child Assessment Service ("CAS") under the Department of Health ("DH") in recent years, coupled with the high turnover rate of doctors, has resulted in the failure of CAS last year to fulfill its performance pledge that 90% of new cases are assessed within six months. In addition, in 2017-2018 (as at 31 December 2017), the longest median waiting time of the new cases of child and adolescent psychiatric specialist outpatient ("CAPSO") among various hospital clusters was 119 weeks. On the other hand, the Government will regularize the Pilot Scheme on On-site Pre-school Rehabilitation Services ("On-site Services Scheme") starting from the 2018-2019 school year. In this connection, will the Government inform this Council:*

- (1) as some psychiatrists have pointed out that the incidence rate of ADHD among school-age children is 5% to 9%, whether the authorities have estimated the current number of ADHD children in the territory and, among them, the number of those who are undiagnosed; if so, of the details; of the authorities' new measures to identify hidden cases as early as possible;*
- (2) whether the authorities have compiled statistics on the respective current numbers of child psychiatrists serving in DH, public hospitals and private hospitals, and the number of those in private practice;*
- (3) whether DH has specific measures to increase the doctor manpower of CAS, with a view to shortening the service waiting time and fulfilling the aforesaid performance pledge; if so, of the details;*
- (4) among the members of the interdisciplinary teams of the On-site Services Scheme, of the types of professionals who may prescribe psychiatric medications; the time when the Scheme will be open for application, and the anticipated impact of the regularization of the Scheme on the waiting time for CAPSO services;*

- (5) *as some non-profit-making organizations currently conduct assessments and provide therapies to low-income families' children with suspected ADHD, whether the authorities have plans to collaborate with such organizations in order to shorten the waiting time for the relevant public services; and*
- (6) *whether the Government, the Hospital Authority and local universities studied in the past three years the causes of ADHD (including its relationship with genetic inheritance), with a view to identifying the causes of ADHD and formulating specific preventive measures as early as possible?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, having consulted the Labour and Welfare Bureau, my reply to Mr WU Chi-wai's question is as follows:

- (1) As at December 2017, the total number of patients under 18 years of age being treated at the Child and Adolescent Psychiatric Service under the Hospital Authority ("HA") which were diagnosed with Attention Deficit/Hyperactivity Disorder ("AD/HD") was 13 630. The Government does not have the statistics of all AD/HD patients in Hong Kong.
- (2), (3) and (5)

Currently, there are 31 Maternal and Child Health Centres ("MCHCs") under the Department of Health ("DH") which provide a range of health promotion and disease prevention services to children from birth to five years. The child health services include immunization, health and developmental surveillance, and parenting education. Children with developmental concerns identified during developmental surveillance will be arranged for a MCHC doctor's preliminary developmental assessment. After being assessed by doctors of MCHCs, children with suspected developmental problems would be referred to Child Assessment Service under DH/HA for further assessment.

The Child Assessment Service under DH ("CAS") adopts a multidisciplinary team approach for assessment. The assessment team comprises paediatricians, nurses, clinical psychologists, speech therapists, physiotherapists, occupational therapists, audiologists, optometrists and medical social workers. The team will seek information from the parent on the development, behaviour and learning of the child, and, with the application of assessment tools and clinical observation appropriate to the child's age and condition, conduct assessments on various developmental aspects of the child such as physical, cognition, language and communication, self-care and behaviour. The team will also arrange and coordinate follow-up and rehabilitation services in accordance with the child's individual needs and the family's circumstances.

In the past few years, the number of new referrals to CAS has been on an increasing trend. Nearly all new cases in CAS were seen within three weeks after registration. The assessment service will then be arranged according to needs. Due to the continuous increase in the demand for assessment service and the high turnover rate and difficulties in recruiting doctors, the target for completion of assessment for 90% of the new cases in CAS within six months in 2017 was unable to be met. A triage system has been adopted in CAS to ensure that children with urgent and more serious conditions are accorded with higher priority in assessment. To meet increasing service demands, additional resources have been allocated to CAS in the past few years to recruit additional manpower. In order to improve the waiting time and to strengthen the assessment service provided, we are planning to recruit additional nurses and allied health professionals for CAS. Moreover, DH will continue its effort in filling the vacancies through recruitment of new doctors and internal redeployment.

On the other hand, DH is planning to establish a new Child Assessment Centre ("CAC") with a view to strengthening the manpower support and enhancing service capacity to meet the rising number of referred cases. To meet the demand during the construction period, DH has opened a temporary CAC in an existing clinic in Ngau Tau Kok in January 2018.

Furthermore, the Government is looking into ways to provide mental health services to children in a more effective manner, with a view to shortening the waiting time for assessment. At the same time, DH will strengthen its nursing and allied health manpower to provide support services for children and their parents during the waiting period.

Currently, there are 23 officers in the Medical and Health Officer grade in DH who are Fellows of the Hong Kong Academy of Medicine in Paediatrics, and they are working in CAS, Clinical Genetic Service, Family Health Service and Student Health Service. At present, the Hong Kong Academy of Medicine does not have a subspecialty in child psychiatry.

On the HA front, HA delivers mental health services using an integrated and multidisciplinary approach involving psychiatric doctors, psychiatric nurses, clinical psychologists, medical social workers, and occupational therapists. The adoption of a multidisciplinary team approach allows flexible deployment of staff to cope with service needs and operational requirements. As at 31 December 2017, there were 351 psychiatric doctors working in the psychiatric stream of HA. As health care professionals providing child and adolescent ("C&A") psychiatric services in HA also support other psychiatric services, HA does not have the breakdown on the manpower for supporting C&A psychiatric services only.

- (4) The Social Welfare Department ("SWD") launched the Pilot Scheme on On-site Pre-school Rehabilitation Services ("the Pilot Scheme") by phases in November 2015. The Pilot Scheme aims to provide rehabilitation services, including training in gross and fine motor skills development, speech development, cognitive and social skills development, through multidisciplinary teams arranged by non-governmental organizations, for children with special needs at participating kindergartens ("KGs")/kindergarten-cum-child care centres. The Pilot Scheme also provides professional advice and assistance for KG teachers/child care workers who are responsible for looking after children with special needs, and renders support to parents. Given the nature of the services, the multidisciplinary

team comprises occupational therapists, physiotherapists, speech therapists, clinical/educational psychologists, social workers and special child care workers. Professionals who are permitted to prescribe psychiatric drugs are not included.

The Government has announced that the Pilot Scheme will be regularized from the 2018-2019 school year onward. Upon service regularization, family members/carers of children with special needs may make application via social workers or staff of rehabilitation service units who will refer them to SWD's Central Referral System for Rehabilitation Services.

- (6) In the past three years, there was no commissioned research or investigator-initiated research projects funded by the Food and Health Bureau or HA on the relationship between AD/HD and genetics.

Public rental housing tenants being required to carry out reinstatement works for the units upon moving out

16. **MR CHAN HAK-KAN** (in Chinese): *President, at present, tenants of public rental housing ("PRH") units are obliged to reinstate all the original fixtures and fittings and remove items added by them ("reinstatement works") at their own expenses upon moving out of their units. However, if both the outgoing and incoming tenants of a unit wish to retain the fixtures and fittings added to the unit and if such fixtures and fittings meet the requirements, the Housing Department ("HD") will normally allow such fixtures and fittings be retained. In this connection, will the Government inform this Council:*

- (1) *of (i) the number of PRH units surrendered by tenants upon their moving out, (ii) among such units, the number of those for which reinstatement works had been carried out before they were surrendered, and (iii) the number of tenants who were allocated such reinstated units, in each of the past three years (set out by District Council district);*
- (2) *whether it knows the time taken and the expenses incurred in general for carrying out reinstatement works;*

- (3) *of the number of complaints received by HD in each of the past three years about the nuisances caused by reinstatement works;*
- (4) *whether it has assessed the quantity of construction waste generated by reinstatement works in each of the past three years; and*
- (5) *whether HD will review the current reinstatement requirements and improve the existing arrangements for granting exemption to reinstatement works (including establishing a matching service/platform for outgoing and incoming tenants), with a view to reducing (i) the need for carrying out reinstatement works and (ii) the construction waste so generated?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, my consolidated reply to various parts of the question raised by Mr CHAN Hak-kan is as follows:

According to the prevailing arrangement of the Hong Kong Housing Authority ("HA"), HA will conduct comprehensive inspections on the fixtures and fittings inside public rental housing ("PRH") units before their tenants move out, so as to assess and decide whether the items therein are retainable, or require repair or replacement. Under normal circumstances, HA would allow the fixtures and installations installed by outgoing tenants such as wall-mounted kitchen cabinet, water closet pan with flushing cistern, etc. to be retained without reinstatement if they are in good condition. The incoming tenants may choose to continue to use these installations. However, if they opt to accept the fixtures and fittings installed by the outgoing tenants, the responsibility of future repair and maintenance of these fixtures and fittings will rest with them. In addition, after the existing tenants move out of their PRH units, HA will, depending on the individual circumstances of the PRH unit, carry out vacant flat refurbishment works.

In the past three years (i.e. 2015-2016, 2016-2017 and 2017-2018), HA recovered 12 400, 12 000 and 13 300 PRH units respectively. We do not have information on the time spent and costs required for the reinstatement works by the outgoing tenants before their removal as well as the number of units involved. We also do not maintain consolidated statistics on nuisance complaints caused by reinstatement works.

As regards the allocation of refurbished units, since application for PRH is only divided into four districts, namely the Urban (including Hong Kong Island and Kowloon); Extended Urban (including Tung Chung, Sha Tin, Ma On Shan, Tseung Kwan O, Tsuen Wan, Kwai Chung and Tsing Yi); New Territories (including Tuen Mun, Yuen Long, Tin Shui Wai, Sheung Shui, Fan Ling and Tai Po); and Islands (excluding Tung Chung), the allocation of PRH unit is therefore arranged according to these four districts. In the past three years (i.e. 2015-2016 to 2017-2018), figures on allocation of refurbished units breakdown by district are as follows. We do not have figures breakdown by District Council district.

| <i>Year</i> <i>District</i> | <i>2015-2016</i> | <i>2016-2017</i> | <i>2017-2018</i> |
|--------------------------------|------------------|------------------|------------------|
| Urban | 5 721 | 6 266 | 6 569 |
| Extended Urban | 3 357 | 3 506 | 3 925 |
| New Territories | 2 524 | 2 409 | 2 278 |
| Islands | 83 | 62 | 65 |
| Total | 11 685 | 12 243 | 12 837 |

Since solid waste generated by flat reinstatement works of PRH units would be handled together with other construction waste, we do not maintain information on solid waste generated by flat reinstatement works of PRH units. Nevertheless, HA would require the relevant contractors to put in place good practices in waste management in order to minimize the adverse impact on the environment.

Implementation of the Land Titles Ordinance and land title registration system

17. **MR PAUL TSE** (in Chinese): *President, the Land Titles Ordinance (Cap. 585) ("the Ordinance"), enacted by this Council on 7 July 2004, aims to replace the deeds registration system with a new system for registering the title to land and the interests in the land subject to which the title is held, so as to provide greater certainty to both the ownership of land and title to property, and simplify property conveyancing procedures. However, so far no implementation date for the Ordinance has been fixed since its enactment nearly 14 years ago. On the other hand, some members of the legal sector have said that under the deeds registration system, legal practitioners have to carry out the onerous task of searching land records for property conveyancing and real estate transactions.*

This, coupled with the fact that their salary is generally low, has resulted in a drain of talents and acute manpower shortage. In this connection, will the Government inform this Council:

- (1) as the authorities said that various complex issues had to be resolved before commencement of the Ordinance, for example, the mechanism for converting lands under the existing system to those under the new system as well as the "daylight conversion" mechanism (i.e. automatic conversion at the end of the 12th year after commencement of the Ordinance) might affect the titles to land the registers of which showed indeterminate ownership, and cause the Land Registry to be legally liable for the compensation concerned, of the progress made by the authorities in tackling those problems; whether, according to the authorities' assessment, there is any problem which cannot be resolved in the end;*
- (2) as the authorities said that after a broad consensus had been reached with the key stakeholders on the implementation of the Land Title Registration System on new land first ("the new land first proposal"), they would consult the Land Titles Ordinance Review Committee and the Land Titles Ordinance Steering Committee before submitting the proposal and introducing the Land Titles (Amendment) Bill to this Council, whether the authorities will draw up the relevant timetable expeditiously to facilitate members of the public and legal practitioners to make corresponding arrangements early; and*
- (3) of the estimated amount of administrative expenditure to be saved for the legal practitioners concerned and the number of jobs to be created in the legal sector under the new land first proposal?*

SECRETARY FOR DEVELOPMENT (in Chinese): President, the Land Titles Ordinance (Cap. 585) ("LTO") aims to establish a new system, which the Title Register will provide conclusive evidence of title to and of interests in the registered land, in place of the present deeds registration system that gives no guarantee to title with a view to provide greater certainty to property titles and to simplify the procedures of checking title documents in conveyancing. The Legislative Council, when passing the Bill in July 2004, requested the

Government to conduct a comprehensive review on a number of issues to be settled and consider making further amendments to LTO in consultation with the stakeholders before its implementation.

Our reply to the various parts of the question raised by Mr Paul TSE is as follows:

- (1) The land title registration system is inherently complicated. It involves complex legal issues and carries significant implications. Since the enactment of LTO, the Government has conducted thorough review of LTO provisions, and has put forward different proposals to address and balance the divergent views of and to forge consensus with stakeholders with regard to various complicated issues including the mechanism for converting and bringing existing land to the land title registration system, and rectification and indemnity arrangements which are closely interrelated issues.

To address the key and closely interrelated issues mentioned above, the Government put forward the proposal of Two-Stage Conversion Mechanism, under which existing land will automatically undergo the first stage primary conversion and be brought under LTO on a designated date; after a 12-year period, the land (unless subject to any restriction against conversion) will automatically undergo the last stage full conversion and be fully converted to registered land under LTO. During the primary conversion period, the Government will conduct basic screening on the title chain for existing land registers. If a case of broken or multiple chains of title is identified, the Land Registrar may register a Land Registrar's Caution Against Conversion to withhold the land or property from being fully converted to the new system. The affected land or property will remain in the primary conversion stage until the relevant title issue is resolved, whereupon it can undergo full conversion to become registered land. The proposal of Two-Stage Conversion Mechanism also offers solutions to tackle the divergent views of the stakeholders on rectification and indemnity arrangements. The Government has conducted extensive discussions with major stakeholders on the Two-Stage Conversion Mechanism. However, no consensus has yet been reached on the

proposal. In particular, there are still divergent views on how the basic screening on the title chain for land registers of existing land be conducted.

The Government will continue to closely liaise with the major stakeholders and strive to seek an acceptable proposal on the necessary amendments to be made to LTO in light of the comments received.

- (2) To enable early implementation of title registration system in Hong Kong, the Government is actively pursuing consensus with the major stakeholders on the "new land first" proposal, including conducting briefing sessions to explain the proposal to the major stakeholders. The Government expects to, after general consensus on the "new land first" proposal being reached, consult LTO Steering Committee and LTO Review Committee on the major recommendations in taking forward the proposal. The Government will then refine the "new land first" proposal in light of the Committees' comments and prepare as soon as possible a more concrete timetable for the preparation of the Land Titles (Amendment) Bill and introduction of such amendment bill to the Legislative Council for scrutiny.
- (3) As mentioned by the member, under the present deeds registration system, when conducting conveyancing and property transactions, legal practitioners are required to conduct tedious checking of land records in order to ascertain the title to the property. When title registration system is implemented in Hong Kong, for registered land under the new system, the Title Register will be the conclusive evidence of title to the property (except as stipulated in the rectification provisions). Legal practitioners will no longer be required to trace and check the land records of 15 years or even more in order to ascertain the vendor's title as under the existing practice, but can rely on the Title Register and check the relevant instruments according to the registered matters. The new system will simplify the work relating to checking of land records and thus bring convenience to practitioners and purchasers. On the other hand, we believe that even after title registration system is implemented, legal practitioners will still have an important role to play in rendering legal advices to their clients. Apart from checking the registered

matters on the Title Register and the relevant instruments, they will need to prepare the relevant legal documents, advise on the covenants and conditions set out in the relevant government leases, verify the parties' identity, verify the content of the registration applications, check the overriding interests etc. At this stage, it is difficult to assess the actual impact or influence of the "new land first" proposal on the legal profession.

Public access to the holdings of the Public Records Office

18. **MR CHARLES PETER MOK** (in Chinese): *President, regarding public access to the holdings of the Public Records Office ("PRO"), will the Government inform this Council:*

- (1) *of the current volume of PRO's holdings; in respect of each type of holdings (including files, bound volumes, photographs, posters, maps and plans as well as films), (i) the volume of holdings and (ii) the percentage of holdings digitized;*
- (2) *of the current means by which the public can obtain copies of PRO's holdings free of charge; whether the Government will, by making reference to the practices of the National Archives of the United Kingdom, ensure that the public can have at least one way of obtaining copies of its holdings free of charge (e.g. taking photographs of the original records directly by themselves or downloading digital files from the Internet);*
- (3) *whether it has recently tightened the following practice: a member of the public may (i) request staff members of the PRO Search Room to print a digital file of its holdings and then (ii) take photographs of the printed copy with his/her personal digital photographic device (while the printed copy will be kept by PRO for viewing by other members of the public); if so (e.g. refusing to provide the aforesaid free printing service), of the details and its justifications for increasing the costs and difficulties of members of the public in obtaining copies of the holdings for research purposes; and*

- (4) *as the Government has indicated that it will strive to digitize those frequently accessed and popular archival records, of the progress of the digitization work?*

CHIEF SECRETARY FOR ADMINISTRATION (in Chinese): President, the Public Records Office ("PRO") of the Government Records Service ("GRS") serves as the central repository for the permanent archives of the Government of the Hong Kong Special Administrative Region. PRO is committed to appraising and acquiring records and materials of enduring value and making them available for public access and use. It offers a rich heritage resource consisting of documents, photographs, films, posters and other archival records tracing the development of Hong Kong. Access to these holdings is managed under the Public Records (Access) Rules 1996, and members of the public are required to observe applicable regulations made to protect the records, including the "Rules on Using the Public Records Office Search Room" and other regulations on the protection of copyright, personal data, etc. Public access to archival records is free of charge. However, a fee is payable for obtaining a paper copy or digital copy of any records of the holdings. This arrangement is in line with the practice of other overseas national archives. To enhance its services to the public, PRO has since April 2009 been providing the service of "Using Personal Photographic Device in Search Room", under which the public may take photographs of the paper records of PRO's holdings free of charge with their personal photographic devices, provided that they undertake to observe the Copyright Ordinance and that the physical condition of the holdings is suitable for photography.

Our reply to the question raised by Mr Charles Peter MOK is as follows:

- (1) PRO currently houses a total of nearly 1.5 million holdings. Among them, more than 85 000 archival records, or 5.7% of all holdings, have been digitized to produce some 2 million digital images. The numbers of archival records and digitized holdings stored in various media are set out below:

| <i>Medium</i> | <i>Number of Archival Holdings (numbers)</i> | <i>Number of Digitized Holdings (%)</i> |
|------------------------------------|--|---|
| Files/Bound Volumes ⁽¹⁾ | 763 400 | 69 300 (9%) |
| Photographs | 15 700 | 6 000 (38%) |

| <i>Medium</i> | <i>Number of Archival Holdings (numbers)</i> | <i>Number of Digitized Holdings (%)</i> |
|---------------------------|--|---|
| Posters | 1 300 | 600 (46%) |
| Maps and plans | 8 500 | 2 300 (27%) |
| Films | 3 000 | 1 800 (60%) |
| Microforms ⁽²⁾ | 708 300 | 5 800 (0.8%) |
| Total | 1 500 200 | 85 800 (5.7%) |

Notes:

- (1) Only a combined total is available. We do not maintain a breakdown of individual items.
 - (2) Microfilming is an internationally recognized practice suitable for the long-term preservation of records. As the public can access microfilm records directly through a computer, the digitization of microforms is not a priority for GRS.
- (2) As mentioned above, from April 2009 onwards, the public may, under the service of "Using Personal Photographic Device in Search Room", take photographs of paper records of the PRO's holdings with their personal photographic devices free of charge for research or private study purposes. Starting from 24 May this year, the public may also obtain copies of digital records free of charge through taking photographs of images on a computer screen. The arrangements on the free service of "Using Personal Photographic Device in Search Room" have been posted in the PRO Search Room and uploaded to the GRS website for public information. Members of the public may also access digitized archival records which have been uploaded to the website and download them free of charge for research or private study purposes. Owing to reasons such as copyright considerations, some digitized archival records are not available on the GRS website for downloading by the public.
- (3) PRO has always been committed to providing quality service to facilitate public access to its holdings and keeps its service under review. In the past, arrangements were made by PRO to have the copies of digital records procured from overseas national archives printed in black and white, so that the public might obtain free copies of the digital records through taking photographs of the printed copies with their personal photographic devices. In a recent review of the service, PRO found that such practice is not only outdated but

also inconsistent with those adopted by overseas national archives in handling digital records. Apart from the implications on manpower and resources, a large amount of paper⁽¹⁾ and printer toner are consumed in the production of paper copies which defeats the principle of conservation and environmental protection. As such, PRO has, starting from 24 May this year, adopted a more relaxed approach by allowing members of the public to take photographs of the images on a computer screen directly with their personal photographic devices to obtain copies of digital records free of charge, provided that they comply with applicable regulations made to protect the records, including those on copyright and personal data. This does not only shorten the time required for the public to obtain copies of holdings, but also allows them to obtain colour copies of the digital records. It also serves the purpose of environmental protection. In the long run, PRO will continue to study other measures that may facilitate public access to and downloading of archival records via the Internet.

- (4) GRS has been digitizing its holdings with reference to criteria commonly adopted by overseas archival institutions (e.g. physical condition of holdings, users' demand or utilization rate, copyright restriction, personal data consideration etc.) in order to facilitate public access to the holdings via digital means. At present, over 85 000 archival holdings have been digitized by GRS to produce about 2 million digital images, including about 1.3 million digital images of microfilm collections, oversized maps and architectural plans that are of greater public demand, so as to enhance public accessibility to the relevant items via digital means.

Digitization of archival holdings is a complex process which involves a number of different steps on testing and treatment (e.g. cataloguing and quality checking of digital records, standardizing equipment at regular intervals etc.). Such steps aim to ensure that the archival documents to be digitized are restored to good condition and the data therein are visibly clear before proceeding with the process. Moreover, the quality of the resultant

(1) The average paper consumption in the past three years was about 11 200 sheets per year, while the paper consumption in first five months this year has already reached 20 000 sheets.

images must also undergo stringent checking after digitization. These tasks require substantial input of manpower and resources. GRS plans to digitize archival holdings with high popularity first in the coming 10 years, with an annual production of about 350 000 digital images. The total number of digital images is expected to increase to 6 million items, or about 10% to 15% of all archival records, which is comparable to the digitization rates of overseas archives.

Regulation of activities for soliciting donations from the public

19. **DR ELIZABETH QUAT** (in Chinese): *President, it has been reported that in recent months, some people have launched an online activity for soliciting donations in order to raise fund to support them in meeting the legal and administrative expenses, etc. that will be incurred in pursuing an investigation into an incident. Regarding the regulation of such activities, will the Government inform this Council:*

- (1) *whether the Inland Revenue Department ("IRD") will, on its own initiative or upon receiving reports, conduct investigations to ascertain if such activities for soliciting donations involve the tax obligations under the Inland Revenue Ordinance (Cap. 112), and take follow-up actions; if IRD will not, of the reasons for that;*
- (2) *whether the law enforcement departments will, on their own initiative or upon receiving reports, conduct investigations to ascertain if such activities for soliciting donations involve (i) infiltration into Hong Kong by foreign forces and their money or (ii) money laundering activities, and take follow-up actions; if the law enforcement departments will not, of the reasons for that; and*
- (3) *whether the law enforcement departments will, on their own initiative or upon receiving reports, conduct investigations to ascertain if such activities for soliciting donations involve the offence of champerty, and take follow-up actions; if the law enforcement departments will not, of the reasons for that?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Chinese): President, upon consultation with relevant bureaux and departments, our consolidated reply to the questions is as follows:

- (1) Pursuant to the Inland Revenue Ordinance ("IRO") (Cap. 112), the Inland Revenue Department ("IRD") charges profits tax on any person carrying on a trade, profession or business in Hong Kong in respect of his assessable profits. The person should declare his assessable profits in his tax return. Under the secrecy provisions in the IRO, IRD cannot disclose the information of any person and will not comment on individual cases.
- (2) The Government and our law enforcement agencies ("LEAs") spare no effort in combatting money laundering. The Organized and Serious Crimes Ordinance (Cap. 455) stipulates that where a person knows or suspects that any property in whole or in part directly or indirectly represents any person's proceeds of an indictable offence, he shall as soon as it is reasonable for him to do so disclose that knowledge or suspicion, together with any matter on which that knowledge or suspicion is based, to the Joint Financial Intelligence Unit ("JFIU") by way of submitting a suspicious transaction report ("STR"). JFIU will analyse all STRs submitted, and refer to relevant LEAs for follow-up as appropriate.
- (3) If the Police discover that someone is suspected of committing champerty, they will conduct investigation and follow-up. Should a member of the public suspect that someone has committed champerty, he or she should file a report to the Police.

Installation of Internet Protocol cameras at illegal refuse deposit blackspots

20. **MR KENNETH LEUNG** (in Chinese): *President, in December 2016, the Food and Environmental Hygiene Department ("FEHD") launched a six-month pilot scheme on installation of Internet Protocol ("IP") cameras ("the Scheme") to step up combating acts of illegal refuse deposits. Extended since the 6th of this month, the Scheme will gradually cover the various districts across the territory, with the number of illegal refuse deposit blackspots to be installed with cameras increasing to 80. In this connection, will the Government inform this Council:*

- (1) *whether, in the past two years, FEHD (i) deployed staff to step up patrols at the aforesaid 80 blackspots and investigated the peak hours for illegal refuse deposits, as well as (ii) took other measures to combat acts of illegal refuse deposits at such places; if patrols were stepped up, of the number of such patrols and the number of prosecutions instituted; if other measures were taken, of the details and the manpower involved;*
- (2) *of (i) the costs and unit cost to be incurred as well as the cost breakdown, and (ii) the manpower to be deployed, for the Scheme in the current financial year;*
- (3) *of the anticipated completion time for installing the cameras; the resolution of the cameras and how many pixels the recorded footage has; whether the recording system is equipped with face recognition function; whether the cameras are operated on a round-the-clock basis; of the methods for storage and transmission of the footage recorded and whether encryption has been made; if encryption has been made, of the standard applied;*
- (4) *whether any staff members from outsourced service contractors are involved in the operation of the Scheme; if so, of the measures put in place to prevent such staff members from intruding on the privacy of members of the public; whether FEHD has deployed staff to conduct real-time surveillance of the images captured by the cameras; of the measures put in place to ensure that the Scheme is operated in compliance with the six data protection principles set out in Schedule 1 to the Personal Data (Privacy) Ordinance (Cap. 486); the reasons why FEHD has not consulted the Office of the Privacy Commissioner for Personal Data on the implementation of the Scheme;*
- (5) *given that, at present, any footage recorded by police officers using their body worn video cameras, which does not carry any investigative or evidential value or is not suitable for training or review purposes, must be deleted after 31 days from the date it was produced, of the justifications for FEHD to keep its recorded footage for as long as six months;*

- (6) *as FEHD has stated that the information collected from the footage is for the purpose of identifying the patterns of the acts of illegal refuse deposits with a view to formulating more effective law enforcement actions, whether the same purpose can be achieved through FEHD deploying staff to conduct on-site surveillance; if so, whether it has assessed if the collection of personal data through the Scheme complies with the following provisions under Principle 1 of the Data Protection Principles: (i) the data is adequate but not excessive in relation to the purpose, and (ii) subject to the said provision, the collection of the data is necessary for the purpose;*
- (7) *of the number of prosecutions instituted by FEHD since December 2016 using the footage recorded under the Scheme as evidence against people who had illegally deposited refuse and, among such cases, the number of convictions; and*
- (8) *of the respective numbers of occasions since December 2016 on which FEHD has (i) provided the footage recorded under the Scheme to other government departments, and (ii) approved staff members from other government departments to conduct real-time surveillance of the blackspots through the Scheme (broken down by name of department and reason for making such a request), as well as the procedure for vetting and approval of such requests?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, the staff of the Food and Environmental Hygiene Department ("FEHD") pay special attention to the situation of illegal refuse deposit black spots during their routine work. Illegal deposit of refuse or feeding of wild birds by some people are often found at these black spots, thereby causing environmental hygiene problems and affecting streetscape. FEHD has to arrange clean-ups and conduct blitz operations and take enforcement actions, which requires enormous manpower resources and affects FEHD's daily operation, but lacks significant and long-lasting effects. In view of the above, FEHD launched a six-month pilot scheme on installation of Internet Protocol ("IP") cameras at a total of six refuse deposit black spots in Central and Western, Sham Shui Po and Yuen Long districts in late December 2016, which has effectively curbed illegal deposits of refuse through targeted surveillance and enforcement actions. Given the

encouraging results, FEHD has, after consulting all District Councils, extended the scheme to cover some 80 refuse deposit black spots in the territory for a trial period of one year.

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

- (1) FEHD often reviews its enforcement approach in tackling illegal refuse deposit black spots in various districts. To address the environmental hygiene problems caused by frequent illegal deposits of refuse and waste at individual black spots at midnight or in early morning, FEHD has stepped up publicity, education, scavenging and enforcement efforts. Among the some 80 target black spots under the scheme, FEHD instituted 153 and 248 prosecutions in 2016 and 2017 respectively. As this is part of the day to day work of FEHD, it is not possible to give a breakdown on the manpower involved.
- (2) The total cost of the one-year service contract for the installation of IP cameras is about \$12.7 million. As the implementation of the IP camera system is part of the day to day work of FEHD, it is not possible to give a breakdown on the manpower involved.
- (3) IP cameras will be installed in two phases at some 80 refuse deposit black spots over the territory. Phase I started on 6 June 2018 with cameras installed at 46 black spots, while phase II is anticipated to commence in early October with cameras to be installed at more than 30 other black spots. The IP camera system mainly records the situation at illegal refuse deposit black spots and does not have any facial recognition function. The IP cameras operate on a round-the-clock basis. The storage and transmission of data are all encrypted and comply with the Government's requirements on information technology security.
- (4) Rental, installation and maintenance services of the IP cameras are provided by the FEHD contractor. According to the service contract, the contractor shall observe and comply with the requirements specified in the contract regarding protection of personal data, operation, physical security and information technology security. Only authorized staff of the contractor are allowed to handle the video recordings. They have to sign an

undertaking for compliance with and execution of the contract requirements. FEHD staff will conduct regular checks at the contractor's offices and server rooms storing the video recordings to ensure the contractor and its staff's observance and compliance with the contract requirements. Before implementation of the scheme, FEHD has sought advice from the Department of Justice ("DoJ") regarding the implementation details to ensure that the operation is in compliance with the laws of Hong Kong, including the Personal Data (Privacy) Ordinance (Cap. 486) ("the Ordinance") and the data protection principles.

- (5) Footage without suspected cases being captured will normally be deleted forthwith after random checking (approximately within one month). For cases that prosecution may be instituted, staff of FEHD may take some time to conduct investigation basing on the images captured. Since the statutory time limit for prosecution is generally six months from the date of the incident, the video recordings may be retained for a maximum period of six months or until the completion of investigation. In the event that the recordings shall be produced as evidence in court, FEHD is required to retain them until the conclusion of the case.
- (6) Although FEHD has stepped up publicity, education, scavenging and enforcement efforts, illegal deposits of refuse has worsened, which has aroused dissatisfaction among the public. Therefore, FEHD proposed the installation of IP cameras at the refuse deposit black spots to enhance the monitoring of the time and patterns of the offences, based on which more effective enforcement actions could be planned.

On-site surveillance at the black spots to collect information and take enforcement actions requires a lot of manpower resources. Moreover, the effects are not significant and long-lasting. The installation of IP cameras can facilitate FEHD's work to combat illegal deposit of refuse and enhance deterrence. In addition, staff of FEHD may apply the real-time surveillance function of IP cameras in blitz operations at black spots and initiate on-the-spot enforcement against the offenders at high time of illegal activities.

The main aim of installing IP cameras is to record the situation of the black spots rather than to collect information of the persons identified. Before extending the scheme to all districts, FEHD has sought DoJ's advice again on the implementation details to ensure that the implementation of the scheme is in compliance with the laws of Hong Kong, including the Ordinance, and the data protection principles.

- (7) As at 31 May 2018, FEHD has used the footage recorded under the scheme to analyse the patterns of offences and/or as evidence against people who had illegally deposited refuse in 79 cases, among which convictions were secured in 72 cases.
- (8) FEHD has provided the Hong Kong Police Force with four video recordings and the Agriculture, Fisheries and Conservation Department with one video recording in response to their requests for enforcement and investigation purposes. If other government departments would like to obtain the footage taken by FEHD for enforcement actions and prosecutions, FEHD will consider the requests in accordance with section 58 of the Ordinance.

Expenditure on consultancy fees for public works projects

21. **MR TONY TSE** (in Chinese): *President, regarding the consultancy fees for the design stage in respect of public works projects implemented by works departments with funding approved in the past three years, will the Government inform this Council of the respective titles of the projects in respect of which the awarded prices of consultancy agreements (design stage) were (i) 20% to less-than-30% higher, (ii) 30%-or-above higher, (iii) 20% to less-than-30% lower, and (iv) 30%-or-above lower, than the original estimates; in respect of each project, the estimated costs as well as the nature of and fees for the consultancy services concerned?*

SECRETARY FOR DEVELOPMENT (in Chinese): President, my reply to Mr Tony TSE's question is as follows:

For public works projects approved in the past three years, where the difference between the awarded prices of consultancy agreements (design stage) and the original estimated consultancy fees is higher or lower than 20%, the information including the title of the construction project, the approved project estimate and the nature and awarded prices of the associated consultancy agreements is set out at Annex 1.

Annex 1

Relevant information of public works projects implemented by works departments (involving project design undertaken by consultants) with funding approved in the past three years

- (i) The awarded prices of consultancy agreements (design stage) are higher than the original estimated consultancy fees for 20% to less than 30%

| <i>Public works project</i> | | | <i>Associated consultancy</i> | | |
|---------------------------------|---|---|-------------------------------|----------------------|---|
| <i>Year of funding approval</i> | <i>Title of construction project⁽¹⁾</i> | <i>Approved project estimate (\$ million)</i> | <i>Nature</i> | <i>Year of award</i> | <i>Awarded fee⁽²⁾ (\$ million)</i> |
| 2015 | A 36-classroom primary school in Area 36, Fanling | 417.2 | Architectural | 2013 | 11.6 |
| 2015 | Two 24-classroom primary schools at ex-Tanner Road Police Married Quarters site at Pak Fuk Road, North Point, Hong Kong | 660.0 | Architectural | 2011 | 18.6 |
| 2016 | The demolition of existing structures on Sites A and B1 of the Sung Wong Toi Vehicle Repair and Maintenance Workshop | 99.3 | Quantity surveying | 2016 | 1.6 |

| <i>Public works project</i> | | | <i>Associated consultancy</i> | | |
|---------------------------------|---|---|---------------------------------|----------------------|---|
| <i>Year of funding approval</i> | <i>Title of construction project⁽¹⁾</i> | <i>Approved project estimate (\$ million)</i> | <i>Nature</i> | <i>Year of award</i> | <i>Awarded fee⁽²⁾ (\$ million)</i> |
| 2016 | Renovation works for the West Wing of the former Central Government Offices for office use by the Department of Justice and law-related organizations | 1,078.9 | Architectural | 2014 | 43.2 |
| 2017 | Reprovisioning of Tsun Yip Street Playground facilities to Hong Ning Road Park and Ngau Tau Kok Fresh Water Service Reservoir | 382.2 | Quantity surveying | 2015 | 3.1 |
| 2017 | Central Kowloon Route—main works | 42,363.9 | Roads and associated structures | 2011 | 99.0 |

- (ii) The awarded prices of consultancy agreements (design stage) are higher than the original estimated consultancy fees for 30% or above

| <i>Public works project</i> | | | <i>Associated consultancy</i> | | |
|---------------------------------|---|---|-------------------------------|----------------------|---|
| <i>Year of funding approval</i> | <i>Title of construction project⁽¹⁾</i> | <i>Approved project estimate (\$ million)</i> | <i>Nature</i> | <i>Year of award</i> | <i>Awarded fee⁽²⁾ (\$ million)</i> |
| 2015 | Construction of Rank and File Quarters for Customs and Excise Department at Yau Yue Wan Village Road, Tseung Kwan O | 604.8 | Architectural | 2011 | 12.2 |

| <i>Public works project</i> | | | <i>Associated consultancy</i> | | |
|---------------------------------|--|---|-------------------------------|----------------------|---|
| <i>Year of funding approval</i> | <i>Title of construction project⁽¹⁾</i> | <i>Approved project estimate (\$ million)</i> | <i>Nature</i> | <i>Year of award</i> | <i>Awarded fee⁽²⁾ (\$ million)</i> |
| 2015 | Construction of the East Kowloon Cultural Centre | 4,175.7 | Quantity surveying | 2014 | 16.3 |
| 2016 | Sports centre, community hall and football pitches in Area 1, Tai Po | 2,163.1 | Quantity surveying | 2014 | 9.6 |
| 2016 | The demolition of existing structures on Sites A and B1 of the Sung Wong Toi Vehicle Repair and Maintenance Workshop | 99.3 | Architectural | 2015 | 5.2 |
| 2017 | Upgrading of Kwun Tong preliminary treatment works | 349.9 | Drainage and sewerage | 2014 | 14.3 |

(iii) The awarded prices of consultancy agreements (design stage) are lower than the original estimated consultancy fees for 20% to less than 30%

| <i>Public works project</i> | | | <i>Associated consultancy</i> | | |
|---------------------------------|--|---|-------------------------------|----------------------|---|
| <i>Year of funding approval</i> | <i>Title of construction project⁽¹⁾</i> | <i>Approved project estimate (\$ million)</i> | <i>Nature</i> | <i>Year of award</i> | <i>Awarded fee⁽²⁾ (\$ million)</i> |
| 2015 | Reprovisioning of Food and Environmental Hygiene Department Sai Yee Street Environmental Hygiene offices-cum-vehicle depot at Yen Ming Road, West Kowloon Reclamation Area | 1,549.9 | Quantity surveying | 2013 | 6.0 |

| <i>Public works project</i> | | | <i>Associated consultancy</i> | | |
|---------------------------------|--|---|--------------------------------------|----------------------|---|
| <i>Year of funding approval</i> | <i>Title of construction project⁽¹⁾</i> | <i>Approved project estimate (\$ million)</i> | <i>Nature</i> | <i>Year of award</i> | <i>Awarded fee⁽²⁾ (\$ million)</i> |
| 2015 | Construction of the East Kowloon Cultural Centre | 4,175.7 | Architectural | 2009 | 74.8 |
| 2016 | A 30-classroom primary school at Site KT2b, Development at Anderson Road, Kwun Tong | 351.1 | Quantity surveying | 2016 | 1.8 |
| 2016 | A 30-classroom secondary school at Site 1A-2, Kai Tak development | 446.7 | Quantity surveying | 2016 | 2.5 |
| 2017 | Conversion of the former French Mission Building for accommodation use by law-related organizations and related purposes | 234.2 | Quantity surveying | 2016 | 2.0 |
| 2015 | Kai Tak development—stages 3 B and 5A infrastructure works at former north apron area | 2,152.8 | Civil infrastructure and development | 2009 | 102.0 |
| 2017 | Upgrading of West Kowloon and Tsuen Wan sewerage—phase 1 | 277.4 | Drainage and sewerage | 2014 | 18.8 |

- (iv) The awarded prices of consultancy agreements (design stage) are lower than the original estimated consultancy fees for 30% or above

| <i>Public works project</i> | | | <i>Associated consultancy</i> | | |
|---------------------------------|--|---|-------------------------------|----------------------|---|
| <i>Year of funding approval</i> | <i>Title of construction project⁽¹⁾</i> | <i>Approved project estimate (\$ million)</i> | <i>Nature</i> | <i>Year of award</i> | <i>Awarded fee⁽²⁾ (\$ million)</i> |
| 2015 | Liantang/Heung Yuen Wai boundary control point and associated works-construction of boundary control point buildings and associated facilities | 8,811.9 | Architectural | 2013 | 196.6 |
| 2015 | Reprovisioning of Food and Environmental Hygiene Department Sai Yee Street Environmental Hygiene offices-cum-vehicle depot at Yen Ming Road, West Kowloon Reclamation Area | 1,549.9 | Architectural | 2012 | 26.1 |
| 2015 | Provision of Columbarium and Garden of Remembrance at Tsang Tsui, Tuen Mun | 2,874.3 | Quantity surveying | 2014 | 7.8 |
| 2015 | A 12-classroom special school for children with mild intellectual disability near Hoi Lai Estate, Sham Shui Po | 256.6 | Quantity surveying | 2015 | 1.3 |
| 2016 | Sports centre, community hall and football pitches in Area 1, Tai Po | 2,163.1 | Architectural | 2013 | 32.2 |

| <i>Public works project</i> | | | <i>Associated consultancy</i> | | |
|---------------------------------|--|---|--------------------------------------|----------------------|---|
| <i>Year of funding approval</i> | <i>Title of construction project⁽¹⁾</i> | <i>Approved project estimate (\$ million)</i> | <i>Nature</i> | <i>Year of award</i> | <i>Awarded fee⁽²⁾ (\$ million)</i> |
| 2015 | Kai Tak development—infrastructure works for developments at the southern part of the former runway | 5,757.1 | Civil infrastructure and development | 2007 | 59.5 |
| | | | Civil infrastructure and development | 2009 | 46.0 |
| 2016 | Road and infrastructure works for development at Lin Cheung Road, Sham Shui Po | 114.8 | Civil infrastructure and development | 2015 | 24.0 |
| 2016 | Infrastructure works for development at Queen's Hill, Fanling | 1,459.5 | Civil infrastructure and development | 2015 | 13.4 |
| 2016 | Improvement works at Mui Wo, phase 2 stage 1 | 72.3 | Civil infrastructure and development | 2009 | 6.2 |
| 2016 | Improvement works at Tai O, phase 2 stage 1 | 124.0 | Civil infrastructure and development | 2009 | 5.2 |
| 2017 | Site formation and infrastructure works for public housing developments at Chung Nga Road and Area 9, Tai Po—Phase 1 | 1,146.8 | Civil infrastructure and development | 2015 | 8.6 |
| 2017 | Infrastructure works for public housing development at Area 54, Tung Chung | 284.8 | Civil infrastructure and development | 2015 | 6.8 |

| <i>Public works project</i> | | | <i>Associated consultancy</i> | | |
|---------------------------------|---|---|--------------------------------------|----------------------|---|
| <i>Year of funding approval</i> | <i>Title of construction project⁽¹⁾</i> | <i>Approved project estimate (\$ million)</i> | <i>Nature</i> | <i>Year of award</i> | <i>Awarded fee⁽²⁾ (\$ million)</i> |
| 2017 | Tung Chung New Town Extension—reclamation and advance works | 20,210.0 | Civil infrastructure and development | 2016 | 138.0 |
| 2017 | Site formation and associated infrastructural works for development of columbarium at Sandy Ridge Cemetery | 1,849.6 | Civil infrastructure and development | 2013 | 28.0 |
| 2015 | Trunk sewers at Hiram's Highway | 68.9 | Drainage and sewerage | 2007 | 7.8 |
| 2016 | Construction of additional sewage rising main and rehabilitation of the existing sewage rising main between Tung Chung and Siu Ho Wan | 1,362.6 | Drainage and sewerage | 2012 | 6.5 |
| 2017 | Rehabilitation of trunk sewers in Kowloon, Sha Tin and Sai Kung | 678.5 | Drainage and sewerage | 2013 | 6.1 |
| 2015 | Road improvement works for West Kowloon Reclamation Development (Phase 1) | 845.8 | Roads and associated structures | 2012 | 3.3 |
| 2015 | Retrofitting of noise barriers on Tuen Mun Road (Town Centre Section) | 826.5 | Roads and associated structures | 2012 | 5.8 |
| 2015 | Dualling of Hiram's Highway between Clear Water Bay Road and Marina Cove and improvement to local access to Ho Chung | 1,774.4 | Roads and associated structures | 2012 | 5.3 |

| <i>Public works project</i> | | | <i>Associated consultancy</i> | | |
|---------------------------------|--|---|---------------------------------|----------------------|---|
| <i>Year of funding approval</i> | <i>Title of construction project⁽¹⁾</i> | <i>Approved project estimate (\$ million)</i> | <i>Nature</i> | <i>Year of award</i> | <i>Awarded fee⁽²⁾ (\$ million)</i> |
| 2016 | Lift and pedestrian walkway system between Kwai Shing Circuit and Hing Shing Road, Kwai Chung | 239.4 | Roads and associated structures | 2016 | 2.3 |
| 2016 | Retrofitting of noise barriers on Tuen Mun Road (Fu Tei Section) | 786.2 | Roads and associated structures | 2012 | 5.8 |
| 2017 | Lift and pedestrian walkway system between Tai Wo Hau Road and Wo Tong Tsui Street, Kwai Chung | 249.4 | Roads and associated structures | 2015 | 1.2 |
| | | | Roads and associated structures | 2017 | 2.7 |
| 2015 | In-situ reprovisioning of Sha Tin water treatment works (South Works)—advance works | 1,658.0 | Waterworks | 2010 | 100.8 |
| 2016 | Implementation of Water Intelligent Network, stage 1 | 239.7 | Waterworks | 2015 | 7.5 |

Notes:

- (1) The construction projects in the above tables do not cover the block vote projects, projects entrusted to other organizations, and projects designed and built by contractors.
- (2) The above consultancy agreements generally involve (i) design stage and (ii) construction stage of the corresponding projects (Since consultants tendered in lump sum basis, we do not have the exact figure of the fee for each stage). The awarded prices do not include contingencies, price adjustments and the resident site staff related costs.
- (3) Some consultancy agreements may involve more than one public works projects.

Construction works of the Shatin to Central Link

22. **MR LAM CHEUK-TING** (in Chinese): *President, during the period from July 2010 to May 2012, the Finance Committee of this Council approved the allocation of funds respectively for carrying out a number of works under the Shatin to Central Link ("SCL") project, including: (a) Protection Works at Causeway Bay Typhoon Shelter (58TR), (b) Protection Works in Wan Chai Development Phase II (59TR), (c) Construction of Railway Works—Advance Works (63TR), (d) Construction of Non-railway Works—Advance Works (64TR), (e) Construction of Railway Main Works (61TR), and (f) Construction of Non-railway Main Works (62TR). In this connection, will the Government inform this Council:*

- (1) regarding each of the aforesaid works, of (i) the original estimated expenditure and a breakdown of the expenditure, (ii) the latest estimated expenditure/the final outturn expenditure and a breakdown of the expenditure, and (iii) the reasons leading to differences between the two sets of figures;*
- (2) of the names of the (i) main contractor(s) and (ii) subcontractor(s) of each of the works; and*
- (3) given that the MTR Corporation Limited ("MTRCL") has been entrusted by the Government to undertake the construction, testing and commissioning of SCL, and to provide management and supervision services, how the Government monitors such work undertaken by MTRCL; of the mechanism in place for MTRCL to report to the Government the works progress and irregularities of the works?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, in response to the three parts of Mr LAM's question, the reply is now as follows:

- (1) As regards each of the works under the Shatin to Central Link ("SCL") project, (i) the original estimated expenditure and a breakdown of the expenditure, (ii) the latest estimated expenditure/the final outturn expenditure and a breakdown of the expenditure, and (iii) the reasons leading to differences between the two sets of figures are listed at Annex 1.

As regards items 61TR and 62TR of the SCL project, after the Government received the latest cost estimate of the main works of the SCL project from the MTR Corporation Limited ("MTRCL") on 5 December last year, the Highways Department ("HyD"), in collaboration with the monitoring and verification ("M&V") consultant, has held several meetings with MTRCL, and has reviewed rigorously the information given by MTRCL. HyD has also scrutinized the assumptions and background of the estimates according to the usual practice for government public works projects to ascertain whether there are sufficient reasons for the estimate of MTRCL. As the SCL project involves many works contracts and there is substantial amount of information for detailed examination, HyD has requested MTRCL to provide more information for its detailed review. The review concerned is still under way. Upon completion of the detailed review, the Government will apply for additional funds from the Legislative Council to continue with the works under the SCL project.

- (2) Item 58TR is "Shatin to Central Link—construction of railway works—protection works". The main contractor is China State Construction Engineering (HK) Limited and the main subcontractor is Richwell Engineering Limited.

Item 59TR is "Shatin to Central Link—construction of railway works—protection works in Wan Chai Development Phase II". The main contractor is Chun Wo—Leader Joint Venture and the main subcontractors are Sambo E&C Company Limited, Falcon Foundation Engineering Company Limited, Chung Ming Construction Engineering Limited and Tin Wo Engineering Company Limited etc.

Items 63TR and 64TR are "Shatin to Central Link—construction of railway works—advance works" and "Shatin to Central Link—construction of non-railway works—advance works" respectively. The list of major contractors under main contracts and the major subcontractors are at Annex 2.

Items 61TR and 62TR are "Shatin to Central Link—construction of railway works—remaining works" and "Shatin to Central Link—construction of non-railway works—remaining works" respectively. The list of major contractors under main contracts and the major subcontractors are at Annex 3.

- (3) The Government has had a mechanism to closely monitor the work of MTRCL, including through the Project Supervision Committee led by the Director of Highways, holding monthly meetings with the Projects Director of MTRCL to review the progress of the SCL project, as well as monitoring procurement activities, post-tender award cost control and resolution of contractual claims. MTRCL submits monthly progress report to HyD updating the latest progress and the financial situation of the SCL project. In addition, HyD and MTRCL hold monthly Project Coordination Meetings and Project Progress Meetings to monitor the progress of every item of works under the project and to deal with matters relating to design, construction and environment which may have potential impact on the progress and programme of the project and interface with other projects. Through the above arrangement of three-tier framework, MTRCL needs to report to HyD on matters which have substantial impact on the SCL project such as works programme, cost and safety, etc. HyD has also engaged a M&V consultant to assist the department in monitoring and auditing the works. The M&V consultant will also report on whether there are risks of slippage in the progress of the projects and advise HyD on the appropriateness of the delay recovery measures proposed by MTRCL. The Director of Highways also holds project progress meetings with the Secretary for Transport and Housing ("the Secretary") on a monthly basis and submits reports to the Secretary on the progress of the project and to raise any important matters relating to the project as required.

Annex 1

| <i>Project items and titles</i> | <i>Original estimated expenditure and a breakdown of the expenditure (in billion dollar) (in MOD prices)</i> | <i>Latest estimated expenditure/Final outturn expenditure and a breakdown of the expenditure (in billion dollar) (in MOD prices)</i> | <i>Reasons leading to differences between the two sets of figures</i> |
|---|--|--|---|
| 58TR [Shatin to Central Link—construction of railway works—protection works] | 0.542 ⁽¹⁾ | It is expected that the final outturn expenditure will be within the approved project estimate. | Not applicable |

| <i>Project items and titles</i> | <i>Original estimated expenditure and a breakdown of the expenditure (in billion dollar) (in MOD prices)</i> | <i>Latest estimated expenditure/Final outturn expenditure and a breakdown of the expenditure (in billion dollar) (in MOD prices)</i> | <i>Reasons leading to differences between the two sets of figures</i> |
|--|--|--|---|
| 59TR [Shatin to Central Link—construction of railway works—protection works in Wan Chai Development Phase II] | 0.153 ⁽²⁾ | It is expected that the final outturn expenditure will be within the approved project estimate. | Not applicable |
| 63TR [Shatin to Central Link—construction of railway works—advance works] | 6.255 | 7.1026 ⁽³⁾ [Legislative Council Finance Committee approved the additional funding application on 17 June 2017.] | The additional funding is to enable the Government to pay for extra expense arising from unfavorable ground condition, revised construction scheme to suit actual site conditions and an increase in the provision of price adjustments under the advance railway works of the SCL project. |
| 64TR [Shatin to Central Link—construction of non-railway works—advance works] | 1.448 ⁽⁴⁾ | It is expected that the final outturn expenditure will be within the approved project estimate. | Not applicable |

| <i>Project items and titles</i> | <i>Original estimated expenditure and a breakdown of the expenditure (in billion dollar) (in MOD prices)</i> | <i>Latest estimated expenditure/Final outturn expenditure and a breakdown of the expenditure (in billion dollar) (in MOD prices)</i> | <i>Reasons leading to differences between the two sets of figures</i> |
|--|--|--|--|
| 61TR [Shatin to Central Link—construction of railway works—remaining works] | 65.433 ⁽⁵⁾ | The Government received the latest cost estimate of the main works of the SCL project from MTRCL on 5 December 2017. | MTRCL expressed that the main reasons for the increase in construction cost included the archaeological and conservation works at Sung Wong Toi Station, the entrustment cost of additional expenses due to delays in the handover of work from sites at Wan Chai North, and the station works which allow flexibility for the topside development at Exhibition Centre Station. |
| 62TR [Shatin to Central Link—construction of non-railway works—remaining works] | 5.983 ⁽⁶⁾ | to \$87.3 billion, i.e. an increase of about \$16.5 billion. The Government is conducting a detailed review of the MTRCL's latest cost estimate. | |

Notes:

- (1) Includes funding for works (\$380.6 million), consultants' fees (\$9.8 million), remuneration of resident site staff (\$44.6 million), contingencies (\$43.5 million) and provision of price adjustment (\$63.1 million)
- (2) Includes funding for works (\$116.0 million), consultants' fees (\$3.0 million), remuneration of resident site staff (\$13.6 million), contingencies (\$13.5 million) and provision of price adjustment (\$6.5 million)
- (3) Includes funding for works (\$5,278.6 million), project management cost (\$498.5 million), contingencies (\$30.0 million) and provision of price adjustment (\$1,295.5 million)

- (4) Includes funding for works (\$1,019.0 million), project management cost (\$168.1 million), contingencies (\$118.7 million) and provision of price adjustment (\$142.4 million)
- (5) Includes funding for works (\$42,694.8 million), project management cost (\$4,755.0 million), fees for engineering consultant for monitoring and vetting (\$182.9 million), contingencies (\$4,763.3 million) and provision of price adjustment (\$13,037.3 million)
- (6) Includes funding for works (\$3,996.0 million), project management cost (\$445.0 million), fees for engineering consultant for monitoring and vetting (\$17.1 million), contingencies (\$445.8 million) and provision of price adjustment (\$1,079.2 million)

Annex 2

The list of main contractors under major contracts and the major subcontractors
for Items 63TR and 64TR

| <i>Contract number</i> | <i>Main Contractor</i> | <i>Major subcontractors</i> |
|------------------------|---|---|
| Civil contracts | | |
| 901 | Kier Laing - O'Rourke—Kaden Joint Venture | Gurkhas EKTA International Ltd - Happy Dynasty Holdings Limited |
| 902 | Nishimatsu Construction Co., Ltd. | - K and F Construction Engineering Co., Ltd. - East Ocean Engineering (H.K.) Limited |
| 914 | Build King Construction Limited | - Jointex Engineering Limited - Modern (Enviro-Demolition) Co., Ltd |
| 1001 | Nishimatsu Construction Co., Ltd. | - Iu Ho Construction Engineering Co., Ltd - Bestfair Engineering Ltd |
| 1115 | Penta-Ocean Construction Co. Ltd. | - Kai Jing Construction Contracting Limited - Cally Steel Engineering Limited |

| <i>Contract number</i> | <i>Main Contractor</i> | <i>Major subcontractors</i> |
|-------------------------------------|--------------------------|---|
| Electrical and Mechanical contracts | | |
| 965C | Shinryo Corporation | - Kee See Engineering Company Limited - Sharp Fung Engineering Co., Ltd. |
| 1064 | ATAL Engineering Limited | - ARS Telecom Ltd - Firetech Services Limited |
| 11201 | Sumitomo Corporation | - NEC Corporation - NEC Hong Kong Ltd. |

Annex 3

The list of main contractors under major contracts and the major subcontractors for Items 61TR and 62TR

| <i>Contract number</i> | <i>Main Contractor</i> | <i>Major subcontractors</i> |
|------------------------|-----------------------------------|--|
| Civil contracts | | |
| 1101 | Sun Fook Kong Joint Venture | - Westwood Limited - S M Engineering Limited |
| 1102 | Penta-Ocean Construction Co. Ltd. | - China Geo-Engineering Corp. - Ngai Shun Construction & Drilling Co., Ltd |
| 1103 | VINCI Construction Grands Projets | - Bachy Soletanche Group Ltd - Kin Chiu Engineering Ltd. |
| 1106 | Leader Joint Venture | - CF Contracting Ltd. - Jiu Ji Construction Limited |
| 1107 | Chun Wo—SELI Joint Venture | - Wah Keung Metal Engineer Ltd - Harvest Engineer Development Ltd. |
| 1108 | Kaden—Chun Wo Joint Venture | - Profield Construction Engineering Limited - Leung Kai Engineering Company Limited |

| <i>Contract number</i> | <i>Main Contractor</i> | <i>Major subcontractors</i> |
|------------------------|--|---|
| 1108A | Concentric—Hong Kong River Joint Venture | - Kwan Sing Engineering & Construction Co., Ltd. - Hin Sum Construction Company Limited |
| 1109 | Samsung—Hsin Chong Joint Venture | - Sambo E&C Co. Ltd - Yongnam Engineering (HK) Limited |
| 1111 | Gammon—Kaden SCL 1111 Joint Venture | - Gammon Construction Ltd (Foundation Division) - Yat Lam Transportation |
| 1112 | Leighton Contractors (Asia) Limited | - Intrafor Hong Kong Limited - Falcon Construction Engineering Limited - Other subcontractors include China Technology Corporation Limited and Fang Sheung Construction Limited |
| 1113 | Kaden-Leader Joint Venture | - Empire (HK) Engineering Company Limited - REC Engineering Company Ltd. |
| 1114 | Paul Y. Construction Company Limited | - MSY Engineering Ltd. - Ming Kee Construction (Steelwork) Engineering Ltd |
| 1117 | Paul Y. Construction Company Limited | - REC Engineering Company Limited - World Faith C. Engineering Ltd |
| 1119 | Chun Wo—Henryvicy—GTECH Joint Venture | - China Railway Electrification Group (HK) Ltd - ArcelorMittal |

| <i>Contract number</i> | <i>Main Contractor</i> | <i>Major subcontractors</i> |
|------------------------|---|--|
| 1120 | Alstom Hong Kong Limited | - Lingma Construction & Engineering Ltd |
| 1120B | Eiffage Infra-Bau Tak Yue Joint Venture | - Leica Geosystem Limited - Triple Faith Engineering & Supply Ltd. |
| 1121 | Penta-Ocean—China State Joint Venture | - Friendly Benefit Engineering Ltd. - Crown Asia Engineering Ltd |
| 1122 | VINCI Construction Grands Projets | - Kin Chiu Engineering Ltd. - The Jardine Engineering Corporation, Ltd. |
| 1123 | Leighton—China State Joint Venture | - Sambo E&C Co Limited - Ming Tai Construction Engineering Co Ltd |
| 1124 | Build King SCL1124 Joint Venture | - Wai Tai Engineering Company - Wing Fung Engineering Company |
| 1125 | Sun Fook Kong Construction Limited | - Friends Engineering - Bun Kee Success Construction Co. Ltd. |
| 1126 | Build King SCL1126 Joint Venture | - Hon Sing Construction & Engineering Limited - Luen Shing Steel Iron Engineering Works Limited |
| 1128 | Dragages—Bouygues JV | - Herrenknecht A.G. - Intrafor Hong Kong Limited |
| 1129 | Hsin Chong Construction Company Limited | - Ever Profit Engineering Limited - Wan Kei Geotechnical Engineering Company Limited |

| <i>Contract number</i> | <i>Main Contractor</i> | <i>Major subcontractors</i> |
|-------------------------------------|--|---|
| 11209 | Chun Wo Construction and Engineering Company Limited | - Top Famous Construction Engineering Ltd - Chun Wo E&M Engineering Limited |
| 11227 | Concentric—Hong Kong River Joint Venture | No subcontractor |
| Electrical and Mechanical contracts | | |
| 1141A | Changchun Railway Vehicles Co., Ltd | - Mitsubishi Electric Co. - Knorr Bremse |
| 1141B | Hyundai Rotem Company | - Mitsubishi Electric Co. - Knorr Bremse |
| 1151 | Itochu—Kinki Sharyo—Kawasaki Consortium | - Mitsubishi Electric Co. - Knorr Bremse |
| 1152 | Thales Transport & Security (Hong Kong) Limited | - KML Engineering Ltd. |
| 1152B | Siemens Limited | - Billion Best (E&M) Engineering Co. Ltd. - General Resources Company (HK) Limited |
| 1153 | Shinryo Corporation | - Kong Ngai Engineering Limited - Lucky (Cable) Engineering Company |
| 1153B | Shinryo Corporation | - Rockwell Automation - Ocean Electrical Contractor Limited |
| 1154 | Gilgen Door Systems AG | - Shun Hing Systems Integration Co., Ltd. |
| 1154B | Shenzhen Fangda Automatic System Co., Ltd. | - Shun Hing Systems Integration Co., Ltd. - Henryvicy Construction Co., Ltd. |

| <i>Contract number</i> | <i>Main Contractor</i> | <i>Major subcontractors</i> |
|------------------------|---|--|
| 1155 | GTECH—KUM SHING Joint Venture | - Yuan Engineering Company - Ultra Engineering Company |
| 1155B | CLP Engineering Limited | - Konwo Modular House Limited - Kent's Const. Eng Co. |
| 1159 | OTIS Elevator Company (HK) Limited | - Partec-Ishimori Co. Ltd. - Farspeed Contractors Ltd. |
| 1162 | Motorola Solutions Asia Pacific Limited | - Metropolitan Wireless International Pte Ltd - Radio Frequency Engineering Limited |
| 1162B | Radio Frequency Engineering Limited | - Jam Engineering Company Ltd |
| 1163 | Kaba Security System (China) Co., Ltd.—Wincard Security System (Beijing) Co., Ltd. Consortium | - Endeavor Systems Limited - Chubb Hong Kong Limited |
| 1164 | Gammon E&M Limited | - Chak Shing Air Conditioning Engineering Co., Ltd - Kee See Engineering Co., Ltd |
| 1164B | Gammon E&M Limited | No subcontractor |
| 1165 | Gammon E&M Limited | - Kee See Engineering Co., Ltd - Kwok Cheong Hong Eng. Co., Ltd |
| 1166 | Siemens Limited | - USC Power Limited - Chiu Cheung Company Limited |
| 1166B | Thales Transport & Security (Hong Kong) Limited | - Perfect Engineer Development Limited - Chiu Cheung Company Limited |

| <i>Contract number</i> | <i>Main Contractor</i> | <i>Major subcontractors</i> |
|------------------------|--|--|
| 1169 | Siemens Limited | - Perfect Engineering Limited - Reda Technology Limited |
| 1169B | CLP Engineering Limited | - Shun Hing Systems Integration Company Limited - Securex Solutions Limited |
| 1172 | ThyssenKrupp Elevator (HK) Limited | - Farspeed Contractors Ltd. - Supermax Engineering Co. |
| 1172B | OTIS Elevator Company (H.K.) Limited | - Farspeed Contractors Ltd. - Man Tat Electrical & Mechanical Engineering Limited |
| 1173 | Shinryo Corporation | - Sing Kin Limited - Ocean Electrical Contractor Limited |
| 1175 | Leighton M&E Limited | - Windmill Engineering Co. Ltd. - Palgo Co. Ltd. |
| 1176 | Leighton M&E Limited | - Palgo Co. Ltd - Ho Leung Engineering Co. Ltd. |
| 1177 | BEST 1177 Joint Venture | - Grand Chance Engineering (International) Limited - Windmill Engineering Co., Ltd. |
| 1183 | Alstom Hong Kong Limited | No subcontractor |
| 1191 | The Jardine Engineering Corporation, Limited | - CSSC Guangzhou Wenchong Shipyard Co., Ltd. - Hyper-Tech Environmental Ltd. |

GOVERNMENT BILLS**First Reading and Second Reading of Government Bill****First Reading of Government Bill**

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

FERRY SERVICES (AMENDMENT) BILL 2018

CLERK (in Cantonese): Ferry Services (Amendment) Bill 2018.

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

Second Reading of Government Bill

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

FERRY SERVICES (AMENDMENT) BILL 2018

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I move the Second Reading of the Ferry Services (Amendment) Bill 2018 ("the Bill").

The purpose of the Bill is to lengthen the periods for which a licence to operate a ferry service may be granted and extended, from three years to five years. This is a facilitation measure for the trade.

(THE PRESIDENT'S DEPUTY, MS STARRY LEE, took the Chair)

Ferry service licences ("licences") are granted by the Commissioner for Transport under section 28 of the Ferry Services Ordinance (Cap. 104) ("the Ordinance") to allow the licensees to operate ferry services. As currently

required under section 29 of the Ordinance, the maximum duration of a licence, whether newly granted or extended, is three years on each occasion, whilst the aggregate licence period (i.e. including any extended period(s)) shall not exceed 10 years. This requirement not only creates an administrative burden on ferry operators (increasing the number of applications for licence extension within a 10-year period), but also hampers, to a certain extent, ferry operators' ability to make longer-term planning and investment for their ferry services.

The Legislative Council Panel on Transport has proposed lengthening the periods for which a licence to operate a ferry service may be granted and extended, so as to help improve the business environment for ferry services. In the report of the Public Transport Strategy Study released in June 2017, the Government has also undertaken to explore relaxing the three-year cap on a licence period through legislative amendments. The Government now proposes amending section 29 of the Ordinance to lengthen the periods for which a licence to operate a ferry service may be granted and extended, from three years to five years, with the existing cap of a 10-year aggregate licence period remaining unchanged. The objective of the proposal is to facilitate ferry operators' longer-term planning and investment, and in turn enhance the financial viability of ferry services and encourage the continuous improvement of service quality. The Transport Department consulted the ferry trade on the proposal in January 2018. Ferry operators generally supported the proposal.

The Bill is a set of technical amendments. The details of the proposal are set out in the Legislative Council Brief issued on 13 June this year. I hope that Honourable Members can support the Bill and pass it expeditiously to benefit the trade as early as possible. We will also do our level best to facilitate the scrutiny work of the Legislative Council.

Deputy President, I so submit.

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Ferry Services (Amendment) Bill 2018 be read the Second time.

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

Resumption of Second Reading Debate on Government Bill

DEPUTY PRESIDENT (in Cantonese): This Council resumes the Second Reading debate on the Road Traffic (Amendment) Bill 2018.

ROAD TRAFFIC (AMENDMENT) BILL 2018**Resumption of debate on Second Reading which was moved on 21 March 2018**

DEPUTY PRESIDENT (in Cantonese): Mr Frankie YICK, Chairman of the Bills Committee on the Bill, will first address the Council on the Committee's Report.

MR FRANKIE YICK (in Cantonese): Deputy President, in my capacity as Chairman of the Bills Committee on Road Traffic (Amendment) Bill 2018 ("the Bills Committee"), I report on the deliberations of the Bills Committee.

The Road Traffic (Amendment) Bill 2018 ("the Bill") seeks to amend the Road Traffic Ordinance (Cap. 374) to empower the Secretary for Transport and Housing to prescribe a validity period for driver identity plates for public service vehicles and to specify a validity period of 10 years for taxi and public light bus ("PLB") driver identity plates.

Members of the Bills Committee, which held one meeting, generally support specifying a validity period for taxi and PLB driver identity plates and extending the validity period. During its deliberations, the Bills Committee discussed issues related to the Bill. I now briefly report on the major concerns of the Bills Committee as follows.

First, the Bills Committee is concerned about the duration of the validity period of driver identity plates. Some members consider it appropriate to extend the validity period of driver identity plates to 10 years, as this would streamline the administrative procedures. However, some other members think that the proposed 10-year validity period may be too long and the photos on the driver identity plates may fade, in which case it would be difficult for passengers to identify the drivers.

In view of this, the Bills Committee agrees that the Administration should consider using better materials for driver identity plates, making them more durable and less susceptible to the colour fading problem. If the driver identity plates are later found not durable for such a long period, the Administration should review the validity period or the materials to be used.

According to the Administration, in the course of its communication with the trades in the past, the trades indicated that the validity period of driver identity plates should be a longer period (i.e. five years or above), and reference should be made to the normal validity period of other identification documents. Besides, the Administration has been aware of the importance of the durability of driver identity plates, with a view to ensuring that the plates can effectively fulfil their functions.

In response to the Bills Committee's concern, the Administration has also undertaken that it will review the situation of driver identity plates in three years' time after the implementation of the new specifications. If it is found in the review that the production quality of most of the driver identity plates is unsatisfactory or the problem of fading of the information printed on most of the plates is serious, the Commissioner for Transport may then specify by notice in the Gazette a new design for the driver identity plates, and require the drivers to renew the plates earlier before the expiry of the 10-year validity period.

Some members are also concerned about how the Administration can ensure that the costs of renewing driver identity plates will remain more or less the same. In this connection, they suggest that the Administration should consider issuing the plates through government departments instead of authorized agents.

According to the Administration, as the Transport Department ("TD") will grant authorization to the production agents afresh in respect of the new design of driver identity plates, TD will ask the production agents to provide the details of their service, including the fee to be charged for each driver identity plate. In this regard, the Bills Committee suggests that TD should issue a table setting out the fees charged by various authorized agents for all drivers' reference, so as to enhance transparency.

In addition, some members consider that the Administration should explore ways to enhance the functions of driver identity plates, such as recording on them the offence points under a Taxi Driver-Offence Point System. According to the

Administration, as it is reviewing the penalties for taxi-related offences, the proposal to introduce a Taxi Driver-Offence Point System will be dealt with in a separate exercise.

The deliberations of the Bills Committee are detailed in its report submitted to this Council.

The Bills Committee supports the resumption of the Second Reading debate on the Bill, and will not propose any amendment to the Bill.

Deputy President, the following are the views held by the Liberal Party and me on the Bill. Both the Liberal Party and I support specifying a validity period of 10 years for taxi and PLB driver identity plates. We consider that this is a measure advantageous and beneficial to the public, and hope that this measure can be implemented as soon as possible.

Under the Road Traffic (Public Service Vehicles) Regulations, the driver identity plate displayed in a taxi or PLB by its driver must bear the driver's recent photo taken not earlier than 12 months before the day of display. The existing law does not stipulate a validity period for driver identity plates, but in order for the 12-month photo requirement to be met, driver identity plates are in effect only valid for a year; in other words, drivers have to renew the plates every year.

At present, there are as many as several dozen driver identity plate production agents (including dedicated LPG refilling stations, taxi and PLB associations, photo processing shops and driving schools), but if drivers have to renew their driver identity plates every year so as to meet the statutory photo requirement, such a requirement is indeed wasting the drivers' energy and money to the point of harassing them.

In fact, under the Road Traffic Ordinance, anyone who takes a commercial vehicle driving test must reach the age of 21. Therefore, all commercial vehicle drivers are actually adults aged 21 or above. Besides, as professional drivers are generally aged over 40 these days, their appearances are unlikely to change too much. In the case of identification documents relevant to immigration control, such as Mainland Travel Permits for Hong Kong and Macao Residents (also known as "Home Visit Permits") and Hong Kong SAR Passports, their validity period is normally 5 years or 10 years, so it is not necessary for the holders to renew them more frequently than once every five years. In the light of this, the

demand made by driver groups a few years ago that the validity period of driver identity plates should be set at five years or more is reasonable. With regard to the 10-year validity period currently proposed by the Government, it is welcomed by driver groups as it is longer than the period demanded by them. At the moment, they just hope that the relevant amendments can come into force as soon as possible.

The requirement that a public transport driver must display a valid driver identity plate in a specified position in the vehicle was first introduced for taxis in 1994 and later extended to PLBs in 2012. The purpose of displaying a driver identity plate is to allow passengers to identify the driver so that they can lodge a complaint as appropriate in the event of malpractice on the part of the driver. It is one of the measures to regulate drivers' conduct. Under the law, any taxi or PLB driver who fails to display a valid driver identity plate in the vehicle is liable on conviction to a fine of HK\$2,000. However, in the past, the Police seldom took enforcement actions against problems relating to taxi or PLB driver identity plates, and it was only when they received complaints or when traffic accidents happened that they would incidentally inspect the driver identity plates.

In addition, as a driver identity plate only shows the date of issue, the driver is unable to notice when the plate has to be renewed. That is why many driver identity plates have never been renewed despite the fact that they were issued many years ago. About one or two months ago, it was rumoured that the Police would take large-scale enforcement actions against problems relating to taxi and PLB driver identity plates, and ticket those drivers who failed to display valid driver identity plates. This prompted swarms of taxi and PLB drivers to renew their driver identity plates. As a result, TD was once out of stock of the paper produced by it for making the driver identity plates, and failed to produce such paper in time. The drivers were once unable to renew their driver identity plates, and many of them thus got into a panic because they might effectively lose two days' income if they were ticketed. This caused considerable disturbance to the drivers.

In the report of the Public Transport Strategy Study released in June 2017, the Administration proposed that, as a facilitation measure, taxi and PLB drivers should only be required to renew their driver identity plates once every 10 years. The Bill received its First Reading at the Council meeting of 21 March, and the Bills Committee completed its scrutiny of the Bill in April. Subsequently, due to this Council's discussions on the Budget and the bill relating to the co-location

arrangement for the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link, it was not until today that the Second Reading debate on the Bill resumed. Fortunately, our proceedings on the Bill were delayed for only two months, and we were still able to resume the Second Reading debate on the Bill in time before the end of this legislative session. I hope that the Bill can be passed smoothly today. If the measure can be implemented three months after the passage of the Bill as mentioned by the authorities, the new requirement will take effect in the fourth quarter of this year.

During its deliberations, the Bills Committee also discussed the quality of driver identity plates. As the validity period of driver identity plates will be as long as 10 years, I agree that the authorities should select better materials for producing the plates to make them more durable, and should even consider using the materials currently used for making Legislative Council Member Cards. I have used my Member Card for six years and the photo on it has not yet faded. Nonetheless, we should also consider the possibility that the photos on driver identity plates may fade rather seriously because of their relatively long exposure to sunlight. I therefore agree that the authorities should review the situation of the new driver identity plates in three years' time; if the quality of the plates is found to be unsatisfactory, the Commissioner for Transport will require the drivers to renew them earlier. Regarding Mr LAM Cheuk-ting's proposal to shorten the validity period of driver identity plates from 10 years to 5 years, I do not think it is necessary. The Liberal Party and I will not support his amendment.

For the convenience of the drivers who need to renew their driver identity plates, there are several dozen driver identity plate production agents at present. Some time ago, it was reported that some agents authorized to issue driver identity plates had issued the plates indiscriminately, playing into the hands of lawbreakers. The purpose of displaying a driver identity plate is to allow members of the public to know the driver's name so that they can lodge a complaint against the driver if necessary. At present, a taxi or PLB driver who fails to display a valid driver identity plate is liable to be ticketed. It is thus clear that driver identity plates are officially recognized identification documents, and it is only reasonable that they should be issued by TD. Now that the validity period of driver identity plates is to be changed to 10 years, TD's workload is bound to be much lighter in the future than it is today. For ease of management, TD should consider reassuming the responsibility of issuing the plates.

Besides, at present, applications for driver identity plates can be made to any designated agent. If a driver applies to a different agent for a driver identity plate every year, each time his application is approved he will be issued with a new driver identity plate bearing a new number. There is a lack of consistency in the way this is done. Therefore, some driver groups suggest that every driver should be assigned a specific driver identity plate number, and that, by reference to the way Home Visit Permits are processed, the number of times of renewal should be added after the driver identity plate number on every new plate issued. This would make it easier for drivers to remember their driver identity plate numbers, and for TD to manage the drivers' data.

As for the demands made by driver groups in respect of driver identity plates, although it was only after a few years that the Government eventually introduced the amendments, the Government did listen to the voices of the trades. I hope the Government can proactively create a good operating environment for PLB and taxi drivers on a continuous basis, including proactively clamping down on illegal carriage of passengers for reward by "white licence cars" and opening up more restricted areas, so as to safeguard the business of compliant drivers.

With these remarks, I support the resumption of the Second Reading debate on the Bill. 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 Transport and Housing to reply. Then, the debate will come to a close. Secretary, please speak.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Deputy President, the Road Traffic (Amendment) Bill 2018 ("the Bill") was introduced into the Legislative Council for scrutiny in March this year. First of all, I would like to express my deep gratitude to Mr Frankie YICK, Chairman of the Bills Committee on Road Traffic (Amendment) Bill 2018 ("the Bills Committee"), and

other members of the Bills Committee for their efforts, which have contributed to the smooth completion of the scrutiny of the Bill. I am also grateful to all of our colleagues for their continued support for us.

Under the existing Road Traffic Ordinance (Cap. 374) and the relevant regulations, a taxi or public light bus ("PLB") driver is required to display a valid taxi or PLB driver identity plate in the vehicle when it is used for the carriage of passengers for hire or reward, so as to facilitate easy identification of the driver and enhance the professional image of the driver. The driver identity plate must bear the driver's photo taken not earlier than 12 months before the day of display; in other words, the driver must renew the plate annually in order to meet the statutory requirement.

The taxi and PLB trades have pointed out that as drivers of taxis and PLBs are all adults, their appearances will not change significantly, and so it is not necessary to require driver identity plates to be renewed every 12 months, which is too frequent. The trades suggest that the Government should stipulate a longer validity period for driver identity plates.

In response to the trades' opinions in this regard, we have drawn up the Bill which proposes that the 12-month photo requirement be cancelled, and that the Secretary for Transport and Housing be empowered to prescribe a validity period for driver identity plates for public service vehicles and to specify a validity period of 10 years for taxi and PLB driver identity plates, so that drivers will not have to renew the plates every year. This is expected to slightly reduce the operating costs of the trades and bring convenience to the trades' operation.

To tie in with the new arrangement, the Commissioner for Transport will, upon the passage of the Bill, specify by notice in the Gazette a new design for taxi and PLB driver identity plates. That design will be applied to the driver identity plates issued after the commencement of the Bill. Moreover, to avoid causing a large number of drivers to apply for the new driver identity plates all at once upon the commencement of the Bill, a transitional provision is provided in the Bill. The driver identity plates issued before the commencement of the Bill will remain valid for one year from the date of issue.

Some members of the Bills Committee are concerned about the proposal to stipulate a 10-year validity period for driver identity plates, and, in particular, the durability of the new driver identity plates and the fees to be charged for such

plates in the future. I must point out that in determining the appropriate duration of the validity period, we have fully considered the trades' views that the validity period of driver identity plates should be a longer period, and reference should be made to the normal validity period of other identification documents. In fact, when the Transport Department ("TD") consulted the taxi and PLB trades on the specific proposal in May and December 2017, both the trades expressed support for the proposal and opined that the validity period of driver identity plates should be aligned with that of important identification documents such as driving licences and passports; that is, it should be set at 10 years.

As regards the durability of the new driver identity plates, TD has reviewed the materials for producing driver identity plates, made reference to the existing specifications of driving licences printed by the Government, and consulted the Government Logistics Department on the materials to be selected for producing the new driver identity plates subsequent to the legislative amendments. To enhance the durability of the plates, the Government will provide the authorized agents with thicker and more durable paper for producing the plates, and require the authorized agents to use better ink and lamination materials so as to increase the protection of the paper used for the plates and reduce the chance of colour fading.

In addition, as undertaken by the representatives of our Bureau and TD at the Bills Committee meeting, we will review the situation of the driver identity plates in three years' time after the implementation of the new specifications. If it is found that the overall production quality of the plates is unsatisfactory or the problem of fading of the information on the plates is serious, the Commissioner for Transport may then specify by notice in the Gazette a new design for taxi and PLB driver identity plates, and require the drivers to renew the plates. This will cause the drivers to renew the plates before the expiry of the 10-year validity period to ensure that the information on the plates is clearly and easily visible, so as to facilitate passengers' easy identification of the drivers and enhance their professional image.

As for the fees charged for driver identity plates, which are produced by TD's authorized agents, some of the agents are taxi and PLB associations and they usually charge their members concessionary fees which are lower than the general market price. As TD will grant authorization to the production agents afresh in respect of the new design of the driver identity plates, TD will ask the production agents to provide the details of their service, including the fee to be charged for

each driver identity plate. If TD finds that the fee to be charged by a production agent is unreasonable, no authorization will be granted to the production agent. This should be able to ensure that the fees charged for driver identity plates will not increase unreasonably due to the current legislative amendments. To facilitate the drivers' awareness of the fees charged for driver identity plates, TD will continue to list on its web page the fees charged by various authorized agents.

Besides, we note Members' opinions on enhancing taxi service quality. In this connection, TD carried out a revamp and established the Committee on Taxi Service Quality in early 2018. The Committee serves as a multi-party platform to discuss strategies and measures to drive changes, which include updating the set of service standards and guidelines for taxi drivers, reviewing the existing sanctions for various taxi malpractices to increase the deterrent effect, enhancing training courses for taxi drivers to improve their customer service skills, and introducing measures to improve the operational efficiency and quality of taxi services through the use of technology, with a view to enhancing the service quality of existing taxis. We will also consult the Legislative Council Panel on Transport on this issue in July, and Members are welcome to express their views on that occasion.

Deputy President, for the sake of facilitating the operation of the taxi and PLB trades, I implore Members to support the passage of the Bill.

I so submit. Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): I now put the question to you and that is: That the Road Traffic (Amendment) Bill 2018 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Road Traffic (Amendment) Bill 2018.

Council became committee of the whole Council.

Consideration by Committee of the Whole Council

DEPUTY CHAIRMAN (in Cantonese): Council now becomes committee of the whole Council to consider the Road Traffic (Amendment) Bill 2018.

ROAD TRAFFIC (AMENDMENT) BILL 2018

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

I will first deal with the clauses with no amendment.

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

CLERK (in Cantonese): Clauses 1, 2, 3 and 5.

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

(No Member indicated a wish to speak)

DEPUTY CHAIRMAN (in Cantonese): If not, I now put the question to you and that is: That the clauses read out by the Clerk stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

DEPUTY CHAIRMAN (in Cantonese): I now deal with the clause with amendment.

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

CLERK (in Cantonese): Clause 4.

DEPUTY CHAIRMAN (in Cantonese): Mr LAM Cheuk-ting will move his amendment to amend clause 4, as set out in the Appendix to the Script.

Members may now proceed to a joint debate on the original clause and the amendment.

Mr LAM Cheuk-ting, you may move your amendment.

MR LAM CHEUK-TING (in Cantonese): Deputy Chairman, I move my amendment to amend clause 4, as set out in the Appendix to the Script.

In simple terms, my amendment primarily focuses on the validity period of driver identity plates. The current validity period of driver identity plates is one year. Drivers should renew their plates after one year in order to have their photos replaced. The Government now proposes to extend the validity period of driver identity plates to 10 years because the requirement for drivers to renew their plates annually is indeed a nuisance. I completely agree that annual renewal is too frequent, which will affect the work of professional drivers. However, is it appropriate to extend the validity period to 10 years?

As Mr Frankie YICK said just now, one of the important purposes of driver identity plates is to enable passengers to identify drivers. As we all know, the only place in a vehicle where we can learn about the vehicle registration mark ("VRM") is the label bearing VRM affixed to the door. To identify a driver, a passenger has to rely on the driver identity plate which bears the name and photo of the driver. Such information is very important for passengers to monitor the service and conduct of drivers.

As we all know, passengers might not have paid attention to VRM in a taxi. A passenger who wishes to complain against a taxi driver over various traffic or climatic issues may not be able to take down the VRM concerned in time after getting off. Alternatively, passengers very often have to rely on the information on the driver identity plate. If the information thereon is clear and accurate, passengers will be offered better protection.

Deputy Chairman, I travel by taxi occasionally. I have noticed that the driver identity plates of many drivers are in an abysmal condition. Since driver identity plates have always been exposed to the scorching sun, their colour has faded and the plastic holders have worn out as well. The drivers' photos on the plates have also become unrecognizable.

In addition, in some cases, while a driver identity plate has been displayed in a taxi, the driver is obviously not the holder of the plate. I have sometimes talked to those taxi drivers, who had also frankly admitted that they were just relief drivers and not the holders of the driver identity plates. While law enforcement has been called into question, the trade has apparently not taken driver identity plates very seriously. However, this document is in fact a reflection of the professionalism of an industry.

As we all know, people often identify professional workers based on their uniforms or identification documents. If identification documents fail to accurately show the basic particulars of the practitioners of an industry, including their appearance, the professional image of the industry concerned will be affected. Some Members have suggested that a person's appearance would not change significantly in 10 years' time. While some Members can maintain a youthful look, quite a few people would experience significant changes in their appearance in 10 years' time. For example, their hairstyle might have changed; unlike the past, they might have to wear a pair of glasses due to presbyopia; they might have put weight on, etc. If the photos on driver identity plates are changed only once every 10 years, the photos may look very different from the real persons. Passengers might doubt if the photos show the drivers in person. This is especially the case if passengers want to lodge a complaint. They may find it difficult to establish the identity of the driver they complain against. This situation is undesirable.

The conduct of Hong Kong taxi drivers has all along been a cause of concern. Some black sheep have failed to take the most direct route, overcharged fares, refused hire, and even abused and threatened passengers. The press have also reported on these acts. Although such acts do not represent the integrity level of the entire trade, they have seriously tarnished the image of the trade. We have maintained frequent communication with the taxi trade. They have also found those black sheep abhorrent and asked for a regime under which those illegal drivers will be monitored and punished. However, if driver identity plates, which reflect the professional image of the trade, are not even renewed on a reasonably regular basis, I am very worried that the professional image of taxi drivers will be affected.

Some Members have also pointed out that such identification documents as passports also have a longer validity period of 10 years. I have to emphasize that driver identity plates and travel documents are fundamentally different in that driver identity plates involve public interests. Drivers are responsible for providing public services. As they serve passengers on the roads, they are responsible for ensuring road safety. Hence, driver identity plates represent not only the professional image of the trade, but also the service quality which involves public interests. In my view, annual renewal is undeniably too frequent and it will become a nuisance to drivers. However, a 10-year validity period is just too long. Mr Frankie YICK said just now that the trade has requested the validity period to be five to 10 years. As such, I consider it more appropriate for driver identity plates to be renewed once every five years.

The Government also mentioned just now that it would review the materials used for driver identity plates. For the time being, we do not know what materials will eventually be used. However, the current driver identity plates, which are printed on thin sheets of paper and then laminated, have proved difficult to maintain quality. Due to these various reasons, I consider it more appropriate for the validity period of driver identity plates to be set at five years.

Deputy Chairman, as the Chinese saying goes: "Things and people change a lot in the space of 10 years". It will be difficult for us to ensure that we look pretty much the same after 10 years, let alone the fact that driver identity plates are related to public service. Therefore, I have hereby proposed the amendment and hope to get the support of Honourable colleagues.

I so submit.

Proposed amendment

Clause 4 (See Annex I)

DEPUTY CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the amendment moved by Mr LAM Cheuk-ting be passed.

MR CHAN HAN-PAN (in Cantonese): Deputy Chairman, while driver identity plates will undoubtedly enhance the professional image of drivers, the current quality of the plates is indeed highly undesirable. As pointed out by Mr LAM Cheuk-ting, driver identity plate is simply a laminated paper displayed before the driver's seat. It has basically faded due to sun exposure and is even very dirty at times. The current situation is actually far from satisfactory. Hence, the Government has not only undertaken to revise the validity period of driver identity plates this time, but also planned to use different materials for the plates. The situation will thus improve. It will naturally be more desirable if the Government can take Mr Frankie YICK's suggestion on board by issuing driver identity plates itself.

If the materials and production of driver identity plates are not sophisticated enough, the persons shown on the photos will actually still be unrecognizable even if drivers renew their plates annually. For this reason, is it

important to change the duration of renewal? While annual renewal is a nuisance, at what intervals should driver identity plates be renewed? At present, passports and Home Visit Permits ("HVPs") have to be renewed once every 10 years. For identification purpose, passports are indeed extremely important identification documents. No date for renewal has even been set in respect of Hong Kong identity cards, which will be renewed only when deemed necessary by the Government. In view of the above reason, to what extent will photos contribute to identifying drivers?

To identify a driver, a passenger will naturally take a look at the photo on the driver identity plate. However, it would be more preferable for the passenger to take down the name and the identification number of the driver. I believe that such particulars are more useful in lodging complaints because passengers are not supposed to only describe the appearance of a driver who, for example, has short hair, wears a pair of black-rimmed glasses and is six feet tall just like Mr LAM Cheuk-ting. Isn't it easier to take down the name and identification number of a driver than describing his appearance? Thus, for identification purpose, it is in fact more important to take down the name.

Mr LAM Cheuk-ting said just now that many people can maintain a youthful look. That is true. I have with me some photos and let us take a look at those people who can maintain a youthful look. Take the partner of Mr LAM Cheuk-ting, Ms Emily LAU, as an example. She does not look anything different after 10 years and she still looks so young and is easily recognizable. Similarly, Chief Executive Mrs Carrie LAM does not look much different from 10 years ago. While women take maintaining youth very seriously, how about men? I am holding an old photo of fellow Member Dr CHENG Chung-tai. Although his appearance and hairstyle are slightly different from the past and his political stance has become vague, his appearance is not vague at all. We can still recognize him from the photo. Hence, will a person's appearance change a lot in the space of 10 years? As far as an adult is concerned, there should not be big changes in 10 years' time. When I was preparing these photos just now, I also browsed the previous look of Mr LAM Cheuk-ting on the Internet. I could still recognize him from his old photos. The appearance of an adult will not change much after 10 years.

Therefore, we consider it appropriate to set the validity period of driver identity plates at 10 years so as to align with the validity period of other identification documents. Provided that HVPs, passports, driving licences and driver identity plates are all renewed every 10 years, members of the public will

not forget about the renewal of these identification documents. If different documents have different validity periods, ranging from one month, three months, one year to five years, people will get very confused. It will be more desirable to require that all identification documents be renewed every 10 years across the board. I consider it to be more helpful to drivers.

Mr LAM Cheuk-ting has proposed that driver identity plates be renewed every five years. Is this proposal absolutely infeasible? I do not consider it to be absolutely infeasible. The problem is, are driver identity plates so important as to warrant renewal every five years? Is a five-year validity period the best option? So how about renewal every six years or three years? There is not any standard duration. However, given that passports and HVPs are renewed every 10 years, why is it necessary for driver identity plates to be renewed every five years? This identification document is primarily used to clearly show the driver's name and identification number, while the photo is just supplementary. I do not consider the proposal to be necessary. Of course, the Government has already provided a back-up plan by indicating that it would conduct a review within three years. If the materials used for driver identity plates are undesirable or the plates fade due to sun exposure, the Government will require drivers to renew their plates. In my view, this plan can make the entire arrangement more flexible.

I believe that we can still maintain our youthful look after 10 years. With little change in our appearance, we will not be unrecognizable. The most important information on driver identity plates are the names and identification numbers, while photos are simply supplementary. Hence, I consider the requirement for renewal every 10 years to be acceptable. If driver identity plates are poorly maintained, the Government will require drivers to renew them. Therefore, we will support the proposal originally set out in the Bill for a 10-year validity period and oppose the 5-year proposal today.

Deputy Chairman, I so submit.

MR KWOK WAI-KEUNG (in Cantonese): Deputy Chairman, I speak against the amendment proposed by Mr LAM Cheuk-ting. Meanwhile, I support the legislative amendment proposed by the Government in the Road Traffic (Amendment) Bill 2018 ("the Bill") to prescribe a 10-year validity period for driver identity plates.

Deputy Chairman, in fact, the proposals set out in the Bill are understandable to all. When Mr Frankie YICK, Chairman of the Bills Committee on Road Traffic (Amendment) Bill 2018 ("the Bills Committee"), reported on the deliberations of the Bills Committee just now, he highlighted a few main points. First, this amendment was one of the measures put forth in the report of the Administration's Public Transport Strategy Study. The trade has reached a consensus on the measure, which had been proposed by the professionals in the trade. Of course, some people have always disregarded the consensus reached.

Secondly, the proposal is the result of long-term discussion. The Motor Transport Workers General Union under the Hong Kong Federation of Trade Unions ("FTU") and I myself have been the first ones to propose an extension of the validity period of taxi driver identity plates. However, how far should the one-year validity period be extended? The question has always been debatable. In fact, after the proposal was put forward in 2014, the Transport Department ("TD") met with us for a discussion. Here I have to criticize TD for being slack in their work. They have been procrastinating for a total of four years. The legislative amendment should have been implemented earlier, but the department has kept procrastinating and waited until 2018 to introduce the Bill to the Legislative Council. They have given people an impression of inefficiency.

After we made the recommendation in 2014, we requested another meeting with TD for a discussion in 2016. At that time, they proposed an amendment with five years as the starting point, and indicated that the validity period was still negotiable. In this connection, FTU then proposed an extension of the validity period to 10 years. In our view, the proposal should minimize the nuisance caused to drivers. Meanwhile, we also hoped to put driver identity plates on a par with other important identification documents. As mentioned by some Members just now, the validity period of such identification documents as passports, identity cards and driver's licences are all 10 years. Therefore, a 10-year validity period has been the standard applicable to existing important identification documents. A Member has recklessly proposed to extend the validity period to five years, which is in fact preposterous. The amendment proposed by the Member had never been discussed; and the trade had never reached any consensus on it. The amendment was proposed purely based on the Member's personal views. I must point out that it is reckless for the Member to do so and he has shown no respect for the trade.

Mr LAM Cheuk-ting, who proposed to extend the validity period to five years, has listed a few reasons just now. In fact, they are all unfounded. I would like to discuss with you briefly. First, the professional qualifications or conduct of taxi drivers depend totally on the self-discipline of the members of the trade, rather than having anything to do with identification documents whatsoever. The attitude of drivers is also totally unrelated to the printing or size of the identification documents. As such, the reasons he put forward just now were far-fetched and irrelevant. The public have actually heard all of them very clearly.

As to the question of whether the appearance of a person will change, frankly speaking, we will look different even if we go to have a haircut one day after we had our photo taken. If someone is intent on making himself look different, other people will never be able to recognize him. He questioned that a person's appearance would not change in five or 10 years' time. Frankly speaking, as he said, we will look different after 10 years. In fact, the same will happen after five years, or even one week. Hence, his proposed amendment does not make any sense.

Deputy Chairman, a Member has mentioned that some drivers might falsely display other people's identification document. If that really happens, it will no longer matter whose photo has been displayed on the identification documents. Therefore, his argument is also unfounded. What actually is the problem here? The biggest problem is as follows: During the discussion on any legislation, particularly during the formative stage, the opposition camp would never take part in preliminary discussions. It is not until the Bill is introduced to the Legislative Council for a vote that they will suddenly show their attention and concern—a trick to show they have done their part. They have been doing the same on many issues for many years, without any improvements shown. They had remained silent during our previous discussions on the Bill for many years. It was not until the Bill has now reached the final step before its implementation that they proposed an amendment on irrelevant grounds. In fact, they had completely disregarded the policy during its previous course of formation, consultation and discussion. I hope that Mr LAM Cheuk-ting will not put forward such irrelevant reasons again. That is my first point.

Secondly, I would also like to clarify one point. During the 10-year validity period, driver identity plates may show colour fade or get "out of shape". The Bill has only proposed an extension of the validity period of driver identity

plates. Under the existing statutory requirement, if the information on driver identity plate starts to blur, the driver concerned must have it replaced. Hence, the fading in colour of the text or photo on identification documents has nothing to do with the duration of validity period. On the other hand, if I am a holder of driver identity plate, and knowing that this identification document will be used for 10 years, I will take better care of it in the hope that I can use it continuously for 10 years. In contrast, under the current situation, drivers do not take the durability of their driver identity plates very seriously as they consider that the plates will be used for only one year in any case. Therefore, the extension of the validity period of driver identity plates to 10 years is in fact beneficial at well.

Lastly, I must reflect to the relevant departments that we all agree that driver identity plates are very important. Apart from extending the validity period to 10 years, the authorities should seriously consider enhancing the data storage of identification documents in the future. A member of the Bills Committee has suggested using harder plastic cards to produce driver identity plates so that the photo and text printed thereon can last longer. This initiative also shows that TD respects and values the trade. TD should not simply issue a template form and ask drivers to laminate and produce the identification documents on their own. Otherwise, other people will have the impression that the department has not taken identification documents seriously.

Under the current practice, the printing of driver identity plates has been outsourced, and drivers have to laminate their own identity plates. However, driver identity plates have a considerable impact on the work of drivers. No validity period is shown on driver identity plates. Under the relevant legislation, only a recent photo taken within 12 months is required on the identification document. First, some drivers are in fact unfamiliar with this requirement; second, the Police might not have particularly conducted random checks on the validity period of identification documents in previous law enforcement efforts. In many cases, in the event of illegal parking or violation of other traffic rules by drivers, the Police would only issue summons if they happened to find that their driver identity plates have expired. The penalty for the offence is \$2,000. As we all know, under the current harsh business environment, car rentals and fuel costs are high. In fact, if drivers are fined \$2,000 for failing to replace their identification documents, the impact on their livelihood will be huge.

Based on the above reasons, we welcome the proposals set out in the Bill. The Government has proposed the amendment to extend the validity period of driver identity plates to 10 years after listening to the views of the trade. This

shows their respect for the trade. We hope that the Bill can be passed expeditiously in order to protect all taxi drivers from falling into the trap of unspecified laws and suffering from unnecessary losses as a result.

Deputy Chairman, I so submit. Thank you.

MR JEREMY TAM (in Cantonese): Deputy Chairman, instead of giving a long and tedious speech, I will just say a few words. I do not consider it necessary for Mr KWOK Wai-keung to describe the debate on the question as a life-and-death struggle. By taking part in the debate, we all simply hope that taxi driver identity plates will be put to good use. If fellow Members have paid attention, Mr Frankie YICK has mentioned at the beginning of his speech that in fact the trade had originally requested to extend the validity period of taxi driver identity plates to five years. In accordance with the current proposal of the Government, even if the validity period of taxi driver identity plates will be extended to more than five years, the taxi trade should certainly be satisfied. Even Members who had not taken part in previous discussion of the Bills Committee on Road Traffic (Amendment) Bill 2018 ("the Bills Committee") should have heard Mr Frankie YICK say just now in his capacity as the Chairman of the Bills Committee that the trade has accepted the extension of the validity period of taxi driver identity plates to five years or above.

The amendment proposed by Mr LAM Cheuk-ting is not intended to revise the validity period to three years. Otherwise, the taxi trade would certainly have strong grounds to oppose it. However, I do not see any problem with Mr LAM Cheuk-ting's amendment to extend the validity period to five years. Mr LAM has also put forward reasonable grounds rather than being vexatious. Had he been simply deliberately hyping the issue, I would not have said just now that I would keep my speech very brief. He has indeed spoken the truth. It is unnecessary for Members to provoke each other in such a way, isn't it?

With regard to the question of whether the validity period of taxi driver identity plates should be five or 10 years, all issues raised just now had in fact been discussed at the Bills Committee, including whether photos on the plates would easily blur. Deputy Chairman, these problems actually do exist. I often travel by taxi. I have noticed that the photos on most driver identity plates had faded or whitened, rendering it difficult to show the appearance of drivers clearly.

These are of course design-related problems. Even instant photos have often experienced such problems too. As mentioned by Mr Frankie YICK just now, if the taxi trade makes reference to the identification documents of Legislative Council Members, on which photos have been printed on staff cards, the effect might have been slightly better. However, we should not forget that our staff cards, as rightly mentioned by Mr Frankie YICK, have been stored in our wallets without any direct exposure to sunlight. However, taxi driver identity plates have been exposed to sunlight for a long time. What will happen in the long run? These considerations are founded and supported by justifications.

The Administration has subsequently undertaken to conduct further review after the new specifications of taxi driver identity plates have been implemented for three years. Should there be any problem, the entire batch of taxi driver identity plates will be replaced. This proves that the amendment proposed by Mr LAM Cheuk-ting is not entirely irrelevant; and there is still certain room for improvement in taxi driver identity plates. I would not describe this debate as a dispute because we are simply discussing ways to perfect the specifications of the plates. Some taxi drivers have been concerned that the authorities might step up law enforcement by conducting a one-off crackdown, resulting in some laughable situations. To the consternation of taxi drivers, rumour has it that the paper used for producing taxi driver identity plates is in short supply. Some Members also mentioned this example in their speeches just now. More apparently, one problem will arise. If all taxi drivers renew their taxi driver plates at the same time now, they will also do so concurrently five or 10 years later. What will be the specific arrangements? In my view, no huge controversy would arise even if these questions are being raised.

Returning to the subject, I consider a five-year validity period to be a reasonable time frame, and wonder if it would be justified to revise the validity period from one year to 10 years. On the contrary, will the extension of the validity period from one year to five years cause any nuisance to taxi drivers? I believe that will not necessarily be the case. After all, taxi driver identity plates may really incorporate other features in the future. As a Member suggested just now, taxi driver identity plates may incorporate data in relation to the demerit point system as one of the new features.

One more point should not be overlooked. I do not know if any Member mentioned just now that some taxi drivers had actually incurred the maximum demerit points for violating traffic ordinances. Under the current demerit point

system, these drivers will be prohibited from driving taxis. Some taxi owners have relayed to me that they would occasionally fall into a trap. The Government has only revoked the licences of taxi drivers who had incurred maximum demerit points but not their driver identity plates. Some taxi drivers would thus continue to drive taxis by means of their driver identity plates. Even if no accident happens, this act per se has violated the law. If these taxi drivers are arrested by the Police, the taxi owners concerned have to be held culpable for hiring drivers who are not holders of taxi driving licence.

Of course, some people may argue that the problem of illegal driving by drivers may still arise even if the validity period of taxi driver identity plates is one year. However, if the validity period of driver identity plates is extended from one year to 10 years, the loophole will become even more obvious. Unless the authorities come up with better ways to guard against such situations, the longer the validity period of taxi driver identity plates is, the more likely taxi drivers will take advantage of the loophole. Taxi drivers who had been suspended or even "disqualified" are not required to return their driver identity plates. Have the authorities concerned considered reviewing this arrangement? Hence, I consider the five-year validity period proposed by Mr LAM Cheuk-ting is indeed reasonable.

As to whether the appearance of taxi drivers will change or not, some Members have suggested that taxi driver identity plates should adopt the same arrangement as identity cards and passports, which both have a validity period of 10 years, and there should not be big differences in the validity period of these documents. Please do not forget that passports actually carry features for identifying the holders other than photos. However, taxi driver identity plates do not carry those features, with photos being the only feature for identification. Hence, I would like to point out the difference between the two types of documents. I do not mean that what Mr KWOK Wai-keung has said is completely unreasonable or nonsensical. I only want to point out the reasons why we have different views. The identification documents mentioned just now are different from taxi driver identity plates. Therefore, the Civic Party will support the amendment proposed by Mr LAM Cheuk-ting.

I so submit.

MR FRANKIE YICK (in Cantonese): Deputy Chairman, the trades originally hoped that the validity period could be extended from one year to five years as they had never expected that the Transport Department would be so nice as to consider extending the period to 10 years. It is not that the trades did not want to strive for a longer validity period, but the many requests made by the trades in the past had simply been ignored by the Government. Therefore, the trades are extremely happy about this "benevolent measure". This is the first point.

Second, Mr LAM Cheuk-ting was worried that if the appearance of a taxi driver had changed and looked differently from the photograph shown on the driver identity plate, the passengers might have difficulty to lodge complaints against the driver. I would like to tell Members and the public, when taxi passengers are dissatisfied with the service of the driver, it is most important for them to get a fare receipt. If there is a receipt, the trades can trace the driver concerned. Therefore, Mr LAM needs not worry because the trades are absolutely competent to do so. The Hong Kong Airport Authority also distributes cards to visitors at the airport to remind them of the importance to get a fare receipt when taking a taxi.

At present, our major concern is, disregarding whether the validity period of the driver identity plate is 3 years, 5 years or 10 years, can the plate, after being displayed on the dashboard for a period of time, still be able to clearly show the information therein? The Government has undertaken to review the situation three years later, and I accept this arrangement. If it is found that the measure is not feasible three years later, we may discuss the matter again.

The Secretary probably does not know that I have discussed many issues with the Transport Department, and I will raise more proposals in the coming years on how to make use of driver identity plates to implement regulatory measures. If the Government finally introduces a demerit points system for taxi drivers, the driver identity plate should then become a document with electronic devices, and the taximeter on the dashboard should also be replaced as a monitoring measure. A Member mentioned just now that some drivers still drove though they did not have driver identity plate and have incurred the maximum demerit points. According to a proposal that I am going to raise, in the future drivers have to insert their identity plates into a machine, and those who had incurred the maximum demerit points would not be able to activate the vehicle. Should I fail to lobby for the Government's adoption of this proposal in

the next three years, I will give up; but if I succeed in convincing the Government, I think it will be an opportune time for the Government to conduct an overall review on the arrangement of driver identity plates.

Thank you, Deputy Chairman.

MR LAM CHEUK-TING (in Cantonese): Deputy Chairman, originally I did not intend to speak again. However, after hearing Mr KWOK Wai-keung's criticisms against me, I would like to briefly say a few words in response.

Before responding to Mr KWOK, I would like to thank Mr CHAN Han-pan for showing us a photograph of Ms Emily LAU, a former Member of the Legislative Council, to illustrate that one's appearance may not have great changes after many years. I trust Madam Emily will be very happy to hear Mr CHAN's remark. Nevertheless, I would like to provide extra information. From my experience of taking taxis, I seldom have the chance to see the front face of the driver because I usually take the back seat. Even if you take the front seat, you may only see the side face of the driver. If you take the back seat, then you may see one third of the driver's face; even if the driver turns his face, you can barely manage to see one half of his face. Thus, it is actually not so easy for the passengers to see the driver's whole face. Second, since the driver identity plate is displayed in the front seat, passengers on the back seat will find the photo on the plate rather small. Will passengers be able to identify the driver simply by the small photo? I hope the Secretary can revisit the design of the driver identity plate to see if larger photo can be shown, so that members of the public can identify the driver more easily.

Moreover, the example raised by Mr CHAN Han-pan is certainly an extraordinary one. Mr Andrew WAN, who is sitting beside me, has been an acquaintance of mine for many years. His present appearance is totally different from how he looked 10 years ago. If we need to raise some examples, we can come up with a variety of them. Regarding the question of the validity period of driver identity plates, I actually agree with Mr CHAN Han-pan in saying that we do not have a definite line to draw right from wrong. This remark can be cited to respond Mr KWOK Wai-keung's criticism against me. He said that I was reckless to propose the amendment, that I did not involve in the discussion, and that I proposed the amendment to show that I have done something. Mr KWOK, this is a "matter of opinion". Why should he say that the opposition

camp proposed the amendment to show that they have done something? He is simply belittling me. Can I get my work done by simply proposing this amendment? Come on! Even if he did not laugh when he made the above remark, I could not help laughing in my heart when I heard his words. This minor amendment has not aroused too much public concern, only the trades have shown concern, but this is not a matter of great public interest. Why then should I propose this amendment to show that I have done something? I still have other important things to deal with, and I will not debate for more than one hour in this Chamber, just to show that I have done something. I hope he will debate in a pragmatic manner and will not casually put a label on me and accuse me of an offence.

In addition, Mr KWOK said that since I had not taken part in the preliminary discussion, I should not propose any amendment. However, there is no such kind of provision under the Legislative Council system. First of all, I did take part in the discussion. I raised my relevant views at the meeting of the Bills Committee and I debated with Mr KWOK as we had divergent views. If he considered that only Members who had participated in discussing the matter before the deliberation of the Bills Committee could propose amendment, then a vast majority of Members of this Council would be deprived of their power to amend motions. Our system is not like this. Mr KWOK should get the picture clear before making criticisms.

Mr Frankie YICK said that it was most important to get a fare receipt when taking a taxi. However, in many cases, after members of the public have got on a taxi, they would be kicked out by the driver for reasons unknown. In such circumstances, how can people ask the driver for the fare receipt? The driver will simply ignore them. In some cases, the driver may claim that the receipt printer is out of order or out of paper, so passengers may not necessarily get the receipt. The driver identity plate serves to reveal the driver's identity, which is rather important.

In conclusion, Deputy Chairman, we should not always differentiate ourselves into the opposition camp and the pro-establishment camp when discussing livelihood issues. This kind of discussion is neither healthy nor up to standard. I so submit.

MR CHAN HAN-PAN (in Cantonese): Frankly speaking, this subject is not highly controversial, it is simply a matter concerning the duration of the validity period.

Originally, I did not intend to speak as well. However, when Mr LAM Cheuk-ting mentioned that Mr Andrew WAN ... I have to declare first, I do not have any bias against fat people, only that Mr Andrew WAN has put on some weight in these years and he looks slightly different from his past appearance; yet basically, I think we all recognize him. Some day when he thinks he has to lose some weight, he may be able to regain his past features. I must admit that his present look is indeed a bit "blurred" when compared with his past image, and I thus query if he is the Andrew WAN whom I know. How come he has bloated as a whole? Maybe he eats well and lives well, but I can basically recognize him by his features, looks and appearance.

Suppose getting fat is really a problem, then a person can have significant changes in five years. Probably, the Transport Department ("TD") used to think that one might get fat, and he might not be recognized after putting on some weight. Therefore, TD required that the photo on the driver identity plate should be updated once every year. If along this line of thought, TD might specify that the validity period of driver identity plates should be one year. However, we do not want the validity period to be one year. There is no reason why TD should shorten the validity period for the reason that "people might get fat".

In my opinion, regarding the changes of a driver's appearance over a period of 10 years or 5 year, I think there should not be much difference. Hence, I agree to adopt a mode of operation that affects drivers less. Renewing driver identity plates once or twice every 10 year will not have much impact; yet it would still be better if renewals are set between longer intervals, because the impact on drivers will be less. I merely want to clarify this point.

Deputy Chairman, I so submit.

MR KWOK WAI-KEUNG (in Cantonese): First of all, as also stated by Mr LAM Cheuk-ting just now, the Road Traffic (Amendment) Bill 2018 has not aroused much public controversy or concern. Therefore, I hope he will respect the trades. At the meeting of the Bills Committee, he said that public interest

was the biggest dispute. However, since he just said that this issue did not involve vital public interests nor aroused too much public concern, I urge him not to argue about it anymore.

Second, Mr LAM actually could not refute me just now, he diverted our attention by saying "Mr KWOK said that since I had not taken part in the preliminary discussion, I should not propose any amendment". Deputy Chairman, justice lies in everyone's heart. I have never said that. In fact, he can propose an amendment, or even plenty of them. He can still propose an amendment even if no one cares. He loves to be senseless and waste time, and he can definitely do so. The point is that I just want to show the public that he is proposing an amendment without doing background work. I just made this point clear. If he wants to propose an amendment, just go ahead.

Deputy Chairman, I so submit.

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

(No Member indicated a wish to speak)

DEPUTY CHAIRMAN (in Cantonese): If not, I now call upon the Secretary for Transport and Housing to reply. Secretary, please speak.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Deputy Chairman, as I said upon resumption of the Second Reading debate just now, the Government is aware that some Members have expressed concern over the proposal for a 10-year validity period of driver identity plates. From a policy perspective, the proposed amendment is indeed not necessary; and the question concerned has been discussed in detail at the Bills Committee. Please allow me to hereby expound on the Government's stance again in order to reassure fellow Members.

When formulating the proposal concerning the 10-year validity period for taxi and public light bus ("PLB") driver identity plates, the Government has fully considered the views from the taxi and PLB trades. For many years, the trades

have indicated that the validity period of driver identity plates should be lengthened and aligned with the validity period commonly applicable to other identification documents. When the Government consulted the taxi and PLB trades on the specific proposal, the trades have expressed support for the proposal of specifying 10 years as the validity period for driver identity plates. Of course, Mr Frankie YICK also mentioned just now that the trades had been pleasantly surprised. However, our work objectives have always been upholding public interests and supporting the development of the trades. The trades have pointed out that drivers are all adults whose appearance would not change significantly in 10 years' time. Of course, there should be some exceptional cases where something inconceivable might happen. However, on the whole, the validity period of some important identification documents, such as travel documents and relevant identity cards, has all been set based on the 10-year benchmark. As I said just now, the validity period of driver identity plates should be aligned with that of these important identification documents.

In addition, with regard to the proposal for a longer validity period, the Government has been paying attention to the importance of the durability of driver identity plates. After making reference to the existing specifications of driving licences and consulting the Government Logistics Department, the Transport Department ("TD") will select more durable materials for producing driver identity plates to enhance protection of the plates and reduce the chance of colour fading. In vetting and approving the applications of driver identity plate production agents, TD will conduct quality check to ensure that driver identity plates comply with the new specifications; and the materials used must conform to the principles of sustainability and durability.

Most importantly, as I said upon resumption of the Second Reading debate just now, the Government has undertaken at the meeting of the Bills Committee that it would review the printing quality of driver identity plates three years after the introduction of new specifications. If the review finds that the printing quality of most driver identity plates is unsatisfactory or the information thereon have seriously faded, the Commissioner for Transport may then specify by notice in the Gazette a new design for the taxi and PLB driver identity plates, so as to require drivers to renew their plates even before the 10-year expiry. This will ensure that the information on the driver identity plates is clearly and easily visible, thereby enabling passengers to identify drivers easily and enhancing the professional image of drivers.

Mr YICK also mentioned the proposal to introduce electronic driver identity plates in the future just now. The Government has agreed that taxi service quality can be raised by technological means. The Committee on Taxi Service Quality under TD is also conducting a review on using technology to enhance taxi service quality. If the proposal is supported by the trade and the public, we can continue to follow up in future.

Having taken note of the Government's stance, the Bills Committee has considered the proposed review arrangement to be appropriate on the grounds that the concerns of Bills Committee members over the validity period can be addressed. While we understand the concerns expressed by some Members just now, we believe that the measures taken by the Government earlier mentioned by Bills Committee Chairman Mr YICK and I are adequate to deal with the relevant situation. As such, the proposed amendment is not necessary. I implore Members who are present to oppose the amendment.

Thank you, Deputy Chairman.

DEPUTY CHAIRMAN (in Cantonese): Mr LAM Cheuk-ting, do you wish to speak again?

(Mr LAM Cheuk-ting indicated that he did not wish to speak again)

DEPUTY CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendment moved by Mr LAM Cheuk-ting be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr LAM Cheuk-ting rose to claim a division.

DEPUTY CHAIRMAN (in Cantonese): Mr LAM Cheuk-ting has claimed a division. The division bell will ring for five minutes.

(While the division bell was ringing, THE CHAIRMAN resumed the Chair)

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

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

Functional Constituencies:

Mr James TO, Prof Joseph LEE, Mr Kenneth LEUNG, Mr IP Kin-yuen, Mr SHIU Ka-chun and Mr KWONG Chun-yu voted for the amendment.

Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Kin-por, Mr Frankie YICK, Mr YIU Si-wing, Mr MA Fung-kwok, Mr Christopher CHEUNG, Mr Martin LIAO, Mr POON Siu-ping, Ir Dr LO Wai-kwok, Mr Jimmy NG, Mr HO Kai-ming, Mr Holden CHOW, Mr SHIU Ka-fai, Dr Pierre CHAN, Mr CHAN Chun-ying, Mr LUK Chung-hung and Mr Tony TSE voted against the amendment.

THE CHAIRMAN, Mr Andrew LEUNG, did not cast any vote.

Geographical Constituencies:

Mr WU Chi-wai, Mr CHAN Chi-chuen, Dr KWOK Ka-ki, Mr Andrew WAN, Mr CHU Hoi-dick, Mr LAM Cheuk-ting, Mr HUI Chi-fung, Mr Jeremy TAM and Mr Gary FAN voted for the amendment.

Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mrs Regina IP, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Ms Alice MAK, Mr KWOK Wai-keung, Dr Elizabeth QUAT, Dr Junius HO, Mr Wilson OR, Ms YUNG Hoi-yan, Mr CHEUNG Kwok-kwan and Mr Vincent CHENG voted against the amendment.

Dr CHENG Chung-tai abstained.

THE CHAIRMAN announced that among the Members returned by functional constituencies, 27 were present, 6 were in favour of the amendment and 20 against it; while among the Members returned by geographical constituencies through direct elections, 24 were present, 9 were in favour of the amendment, 14 against it and 1 abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That clause 4 stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

Mr KWOK Wai-keung rose to claim a division.

CHAIRMAN (in Cantonese): Mr KWOK Wai-keung has claimed a division. The division bell will ring for five minutes.

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

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

Mr James TO, Mr Tommy CHEUNG, Prof Joseph LEE, Mr Jeffrey LAM, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Hak-kan, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mrs Regina IP, Ms Claudia MO, Mr Michael TIEN, Mr Frankie YICK, Mr WU Chi-wai, Mr YIU Si-wing, Mr MA Fung-kwok, Mr CHAN Chi-chuen, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Mr Kenneth LEUNG, Ms Alice MAK, Dr KWOK Ka-ki, Mr KWOK Wai-keung, Mr Christopher CHEUNG, Mr IP Kin-yuen, Dr Elizabeth QUAT, Mr Martin LIAO, Mr POON Siu-ping, Ir Dr LO Wai-kwok, Mr Andrew WAN, Mr CHU Hoi-dick, Mr Jimmy NG, Dr Junius HO, Mr HO Kai-ming, Mr LAM Cheuk-ting, Mr Holden CHOW, Mr SHIU Ka-fai, Mr SHIU Ka-chun, Mr Wilson OR, Ms YUNG Hoi-yan, Dr Pierre CHAN, Mr CHAN Chun-ying, Mr CHEUNG Kwok-kwan, Mr HUI Chi-fung, Mr LUK Chung-hung, Dr CHENG Chung-tai, Mr KWONG Chun-yu, Mr Jeremy TAM, Mr Gary FAN, Mr Vincent CHENG and Mr Tony TSE voted for the motion.

THE CHAIRMAN, Mr Andrew LEUNG, did not cast any vote.

THE CHAIRMAN announced that there were 53 Members present and 52 were in favour of the motion. Since the question was agreed by a majority of the Members present, he therefore declared that the motion was passed.

CHAIRMAN (in Cantonese): All the proceedings on the Road Traffic (Amendment) Bill 2018 have been concluded in committee of the whole Council. Council now resumes.

Council then resumed.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese):
President, I now report to the Council: That the

Road Traffic (Amendment) Bill 2018

has been passed by committee of the whole Council without amendment. I
move the motion that "This Council adopts the report".

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

In accordance with the Rules of Procedure, this motion shall be voted on
without amendment or debate.

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

(Members raised their hands)

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

(No hands raised)

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

Third Reading of Government Bill

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

ROAD TRAFFIC (AMENDMENT) BILL 2018

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese):
President, I move that the

Road Traffic (Amendment) Bill 2018

be read the Third time and do pass.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Road Traffic (Amendment) Bill 2018 be read the Third time and do pass.

Does any Member wish to speak?

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Road Traffic (Amendment) Bill 2018.

Resumption of Second Reading Debate on Government Bill

PRESIDENT (in Cantonese): This Council resumes the Second Reading debate on the United Nations Sanctions (Amendment) Bill 2018.

UNITED NATIONS SANCTIONS (AMENDMENT) BILL 2018**Resumption of debate on Second Reading which was moved on 6 June 2018**

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now put the question to you and that is: That the United Nations Sanctions (Amendment) Bill 2018 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): United Nations Sanctions (Amendment) Bill 2018.

Council became committee of the whole Council.

Consideration by Committee of the Whole Council

CHAIRMAN (in Cantonese): Council now becomes committee of the whole Council to consider the United Nations Sanctions (Amendment) Bill 2018.

UNITED NATIONS SANCTIONS (AMENDMENT) BILL 2018

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

CLERK (in Cantonese): Clauses 1 to 4.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That clauses 1 to 4 stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): All the proceedings on the United Nations Sanctions (Amendment) Bill 2018 have been concluded in committee of the whole Council. Council now resumes.

Council then resumed.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, I now report to the Council: That the

United Nations Sanctions (Amendment) Bill 2018

has been passed by committee of the whole Council without amendment. I move the motion that "This Council adopts the report".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Commerce and Economic Development be passed.

In accordance with the Rules of Procedure, this motion shall be voted on without amendment or debate.

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

(Members raised their hands)

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

(No hands raised)

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

Third Reading of Government Bill

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

UNITED NATIONS SANCTIONS (AMENDMENT) BILL 2018

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, I move that the

United Nations Sanctions (Amendment) Bill 2018

be read the Third time and do pass.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the United Nations Sanctions (Amendment) Bill 2018 be read the Third time and do pass.

Does any Member wish to speak?

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): United Nations Sanctions (Amendment) Bill 2018.

GOVERNMENT MOTIONS

PRESIDENT (in Cantonese): Government motions.

The Chief Secretary for Administration will move his first and second proposed resolutions under the District Court Ordinance and the Small Claims Tribunal Ordinance respectively.

Mr James TO will move an amending motion to amend the Chief Secretary for Administration's second motion.

I have earlier informed Members through the Legislative Council Secretariat that as the Chief Secretary for Administration's two motions relate to adjustments to the civil jurisdictional limits and were scrutinized by the same subcommittee, this Council will proceed to a joint debate on the two motions and Mr James TO's amending motion, and then proceed to vote on the motions and amending motion one by one.

The purposes of the motions and the amending motion, and the debate and voting arrangements, are set out in the Appendix to the Script.

The joint debate now begins. I will first call upon the Chief Secretary for Administration to speak on the two motions and move the first motion. Then I will call upon Mr James TO to speak, but he may not move his amending motion at this stage.

Members who wish to speak on the two motions and the amending motion will please press the "Request to speak" button.

I now call upon the Chief Secretary for Administration to speak and move the first motion.

PROPOSED RESOLUTION UNDER THE DISTRICT COURT ORDINANCE

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): President, I move that the first motion under my name as printed on the Agenda be passed to increase the civil jurisdictional limits of the District Court. Later I will also move the second motion under my name as printed on the Agenda be passed to increase the civil jurisdiction limit of the Small Claims Tribunal ("SCT").

In 2015-2016, the Judiciary conducted a review of the civil jurisdictional limits of District Court and SCT. Having analysed the impact of increasing the limits on the workload of the court and the tribunal concerned, changes in economic indicators and views of the stakeholders, the Judiciary proposed increasing the general financial limit of the civil jurisdiction of District Court from \$1 million to \$3 million. As regards the limit for proceedings involving recovery of land or relating to the title to an interest in land, the Judiciary proposed increasing it from \$240,000 to \$320,000 in terms of the annual rent, rateable value or annual value of the land.

For the equity jurisdiction of District Court, the Judiciary proposed increasing the limit from \$1 million to \$3 million where the proceedings do not involve land, and from \$3 million to \$7 million where the proceedings involve land. Besides, the Judiciary proposed increasing the civil jurisdictional limit of SCT from \$50,000 to \$75,000.

(THE PRESIDENT'S DEPUTY, MS STARRY LEE, took the Chair)

The Judiciary considered that the proposals above may allow better distribution of cases among the Court of First Instance, District Court and SCT. They would help ease the pressure of the increasing caseload of civil cases on the Court of First Instance, and enable it to concentrate on handling cases of higher claim amounts and greater complexity in nature. In addition, the proposals would also help lower legal costs, thereby enhancing access to justice for the public. The Judiciary has consulted the Hong Kong Bar Association, The Law Society of Hong Kong and the Panel on Administration of Justice and Legal Services of the Legislative Council on the proposals, and obtained their general support.

To cope with the increases in caseload at District Court and SCT after the adjustments of the civil jurisdictional limits, the Judiciary, having carefully assessed the resource requirements, has made available additional court facilities at the court and the tribunal. The Government has also provided the Judiciary with the financial resources for meeting in full the manpower needs. In particular, the Judiciary's proposal for the creation of new judge and Judicial Officer posts was approved by the Legislative Council Finance Committee in

December last year. The Judiciary will endeavour to ensure smooth operation of District Court and SCT, and continue to provide reliable services to court users after the adjustments of the jurisdictional limits.

This proposed resolution, together with another resolution concerning the increase of the civil jurisdictional limit of SCT, have been scrutinized by the Subcommittee on Proposed Resolutions under the District Court Ordinance and the Small Claims Tribunal Ordinance ("the Subcommittee"). The Subcommittee held two meetings and supported the Government for moving motions to seek Legislative Council's endorsement of the two proposed resolutions.

Deputy President, during the Subcommittee's scrutiny of the proposed resolutions, the Legislative Council passed the Statute Law (Miscellaneous Provision) Bill 2017, thereby enabling the civil jurisdictional limit of District Court for costs-only proceedings to be amended by way of resolution of Legislative Council as well. We therefore proposed and obtained the Subcommittee's support to include the amendment to the jurisdictional limit of District Court for costs-only proceedings in the proposed resolution under the District Court Ordinance. The amendment is now placed before Members for approval. I would like to take this opportunity to thank Mr Holden CHOW, Chairman of the Subcommittee, and other Members of the Subcommittee for their views and support of the proposed increase of the jurisdictional limits of District Court and SCT.

Regarding Mr James TO's motion to revise the jurisdictional limit of SCT to \$100,000, as we and the Judiciary explained to the Subcommittee during the scrutiny of the resolution, the current proposal of increasing the jurisdictional limit of SCT to \$75,000 was made after conducting a comprehensive and objective analysis taking into account a host of factors, including the need to enhance access to justice, effect on demand for and operation of SCT's services, changes in economic indicators, etc., as well as the views received during consultation. The proposal had also received general support from stakeholders, including the Hong Kong Bar Association, The Law Society of Hong Kong, as well as the Panel on Administration of Justice and Legal Services of the Legislative Council.

I wish to point out in particular that on the basis of the current proposal, the Judiciary had secured additional financial and manpower resources and accommodation, and arranged training for additional staff with a view to enabling SCT to handle the impact arising from the jurisdictional rise. In particular, the

proposal of creating additional judicial posts which was approved by the Finance Committee of the Legislative Council in December last year was also based on the revised jurisdictional limit of SCT of \$75,000.

Upon careful consideration, the Judiciary considered it inappropriate to adjust the jurisdictional limit of SCT without going through detailed analysis and comprehensive consultation. Any changes would have an impact on the operation of SCT, and therefore should only be implemented after going through a fresh round of detailed and objective analysis and comprehensive consultation. However, this would take time, and would inevitably delay the implementation of the jurisdictional rise of SCT, and would not be conducive to the public in terms of enhancing access to justice through SCT, nor in the interest of the community as a whole.

After considering the explanation of the Government and the Judiciary, the Subcommittee supported the proposal of raising the jurisdictional limit of SCT to \$75,000.

I invite Members to support this proposed resolution to increase the civil jurisdictional limits of District Court. Then, I will move another motion to increase the civil jurisdictional limit of SCT. I invite Members to support the motion proposed by the Government and vote down the amending motion by Mr James TO, with a view to implementing the increase of the jurisdictional limit of SCT from \$50,000 to \$75,000 as soon as possible. The Judiciary has pledged to closely monitor the statistics on the caseload of SCT and the actual operational impact for two years upon the implementation of the new jurisdictional limit of SCT of \$75,000, and conduct a review to see if there is a case for further raising the jurisdictional limit of SCT.

Upon the passage of the two motions, the Judiciary will make consequential amendments to the Small Claims Tribunal (Fees) Rules (Cap. 338B) and table them separately at the Legislative Council for scrutiny. Subject to the completion of the legislative process, the revised civil jurisdictional limits of District Court and SCT, together with the consequential amendments, are expected to come into effect in the second half of 2018 on a date to be appointed by the Chief Justice.

Thank you, Deputy President.

The Chief Secretary for Administration moved the following motion:

"RESOLVED that—

- (a) the District Court Ordinance (Cap. 336) be amended as set out in the Schedule; and
- (b) this Resolution is to come into operation on a day to be appointed by the Chief Justice by notice published in the Gazette.

Schedule

Amendments to District Court Ordinance

1. **Section 32 amended (general jurisdiction in actions of contract, quasi-contract and tort)**
 - (1) Section 32(1)—
Repeal
"\$1,000,000"
Substitute
"\$3,000,000".
 - (2) Section 32(3)—
Repeal
"\$1,000,000"
Substitute
"\$3,000,000".
2. **Section 33 amended (money recoverable by enactment)**
Section 33(1)(b)—
Repeal
"\$1,000,000"
Substitute
"\$3,000,000".
3. **Section 35 amended (jurisdiction for recovery of land)**
Section 35—
Repeal
"\$240,000"
Substitute
"\$320,000".

4. **Section 36 amended (jurisdiction where title in question)**

(1) Section 36(a)—

Repeal

"\$240,000"

Substitute

"\$320,000".

(2) Section 36(b)—

Repeal

"\$240,000"

Substitute

"\$320,000".

5. **Section 37 amended (equity jurisdiction)**

(1) Section 37(2)(i)—

Repeal

"\$1,000,000"

Substitute

"\$3,000,000".

(2) Section 37(2)(ii)—

Repeal

"\$1,000,000" (wherever appearing)

Substitute

"\$3,000,000".

(3) Section 37(2)(iii)—

Repeal

"\$3,000,000"

Substitute

"\$7,000,000".

(4) Section 37(2)(iv)—

Repeal

"\$3,000,000"

Substitute

"\$7,000,000".

(5) Section 37(2)(iv)—

Repeal

"\$1,000,000"

Substitute

"\$3,000,000".

-
- (6) Section 37(4)—
Repeal
"\$240,000"
Substitute
"\$320,000".
6. **Section 52 amended (extension of jurisdiction to grant injunctions and to make declarations)**
(1) Section 52(1)(a)—
Repeal
"\$1,000,000"
Substitute
"\$3,000,000".
(2) Section 52(1)(c)—
Repeal
"\$240,000"
Substitute
"\$320,000".
(3) Section 52(1)(d)—
Repeal
"\$1,000,000"
Substitute
"\$3,000,000".
7. **Section 53A amended (costs-only proceedings)**
Section 53A(5)—
Repeal
"\$1,000,000"
Substitute
"\$3,000,000".
8. **Section 69B amended (relief against forfeiture by re-entry for non-payment of rent)**
Section 69B(1)—
Repeal
"\$240,000"
Substitute
"\$320,000".

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

MR JAMES TO (in Cantonese): Deputy President, I came across two members of the public today. I met the first one at about 7:00 am while I was having soup noodles in Wan Chai. The man asked if I was very busy. I said I was not. I would move an amendment to the Government motion in order to raise the civil jurisdictional limit of the Small Claims Tribunal ("SCT") today. I said the claim limit stipulated in the Small Claims Tribunal Ordinance ("the Ordinance") had remained unchanged for 19 years. The Government suggested raising it from \$50,000 to \$75,000; whereas I suggested raising it to \$100,000. His first response was, "What? Only \$100,000? Does it mean that any claim over \$100,000 will have to be made in the District Court?" The man has parked his vehicle nearby. I guess he may be a taxi driver or a driver by occupation. I would like Members to know the first response of the public.

Later, I chatted with another member of the public in a lift in Causeway Bay. I also told him what I would be doing today. The response of the person was quite similar. He said that even if the jurisdictional limit of SCT was raised to \$100,000, it would still be too low. Members can discuss the jurisdictional limit on their own, but if we tell members of the public that any claim above \$100,000 has to be made in the District Court, their first response would be "Are you kidding?" That is a very natural response. If the Government or the Judiciary is not out of touch with reality, the Chief Secretary for Administration should understand that the provision in the Ordinance has remained unchanged for 19 years. In 1999, the jurisdictional limit was \$50,000; 19 years later, the Government told us that the current proposal already represented an increase of 50%. However, we should consider the absolute figures and the disputes in society. If members of the public have to make their claims of \$100,000 or above in the District Court, will they institute the proceedings?

Deputy President, I will give a more realistic example. In these few years, I have dealt with many compensation claims for uncompleted flats in the United Kingdom. Why would legal proceedings of compensation claims for uncompleted flats in the United Kingdom be instituted in Hong Kong? The reason is that some Hong Kong agents entered into compensation agreements with purchasers to pay compensation of some \$80,000, but failed to honour their

pledge. If a member of the public makes the claim of some \$80,000 in the District Court, the legal fees will easily be higher than the amount claimed. The costs will then be greater than the award, so to speak. Furthermore, the general public thinks that claims for several ten thousand dollars should really be dealt with in SCT for the so-called "rough justice". Anyway, these cases should be dealt with by simple procedures, which having to make things complicated.

If you tell members of the public that the limit of claims, which has remained unchanged for 19 years since 1999, will be increased by 50%, will they think it is reasonable? The Chief Secretary said earlier that the Government had studied many factors, such as purchasing power. Frankly speaking, disputes involving several ten thousand dollars occur easily. A case in point is the repair and maintenance fees of buildings which often involve several ten thousand dollars. I suggest raising the civil jurisdictional limit to \$100,000 only because I want a round-up figure. If you ask me whether I have any scientific justification, I can do some calculations with you in a more scientific way.

The inflation rate from 1988 to 1999 was 100%, and the Government thus increased the claim limit by 230% to \$50,000. Why? The Government said that the adjustment was made after considering the economic growth of Hong Kong and the purchasing power of the general public. From May 1999 to May 2018, the cumulative inflation rate is 30% to 35%. In terms of the inflation rate, the increase in the claim limit from 1988 to 1999 should be 2.3 times. Hence, the amount should increase by 70% to 80% to \$85,000 to \$90,000 and not \$75,000.

Deputy President, legal proceedings involving claims of tens of thousands of dollars...Certainly, I propose to increase the limit from \$75,000 to \$100,000. From this perspective, we are not concerned with claims which are \$30,000 to \$40,000 because such claims are already covered in the current provisions. The Government has proposed to raise the limit to \$75,000; and the community generally thinks that it is not worth instituting legal proceedings involving claims of several ten thousand dollars in the District Court. Of course, there will be no problem if both parties are not legally represented and one can consider making a claim. However, if the respondent is legally represented, no justice will be done. Why? The claimant will be very worried that if he loses the case, he has to pay very expensive legal costs. This will prevent the public from seeking justice, or it can even be said that justice is denied.

As an alternative, the Government claims that members of the public can apply for legal aid, but one cannot apply for legal aid for making a claim in SCT. At present, members of the public can apply for legal aid if they make a claim of \$90,000 in the District Court. However, as we all know—the Chief Secretary would know better as he is responsible for policies on legal aid—there is a principle in approving legal aid, i.e. whether "the costs will be greater than the award" as mentioned before. If the amount claimed is only \$90,000, and the Legal Aid Department has to provide a lawyer to the claimant, the legal costs can easily be greater than the amount claimed. Is spending public money amounting to hundreds of thousands of dollars proportional to a claim of \$90,000? Should public money be spent in this way? Even if the claim is a *prima facie* case or there is a reasonable chance of success, the application for legal aid will surely be rejected because the amount claimed is only \$90,000.

The Government also queried, if the jurisdictional limit was increased from \$75,000 to \$100,000, would it affect the caseload of SCT? Would there be a sudden increase in caseload? First, we have asked the Government to provide the number of cases with claims of \$75,000 to \$100,000 being dealt with in the District Court in the past. Certainly, that is not the only indicator because many people dare not make a claim in the District Court. But if there are such cases, how many are there? The answer is very few. According to the figures provided by the Judiciary, from 2013 to 2016, the number of cases with claims amounting to \$50,000 (including cases in which the initial amount claimed exceeded \$50,000 but has been reduced to \$50,000) represents only 12% on average of the total number of cases handled by SCT each year. The percentage has dropped since 2015 to even 9.6% in 2017. In other words, there are more cases with claims amounting to less than \$50,000 than those with claims over that amount. Thus, I have reasons to deduce that adjusting the jurisdictional limit to \$100,000 will not have a very big impact.

On the other hand, according to the General Revenue Account as at 31 March 2018, the average waiting time from filing of a case to first hearing in SCT is 35 days in 2015 and 34 days in 2016, which is only half of the time originally targeted by the Judiciary (i.e. an average waiting time of 60 days). This shows that even with its existing resources, SCT has the capacity to deal with more cases, including additional cases arising from an increase of the jurisdictional limit from \$70,000 to \$100,000; and more so considering that the numbers of Adjudicators and Tribunal Officers providing support to SCT have increased in recent years.

On the other hand, the Government said that it had consulted various stakeholders and Members should not propose any sudden changes. Sorry, that is an unfair statement. The reason is that when the Government first put forward its proposal to the Panel on Administration of Justice and Legal Services ("the Panel"), many members of the Panel already said that the amount of \$75,000 was too low and the limit should be raised. If the Government had really listened to the views of members of the Panel, including many pro-establishment Members, it should have had further discussion with the Judiciary and other stakeholders of the whole system instead of merely informing Members at the Council meeting that the proposed limit was \$75,000 after consideration, and that if they wished to increase the limit, they should put forward their proposals next time. The Government always adopts an autocratic attitude, claiming that consultation has been conducted. Frankly speaking, who would oppose the Government's proposed increase of the limit?

When the Government submitted the motion to the Legislative Council, Members of the Legislative Council, who are responsible for enacting legislation, have really considered the matter on behalf of the public and they told the Government that the limit was not high enough. The Government should have discussed the matter further or asked Members the amount to be raised. Back then, when some members of the Panel suggested raising the limit to \$100,000, the Government should have conducted consultation again, but it failed to do so and ignored the views of the Panel. That is still the attitude of the Government. Please note that members of the Panel have expressed their views, but the Government indicated that, upon consulting external views, the limit would remain at \$75,000. The Government has only consulted external views, but not the views of Members. Eventually, when the Government consulted Members, some Members wished to raise the limit, but the Government refused and asked them to put forward their proposals next time. Actually, when the Government asked Members to put forward their proposal next time, the target was not me, but the general public. To put it more clearly, the Government forces claimants intending to make a claim of \$75,000 to \$100,000 or more than \$100,000 to reduce their claims to \$75,000. In other words, members of the public will have no way to seek relief of their grievances. Such a result is most pathetic and it will seriously increase the number of disputes among the people.

If a case is handled by the Court, at least the judge can decide who is right and who is wrong and the matter will then be settled. Certainly, some people will still feel aggrieved after the proceedings, but most of them will consider that

the judicial process is fair. Nevertheless, the current problem is that the Government's proposal will in effect stop people from making claims. The Government said that it has conducted a review and consulted all the stakeholders, but that is not the answer. If we consider all the events in this matter, we will know that the Government should have held further discussion.

Furthermore, the Government said that it had listened to the people's views this time, but it always made its decisions on the basis of its own views. It then asked the Legislative Council to enact the laws and rubber-stamp the Government's proposals. Any proposed amendments by Members will be regarded as obstructions and the Government will ask Members to put forward their proposals next time. When will the next time be? The Government said that it would conduct a review two years later. Interestingly, I am not the only one who raised objection, many other members of the Panel also opposed the Government's proposal. However, they have only raised strong verbal objection. Let us see how these Members will vote today.

When we discussed the matter in the Panel, some members have pressurized the Government to respond, or at least put forward other proposals acceptable by members. The Government said today that it had really listened to Members' views. Knowing that many Members have demanded to raise the limit, it would conduct a review in two years instead of a long wait of 19 years. In doing so, the Government claimed that it has taken on board Members' views. Buddy, the review last time was conducted after 19 years, but a review will be conducted in two years this time. When the Government conducts a review later, it can ask about the inflation rate in the past two years. Suppose the rate is 3% or 5%, and even if the inflation rate has doubled, it will only be 8%; the limit will then be adjusted to \$80,000. Given that the increase is so moderate, is it necessary to consult again? If the Government adopts this kind of logic, tactics and procedures, is it sincere at all?

I think the Government should significantly raise the limit. Frankly speaking, I think the limit of \$100,000 is still too low. Nevertheless, if the Government considers my proposed claim limit of \$100,000 will have a great impact, leading to a shortage of officers to deal with the cases and bringing about very serious consequences, no member of the public will believe in such arguments at all.

MR HOLDEN CHOW (in Cantonese): Deputy President, I now submit the report of the Subcommittee on Proposed Resolutions under the District Court Ordinance and the Small Claims Tribunal Ordinance ("the Subcommittee") in my capacity as the Chairman of the Subcommittee. The Subcommittee held two meetings with the Administration and deliberated on the two proposed resolutions. The Subcommittee will not propose any amendments to the two proposed resolutions.

In the process of deliberation, the Subcommittee noted that since the Statute Law (Miscellaneous Provision) Bill 2017 was passed on 11 April 2018, the Judiciary proposed to include the amendment to the jurisdictional limit for costs-only proceedings of the District Court in the proposed resolution under the District Court Ordinance. The Subcommittee raises no objection to the amendment.

Besides, the Subcommittee discussed the civil jurisdictional limit of the Small Claims Tribunal ("SCT") in detail. Some members were of the view that the proposed increase in SCT's jurisdictional limit from \$50,000 at present to \$75,000 was minimal, and suggested increasing the limit from \$50,000 to \$100,000, which would allow SCT to handle more cases with lower claim amounts. This would in turn help further enhance access to justice.

The Judiciary explained that any amendment to SCT's jurisdictional limit at this stage would necessitate a fresh round of preparatory work, including public consultation. This would inevitably delay the implementation of jurisdictional rise and would not be in the interests of the community as a whole. To address members' concern, the Judiciary had undertaken to closely monitor the statistics on SCT's caseload and the actual operational impact on SCT for two years upon implementation of the proposed \$75,000 limit, and conduct a review thereafter on the need to further adjust SCT's jurisdictional limit, including the scenario of setting the limit at \$100,000.

After consideration of the Administration's explanation, the Subcommittee agreed that the proposed \$75,000 limit should be adopted as a start, but the authorities should report to Members the outcome of the review mentioned. In addition, the Subcommittee considered that the interval of 15 years between the last review of the civil jurisdictional limits of the District Court and SCT and the current one was really too long, and it asked the authorities to conduct future reviews at a shorter interval.

Deputy President, the following are my views on the proposed resolution. Deputy President, I am a greenhorn in the Legislative Council. After I formally became a Member of the Legislative Council in 2016, seeking to raise SCT's jurisdictional limit has become one of my most important tasks. At the meeting of the Panel on Administration of Justice and Legal Services on 18 October 2016, I formally asked the authorities to arrange a detailed discussion on adjusting the \$50,000 jurisdictional limit of SCT and to follow up on the matter. On 15 February 2017, I asked a written question at the Council meeting and clearly pointed out that I wished to raise SCT's jurisdictional limit from \$50,000 to \$100,000. Subsequently, the Panel on Administration of Justice and Legal Services arranged a formal discussion in April 2017.

Some time later, the Government has recently submitted a formal proposed resolution to the Legislative Council. I am honoured to be the Chairman of the Subcommittee and have participated in the deliberations. Deputy President, I am probably one of the Members who first proposed to raise SCT's jurisdictional limit from \$50,000 to \$100,000. I believe other Members will share my view. In the whole process of deliberation, we noted a few rather important points which I wish to expound on at this meeting.

First, why did we seek to raise the claim limit of \$50,000 in the past? From our experience of handling many cases seeking legal advice in the community, we have learnt that for cases to be handled in SCT, both parties need not and cannot have legal representation, thus removing the risks of paying legal fees. If a lawyer charges \$80,000 to \$100,000, but the amount claimed by the client is only \$20,000 to \$30,000, the litigation will not bring any economic benefits, and will obstruct the public's access to justice. That is exactly the problem to be resolved by SCT.

A person wishing to make a claim of \$60,000 to \$70,000 had sought my advice. I explained that SCT could only deal with cases with a claim amount of \$50,000 or below. He immediately reduced his claim amount by \$10,000 to \$20,000 (commonly known as "head shaving") to less than \$50,000, e.g. \$49,999, so that his case could be handled by SCT. He could certainly seek justice in this way, but he had to forgo part of his claim amount. That is why we are so concerned about raising SCT's jurisdictional limit.

Regarding the proposal of raising SCT's jurisdictional limit from \$50,000 to \$100,000, we have made detailed enquiries of the Government during the deliberations of the Subcommittee. Representatives of the Judiciary attended

the meeting. I remember that on that day, many members coincidentally asked whether it was feasible to raise the jurisdictional limit to \$100,000. The Judiciary is the authority in charge of the matter. No matter how hard we try to convince, the Judiciary makes the final decision to determine whether the proposal is acceptable and feasible. The Judiciary gave us a clear answer at the meeting of the Subcommittee. First, if the limit was raised to \$100,000 in one stroke, the manpower and support measures of the Judiciary might not be able to meet the needs, thus affecting its operation. Second, regarding whether the Judiciary would accept the view of Members and the public to raise the jurisdictional limit to \$100,000, the representatives considered that the proposed resolution was submitted by the Government to the Legislative Council upon completion of all procedures from scratch.

Members may think that the Judiciary is wrong not to accept our views. However, the objective fact is that the Judiciary has made it clear that considering SCT's operation, it cannot accept the proposal of raising the jurisdictional limit to \$100,000. After all the work and procedures have been completed, the Judiciary can only accept raising the jurisdictional limit to \$75,000. We have already asked the Judiciary about this issue at the Subcommittee. If we do not accept the Government's proposed resolution of raising the jurisdictional limit to \$75,000, but accept Mr James TO's amendment of raising the jurisdictional limit to \$100,000, the Judiciary will not be able to accept the arrangement immediately and the Government will have no other choice but to withdraw the proposed resolution of raising the jurisdictional limit.

I very much hope that SCT's jurisdictional limit can be raised as people have been waiting for this initiative for a very long time. A raise in the jurisdictional limit can enable some people to solve certain problems. If we refuse to accept this proposal and ask the Government to withdraw the proposed resolution and draft it afresh, how many years will the Judiciary take before it can submit a new proposal? How many procedures will the Government have to go through again to address this problem before it can truly respond to Members' demand?

Deputy President, the two legal bodies have expressed their views on the current proposed arrangement. Both of them agree and support the Judiciary and the Government in raising the limit to \$75,000 as a starting point. It is particularly important that Members have made it clear at the Subcommittee that the Judiciary has to respond to public demand and raise the claim limit of

\$50,000, which has not been reviewed for a long time. My present view is that raising the limit to \$75,000 should only be regarded as a starting point and the matter should not end there. During the deliberations of the Subcommittee, the Judiciary eventually pledged categorically to review the matter every two years. I would like to highlight that when the Judiciary reviews the matter two years later, the limit of \$100,000 will only be the lowest requirement, the limit should even be raised to \$120,000, \$130,000 or \$150,000. Nevertheless, I would not suggest a specific amount.

I have recently received some enquiries from the public. Some people have noticed the proposal of raising SCT's jurisdictional limit and they are aware of my work in this area. A person asked me when the proposal would come into effect. If Members pass the proposed resolution, the earliest time that it will come into effect will be the second half of 2018 or immediately after the summer break of the Legislative Council. Members who are lawyers will clearly know that in law, there are time limits for making claims. For example, the time limit for making claims concerning injuries or death resulting from negligence is three years. If the proposal comes into effect in the second half of 2018 or immediately after the summer break of the Legislative Council, it will affect some people who intend to make their claims during this time. Under the original arrangement, if the claim amount is over SCT's jurisdictional limit, the claimant will have to initiate proceedings in the District Court, and hence incur legal fees. However, if the jurisdictional limit can be raised expeditiously, there is a chance that his case can be dealt with by SCT and he can still make his claim within the time limit. Frankly speaking, these people can get immediate help.

Deputy President, if I veto the proposal of raising the jurisdictional limit to \$75,000, or let the Judiciary withdraw its proposal with the wishful thinking that it will then raise the jurisdictional limit to \$100,000, we do not know when the Judiciary will submit a new proposal. The current proposal of raising the limit to \$75,000 is the result after a long period of work. Both Mr James TO and I have the wishful thinking that if the jurisdictional limit is raised to \$100,000, more people will benefit. However, as Chairman of the Subcommittee, I have the responsibility to point out that if we veto the proposal of raising the jurisdictional limit to \$75,000 and insist to raise it to \$100,000 immediately, SCT's jurisdictional limit will not be raised in the end, and we do not know when the Government will submit a new proposal. Considering the issue objectively and responsibly, I will support the proposed resolution today so that the proposal

can expeditiously come into effect in the second half of 2018. The jurisdictional limit will then be raised to \$75,000 and we will ask the Government to review the limit within two years so as to further raise the limit.

Deputy President, I so submit.

MR LEUNG YIU-CHUNG (in Cantonese): Deputy President, in the proposed resolution moved under the Small Claims Tribunal Ordinance, the Government proposes to raise the jurisdictional limit of the Small Claims Tribunal ("SCT") from \$50,000 to \$75,000.

The Government has promised to monitor closely the caseload of SCT in the next two years, and subject to the impact of this amendment on SCT's practical operation, the Government will then decide whether or not to further raise SCT's jurisdictional limit.

Deputy President, I have listened very closely to Mr Holden CHOW's speech and was quite glad to hear the first part of it. He said he joined this Council with the aspiration of raising the jurisdictional limit of SCT from \$50,000 to \$100,000. He indicated that it would even be better if the limit was higher, but he would settle with \$100,000 at the initial stage.

Nevertheless, I was quite disappointed to hear the latter part of his speech. Why? He said that he had to succumb to reality. If he did not accept the Government's proposed limit of \$75,000 but demanded a higher one, then, as advised by the Government, there were currently insufficient manpower and support measures to handle the caseload brought by a higher limit. He was worried that it would be meaningless even if a higher limit was endorsed.

Another point was that if we negated the \$75,000 limit, the Judiciary would have to study the issue again, and the time required was unknown, which might take one or two more years or even longer. In that case, claims between \$50,000 and \$75,000 could not be handled in SCT as proposed, bringing great disappointment to claimants. Hence, he preferred to endorse the \$75,000 limit first. The Government would then (I think two years from now the soonest) review the data collected and see if the limit could be raised further. According to Mr Holden CHOW, it would be best if the limit was raised to \$150,000.

Deputy President, in respect of such a view, we often think that the proposal put forward by the Government must be better than the original system, benefiting more people; otherwise the Government would not have made the proposal.

(Mr James TO left his seat)

DEPUTY PRESIDENT (in Cantonese): Mr LEUNG Yiu-chung, please hold on. Mr James TO, please return to your seat.

(Mr James TO returned to his seat and indicated a wish to raise a point of order)

DEPUTY PRESIDENT (in Cantonese): Mr James TO, what is your point of order?

MR JAMES TO (in Cantonese): Deputy President, I wish to clarify to Mr LEUNG Yiu-chung. He said if we requested to raise the limit to \$100,000, the Government would withdraw the motion or it would refuse to move the proposed resolution. This point has never been brought up in either the report of the Subcommittee or the Government's speech just now.

Hence, if Mr LEUNG Yiu-chung was quoting the speech of Mr Holden CHOW, should Mr Holden CHOW clarify this point because it has never been brought up?

DEPUTY PRESIDENT (in Cantonese): Mr James TO, you have clearly pointed out the point you wished to clarify. Mr LEUNG Yiu-chung, you may choose to clarify or continue with your speech

MR LEUNG YIU-CHUNG (in Cantonese): I thank Mr James TO for seeking my clarification. However, Mr James TO, please excuse me. I have listened carefully to Mr Holden CHOW's speech and just now I quoted totally from his speech. If Mr Holden CHOW later has the chance, I also hope that he will clarify whether that is what he intended to convey because I will also query him

about this point. I wish to know what the Government will do if we negative its proposal of raising the limit to \$75,000, but agree to the \$100,000 limit moved by Mr James TO in his amending motion.

I do not know what the Government will do. Many years ago, former Member Mr LAU Chin-shek demanded a higher long service payment, and the Government eventually withdrew the motion. Such an incident did happen. Will the Government adopt the same practice this time? We do not know. However, I think we have to hold on to the principle sometimes. Since Mr Holden CHOW also agrees that the limit should be raised to \$100,000, it is ridiculous that the Government refuses to implement the limit we endorsed on grounds of insufficient manpower and other support measures. Once a piece of legislation is passed, the Government is obliged to enforce it no matter how difficult it is. It cannot say that since there are insufficient manpower and support measures to cope with the increased caseload after SCT's jurisdictional limit is raised to \$100,000, the legislation should be shelved for the time being. Can this argument stand? I believe not. I have never seen such a case. Hence, I totally disagree with Mr Holden CHOW on this point.

The second point is that if the motion is negative, it would take a long time for its reintroduction. There was indeed such a situation in the past. A case in point is the reinstatement order. Chief Secretary Matthew CHEUNG should be most familiar with this case as he had forwarded the reinstatement order to the Labour Advisory Board for reconsideration, wasting a year's time. I remember there is really such a case. There is such a possibility.

(THE PRESIDENT resumed the Chair)

However, who should take the blame on this matter? Mr Holden CHOW, just think, the last time when SCT's jurisdictional limit was raised from \$15,000 to \$50,000, it was in 1999. Almost two decades have passed since then but the limit is just raised from \$50,000 to \$75,000 now. Who should bear responsibility? Shouldn't the Government bear responsibility? Is the Government too blind and too deaf to see and hear that the public find the jurisdictional limit of SCT unreasonable? The limit has not been raised for 20 years, and now the increase is merely \$25,000. Is it fair? Has the Government lost touch with the reality and public sentiment? Mr Holden CHOW now

forgives the Government and even condones it. How can he do so? The responsibility should be borne by the Government. If Mr Holden CHOW accepts the Government's excuse concerning insufficient manpower and support measures, and accepts the \$75,000 limit put forward by the Government, wouldn't it be somewhat absurd?

Just now Mr Holden CHOW cited examples, saying that many people complained to him about their losses. I believe Members now in this Chamber who have dealt with such cases are aware that many people, especially wage earners, very often feel aggrieved. Though the amount of defaulted wages may amount to \$70,000 or \$80,000, workers can only make a claim of \$50,000. As we all know, the grass roots cannot afford to hire a lawyer to institute litigations in the District Court and they can only rely on SCT to claim the money. SCT is established to help the grass roots access justice and strive for their entitled compensation. That should be the objective of SCT, but now we are backing off, allowing the Government to pay no heed to social changes.

Twenty years have elapsed and during the period, the inflation rate has far exceeded the amount to be raised. How come the limit is only raised to \$75,000? According to the Government, the Judiciary has done a great deal of preparation work beforehand, but how come the limit is still so low? Is this a joke? Has it not conducted a study beforehand? How come it has not taken the real situation into consideration and proposed such a low limit?

President, I find this incident highly regrettable. As we know, the greatest advantage of SCT is that parties to the dispute are not allowed to have legal representation, and the general public can claim a certain amount of money. This advantage is the most important feature of SCT, enabling members of the public to seek justice. The Government has ignored this issue for years but some Members just condone the Government's act.

Mr Holden CHOW said just now that the Government would review the limit in two years' time. I believe the Government will be kind enough to conduct a review two years later and will be willing to raise the limit. Since it will raise the limit two years later, why not raise it now? The problem boils down to the willingness of the Government. If Members pass Mr James TO's amending motion, I do not believe the Government will dare withdraw the motion, or claim that the raise cannot be made or refuse to implement the motion passed. I do not believe the Government will take such actions. If the

Government is responsible and seeks to establish a just and reasonable system for the public, it should not take the above actions; otherwise, it will be condemned universally.

Therefore, I call upon the pro-establishment colleagues to support Mr James TO's amending motion, so that people will not be restrained in striving to claim their entitled compensation. I think this is our bounden duty.

President, I wish to relate several cases that I have handled and the victims in these cases deserve our sympathy. In labour disputes, it is very common that the amount of defaulted wages will reach \$70,000, \$80,000 or even \$90,000. Sometimes, labour disputes that cannot be settled in the Labour Tribunal will be forwarded to SCT. Owing to the significant increase in workers' wages in recent years, the amount of defaulted wages will easily exceed \$50,000 or even \$75,000. People have toiled hard but cannot get their entitled reward. Is it fair? I find it regrettable that the Government only raised the limit to such an amount after a period spanning 20 years. Members of the public also find it regrettable.

President, I did not join the Subcommittee, neither did I attend the related meetings of the Panel on Administration of Justice and Legal Services. Hence, I do not know what kind of difficulties had been mentioned by officials of the Judiciary. Even if there are difficulties, such difficulties should be addressed by the Government, and not by us. Should the Government have the will, it should make an all-out effort to resolve the problem. Furthermore, the Government does not lack the resources at present, why can't it increase the manpower and implement more support measures? Why can't these be done? How can it use the pretext of having insufficient manpower and support measures to set the limit at a mere \$75,000? I just cannot see why.

Mr Holden CHOW kept saying that in the next review, \$75,000 would be the starting point and \$100,000 was not the final goal as we could strive for a higher limit. No matter what the starting or ending point is, it is unfair and unjust to many people if the amendment is delayed because they cannot recover the debts owed to them. I attach great importance to the rights of these people. They should not be deprived of their rights to recover the debts owed to them for no reason.

President, I so submit.

MR DENNIS KWOK (in Cantonese): President, first of all, I declare that I have previously dealt with some small claims appeals. Presently, my colleagues are most concerned about an increase in the limit of the civil jurisdiction of the Small Claims Tribunal ("SCT"), but it should be noted that amendments have also been made to the jurisdictional limit of the District Court, which will also bring about substantial changes and benefits to Hong Kong's civil cases.

The legal profession has all along complained about the low limit of jurisdiction of the District Court in respect of claims, given that cases involving claims of more than \$1 million will have to be referred to the High Court. This has given rise to the issue of cost as the litigation cost of the High Court is higher than that of the District Court. Moreover, due to the excessive backlog of cases at the High Court for many years, High Court judges often take years to deliver judgments on some very simple cases, and their workload is terribly heavy.

Of course, I know some judiciary personnel and have the opportunity to communicate with them through my work as a representative of the legal profession in the Legislative Council. They told me that presently, High Court judges often need to work for seven days and some even take leave for writing judgments. The situation is extremely unsatisfactory. Notwithstanding that, the Chief Secretary is also aware that the waiting time for High Court judgments is pretty long and has failed to meet the time frame set by the Judiciary. In fact, I have noticed these problems since the first day I became a Member of this Council. However, very regrettably, the situation has not improved so far but has even deteriorated.

At present, there are as many as seven vacancies of judges at the High Court, which has seriously undermined the speed and effectiveness of the High Court in handling cases. Therefore, it is necessary and essential to increase the civil jurisdictional limit of the District Court from \$1 million to \$3 million as well as increase other limits, and I would be happy to see the passage of the relevant amendment. And yet, I also want to highlight that there is a shortage of judges at the District Court as well. In this connection, will the Administration take corresponding measures to recruit more District Court judges, especially judges for handling civil litigations, after the jurisdictional limit is increased from \$1 million to \$3 million? This is absolutely necessary.

In the past, the majority of judges employed have previously been engaged in the practice of a barrister. Yet, we have proposed to the Judiciary time and again over the past few years that more solicitors with experience in civil

litigation should be employed as judges. There are plenty of talented solicitors available for appointment by the Judiciary, and overseas recruitment is also a good alternative for filling the existing vacancies in the Judiciary.

The most controversial issue of today is surely not the amendments related to the District Court, but those made to the Small Claims Tribunal Ordinance. I have pondered on the question for quite some time and have listened to the situation depicted by Mr James TO and Mr LEUNG Yiu-chung earlier. I think their remarks are very true and down-to-earth. On the contrary, the Judiciary and the Government have utterly divorced from reality this time and I do not understand why no amendment has been made in the past 20 years. The proposed increase of the claim limit from \$50,000 to \$75,000 is far from adequate and can be further increased. But meanwhile, I will try to understand the actual operation of SCT as we cannot, in my opinion, turn a blind eye to the problem currently faced by the Judiciary.

The problem currently faced by the Judiciary is that there are as many as 36 vacancies at SCT, which means that the vacancies of magistrates at SCT have increased from 20-odd two years ago to 36 at present. Members may wonder why no recruitment has been conducted to fill the vacancies. The Judiciary does have sufficient resources for recruiting judges, but the recruitment exercises had been disappointing. The reason is that any successful solicitor or barrister joining the Judiciary would have to start out in junior positions, that is, the rank of a magistrate, which is indeed a huge price to pay, especially the big slash in income. Therefore, it is important for them to have the heart to serve the Judiciary and members of the public.

Of course, the pay will increase. Over the past few years, there have been increases in the pay for judges of the Magistrates' Courts, District Court and High Court. And yet, no matter how large the increase is, it can hardly catch up with the income that can be earned from private practice. Therefore, I hope Members will appreciate the difficulties encountered in the recruitment of judges and I would like to give the Judiciary a fair comment. Although much effort has been made to recruit judges at various levels of court, the situation has not improved at all and I even noticed that the number of vacancies of magistrates has risen to as high as 36.

I trust that the Judiciary is also eager to increase the jurisdictional limit of SCT and understands that the limit of \$75,000 is really too low. However, with respect to appeals to SCT that I have previously dealt with, the complexity of the

case is not low at all in spite of the small amount of claims. Therefore, we must not underestimate the cases dealt with by SCT as the complexity is definitely not lower than that of any other cases, though the amount of claims is small.

Generally speaking, cases of SCT are handled by judges at the most junior rank called the Deputy Magistrates, who have only joined the Magistrates' Courts for a short period of time. They are capable youngsters of 30-odd years old who are aspired to work for the Judiciary, but they are relatively green in their job. Honestly speaking, these young solicitors or barristers have only practised for no more than 10 years before they joined the Judiciary. They are certainly committed to serving the Judiciary, but may be relatively inexperienced and less capable in handling cases. It is wrong to assume that the SCT cases are easy to handle because of the small amount of claims, as this is definitely not the case.

With regard to the difficulty of the SCT cases, just as I have said earlier, firstly, the small amount of claims do not imply low complexity. Secondly, since no legal representation is allowed for parties to the dispute, the judge often needs to spend 50% more time on handling such cases. We may take a look at the cases of the High Court, about one third of its civil cases do not have legal representation. And yet, no legal representation does not mean both parties are not legally represented. And even if only one party is not legally represented, these cases will take the Judge concerned 50% more time to handle. Therefore, SCT cases are often difficult to deal with and considerable in number. Worse still, there is a shortage of manpower in the Judiciary at present. I share the concern of the Judiciary because if the limit is increased from \$75,000 to \$100,000 as proposed by Mr James TO, it is likely that the caseload of the magistrates will become very heavy and the backlog of cases will also increase accordingly. When an increasing caseload and given that the magistrates are relatively young and inexperienced, the quality of judgments may drop. This is all too natural and I am not saying that the magistrates are inexperienced or incapable. When magistrates have to deal with an increasing caseload and each case takes up a great deal of time, and coupled with an excessive case backlog, they are therefore more prone to make mistakes.

If one of the parties to the dispute thinks that justice is not done or that the judgment has not taken all the evidence or justifications into account, he may feel aggrieved and lodge an appeal. Consequently, the appeal caseload may substantially increase. Since appeal cases of SCT will be handled by the High Court, and given that the latter also has a shortage of manpower with a total of

seven vacancies at present, the appeal caseload will be on the increase. This is the consequence that the entire Judiciary has to review and possibly bear. Hence, from the Judiciary's point of view, this is extremely unsatisfactory. Nonetheless, I disagree with the Judiciary and the Government that it would be sufficient to increase the limit to \$75,000, and I consider it too late to conduct a review two years later. I do appreciate the problems currently encountered by the Judiciary and have tried to explain to my colleagues as a representative of the legal profession, but there are actually problems with the Judiciary.

There are proposals to offer a higher pay, but the recruitment of judges is different from that of personnel of other departments as increasing the pay alone is insufficient. We cannot say, if \$200,000 is insufficient, increase the pay to \$300,000, or if still insufficient, increase the pay to \$600,000, or even to \$1 million. That amount should be enough for recruiting a judge. Money, however, is not the only consideration in the recruitment of judges. If a person becomes a judge purely for money, he will not be a good judge. Apart from getting a reasonable income, and I must stress that the income has to be reasonable, a person must have the righteous heart to serve the Judiciary in order to be a good judge. If a person joins the Judiciary purely for money, he is surely not the right guy. I therefore understand why the Judiciary has so many vacancies for an extended period of time, and this is very unsatisfactory.

As I am aware, the Government and the Judiciary are exploring the possibility of extending the retirement age of judicial personnel from 65 to 70, or even from 70 to 75. This arrangement will offer certain help and the proposal has been discussed for many years. In so doing, the Judiciary should be able to recruit more employees as some of them may join the Judiciary at an older age. Even if they join the Judiciary at the age of 50 or in their mid-50s, they can still serve for 10 to 15 years. While manpower shortage can surely be relieved, this is only confined to judges of higher ranks because only judges at the High Court level or above enjoy such preferential treatment. Magistrates are still required to retire at the age of 60. I think it would be very difficult for people with hearts to join the Judiciary as magistrates between 30 and 40 years of age as the opportunity cost is pretty high. Therefore, it requires great courage and determination for them to join the Judiciary and this is exactly the overall problem currently faced by the community.

I very much concur with the remarks made by Mr James TO and Mr LEUNG Yiu-chung earlier and I also understand the feedback received from members of the public that the limit of \$75,000 is too low, which is indeed too

low. I just want to call on Members to patiently observe the actual operation of SCT for one or two years, and see if the Judiciary will actively recruit more manpower. I also call on the Government to provide the Judiciary with the necessary resources in every possible way, such that the latter can expeditiously resolve the manpower problem, because two years later, my colleagues will not be so polite and listen to the problems and difficulties encountered by the Government. They will have two years' time before the review is conducted and should be able to resolve the current problem of having 36 vacancies. If recruitment at the Magistrates' Court level is still unsuccessful, I hope that the Judiciary will conduct a thorough review to examine why it is not possible to recruit good magistrates.

President, I so submit.

DR JUNIUS HO (in Cantonese): President, I support the Chief Secretary for Administration's proposal to increase the limit of the civil jurisdiction of the Small Claims Tribunal ("SCT") from \$50,000 to \$75,000, and likewise to increase the civil jurisdictional limit of the District Court from \$1 million to \$3 million.

President, when Mr James TO and Mr LEUNG Yiu-chung spoke, both of them queried why the jurisdictional limit of SCT was not further increased to \$100,000. Although I understand the idea behind these remarks, I think the proposal must be handled with care, especially in respect of small claims cases as \$100,000 is not a small sum of money to members of the public. The risk of increasing the limit from \$50,000 to \$75,000 is barely acceptable as the trials of small claims cases do not involve legal representation. The winning or losing of the case will depend on the performance and statements of the two parties concerned. Given that both parties are not experts in handling evidence or legal principles, and that there is actually no intention to make small claims cases too technical, the cases will be presided by magistrates. A judgment will be made after listening to the basic evidence and justifications put forward by the two parties, hoping that complex matters will be resolved in an expedient way. I therefore consider that the proposed increase of the jurisdictional limit to \$75,000 is proportionate with the risk to be borne by SCT. However, if the limit is further increased from \$75,000 to \$100,000, the impact of the outcome on both parties may be considerable. In my opinion, it is appropriate to refer cases involving more than \$75,000 to the District Court.

It seems that Members do not have any objection to other proposals, but I just heard Mr Dennis KWOK point out that the biggest problem at the moment is whether the Judiciary should undergo a reform, especially in the face of a shortage of manpower. I have visited the website of the Judiciary and found that currently, there are only 185 judges serving in the Court of Final Appeal, the Court of Appeal, the Court of First Instance, the District Court, Tribunals and Magistracies, which include SCT and the Coroner's Court, whereas there are more than 500 000 cases to be handled each year. Given that this tiny place of Hong Kong is only served by such a small judicial team, its performance is really outstanding, considering that our requirements in respect of the spirit of the rule of law and legal principles are very high.

In recent years, apart from economic lawsuits and general civil litigations, this team has also been dragged into some political whirlpools and I fully understand the hardship. What we are going to discuss now is whether this judicial team needs to increase manpower. As Mr Dennis KWOK has just said, it is not that the Judiciary is reluctant to increase manpower as the present establishment of 185 judges has yet to reach the staffing establishment. This, coupled with the succession problem of judges (as judges from the immediate lower rank cannot be promoted to replace the retired judges) has given rise to case backlogs and a significant increase in workload. Worse still, the salaries of judges have also discouraged aspiring persons from joining the Judiciary. While the income earned from private practice may be as high as \$200,000 to \$300,000 per week, the monthly salary of a judge in the Judiciary is only 100,000 to \$200,000, which utterly pales in comparison. This is the first reason.

The second reason that discourages aspiring persons to join the Judiciary is the conventional rule that "one is stuck once you enter a royal family". We must consider and thoroughly review such a rule. According to this rule, a person cannot return to his original profession after joining the Judiciary. Young lawyers, especially those who have not earned enough money, may, after they joined the Judiciary as judges, find themselves unsuitable to survive or develop in that environment, but they cannot return to their original profession and become lawyers again after they quit. I consider it necessary to conduct a review on this.

At present, the only job that a retired judge can take up is to become an arbitrator. It can be said that arbitration is a variant of civil litigation, but it is not conducted in court. An arbitrator also plays the role of a judge, only that they work in the environment of arbitration. If retired judges do not work as

arbitrators, they may make claims on behalf of a litigant. In that case, we will be moving towards a new model and a new mindset. Why should we be bound by some old rules that deter the recruitment of talents to join the Judiciary and serve Hong Kong people?

Although the discussion today is on the proposal to increase the civil jurisdictional limit of SCT from \$50,000 to \$75,000 which I consider prudent and appropriate, we should also explore how the problems of case backlogs and manpower shortage can be alleviated. This is worth pondering and studying, in the hope of finding a way out.

While I would like to express my support for this motion moved by the Chief Secretary today, I also wish to highlight the above mentioned two points. The Government should, if possible, take the lead to abolish certain conventional rules and establish new ones as well as improve the existing system. We should not be so complacent to think that the conventional practices can be preserved as the present situation is acceptable, and refuse to innovate. We should not continue to expect that 185 judges can handle more than 500 000 cases. Hong Kong has indeed set a Guinness world record.

President, I so submit.

MR AU NOK-HIN (in Cantonese): President, I speak in support of the amendments proposed by Mr James TO to increase the existing civil jurisdictional limit of the Small Claims Tribunal ("SCT"), that is, the maximum amount that members of the public can claim, from the existing \$50,000 to \$100,000.

The President may ask if I support the Government's proposed amendments to increase the jurisdictional limit to \$75,000. Frankly speaking, whatever the proposed limit is, it is better than the existing \$50,000 because the limit is already outdated. President, the last time this limit was increased to \$50,000 was in 1999 and it is now 2018. The amount has not been adjusted for so many years, and I trust that the Consumer Price Index should be quite different from that back then.

Why do we consider that it is more reasonable to increase the jurisdictional limit to \$100,000 instead of \$75,000? We must take into consideration a very important question, and that is, under what circumstances will members of the

public seek help from SCT? In fact, the reason is very simple. As no legal representation is required in SCT, monetary disputes can be dealt with in a more expeditious way. Very often, these disputes are not complicated from a legal perspective, but certainly some cases are complicated. For example, if a person wants to recover a debt of several thousand dollars or even several ten thousand dollars and seeks to expeditiously settle the debt at court, he will make use of the SCT mechanism.

However, anyone using SCT has to bear the risk as no legal representation is permitted in the trials. For those who can afford to engage a lawyer, they will institute proceedings at the District Court. If a person cannot afford to engage a lawyer to recover the debts through the District Court, he naturally has the justification and confidence to recover some of the arrears at SCT. Can many of these cases be actually settled after an increase of the limit to \$75,000? I do not deny that many of these cases involve a claim amount of a few thousand dollars to \$10,000 which can be settled under the existing system, but in the past I did handle requests for assistance from kaifongs involving a defaulted amount of over \$50,000, such as cases of renovation arrears. The amount involved in these cases varied greatly. If the works only involved the laying of wires or renovation of walls, the amount should not exceed \$50,000. However, if the project involved renovation of the entire flat with additional works conducted during the process, then the total amount of arrears might be as high as \$70,000 to \$80,000. With regard to these cases, the problems might be decoration companies doing shoddy work and using inferior material or reneging on their promises. I have also come across cases where a decoration company suddenly closed down during the work was in progress and the kaifongs concerned had paid \$70,000 in advance. However, the maximum amount of arrears that can be recovered by SCT is currently \$50,000. After the limit is increased to \$75,000, it is possible for a litigant to recover up to \$75,000 and it would surely be best if full recovery of arrears is possible. Therefore, if Mr James TO's amendment is passed, I believe more people could recover full arrears.

Furthermore, I had also handled a case involving the closure of an online shopping platform and helped a number of sellers claim compensation. Beecrazy, the online shopping platform that charged commissions from transactions, suddenly closed down in 2016. Since many sellers had already sold their goods but had yet to receive any money from the platform at that time, their money thus vanished altogether with the online shopping platform. The sellers certainly felt infuriated as the transactions had completed, but they had not

received a single dollar owing to the closure of the online shopping platform. So, they sought to claim compensation through the SCT mechanism. Generally speaking, sellers only maintained \$10,000 to \$20,000 under the online platform, but the balances of some sellers were surprisingly large. I can share some previous cases with Members. For example, there was a Miss CHAN who sold furniture via this online shopping platform. Generally speaking, sellers would receive cheques for their transactions on a regular basis, but after the closure of the platform in October, Miss CHAN had not received any cheque in February, almost five months later, and the total defaulted amount was \$200,000. President, the defaulted amount was as high as \$200,000 for one single case. Therefore, even if the limit is increased to \$100,000 as proposed by Mr James TO, the litigant concerned is still unable to recover the full arrears. This is why the seller concerned could only recover \$50,000 at that time, which was much lower than the actual arrears. Members may say that those who can afford may take their cases to the District Court, but for a case involving some \$100,000 in arrears, the litigant concerned would have to bear the risk of losing the case and paying the litigation cost of the other party, not to mention the legal fee which often amounts to \$20,000 to \$30,000. Therefore, the party concerned must carefully consider if it is worth filing a lawsuit for recovering some \$100,000 as the final amount of money to be recovered is uncertain.

Many people think this is a zero-sum game, but the spirit of SCT is to help ordinary members of the public. Since the amount involved in the dispute is usually not large, naturally the parties concerned are reluctant to bear the risk of paying the litigation costs and prefer settling their monetary dispute in an easier way. Take the example of the online shopping platform mentioned by me just now, as the company concerned had already closed down, there was basically no respondent. Nonetheless, the litigants must act before the major creditors apply to the court for a liquidation order. They have to act fast to obtain a court decision to claim compensation from the company during the approximately one-month waiting time for hearings at SCT.

President, this is a race against time and very often we have to get justice through SCT. Regrettably, however, justice is now capped at \$50,000. Even the limit is now raised to \$75,000, many members of the public still cannot recover the arrears in full. Worse still, they have to take into account the need to pay legal fees. Thus, although they want to recover the arrears of more than \$75,000, they may give up the idea in the end.

I think the rationale behind the amendment proposed by Mr James TO is very worth considering. For example, while the increase of the jurisdictional limit from \$15,000 to \$50,000 in 1999 was as high as \$230%, the present increase is only about 50%, hence is there still room for further upward adjustment?

When Mr Dennis KWOK spoke just now, he mentioned that the legal profession encountered difficulties in handling litigations involving higher claim amount, such as the present vacancies in the Judiciary has increased from 20-odd in the past to more than 30 and fewer people were willing to join the Bench. I see eye to eye with Mr Dennis KWOK in this regard. I also think that offering more attractive packages, either in terms of money or other incentives, such as an extended retirement age, can attract more legal practitioners to work in the Judiciary. At present, the waiting time of SCT is 34 days, which is far below the 60-day target waiting time set by the Judiciary. In other words, there is still room for increasing the jurisdictional limit of SCT to bring about greater justice.

What is more important is that the Judiciary does have difficulties in manpower, but if we conduct a review two years later and find that the situation has remained more or less the same, does it imply that the jurisdictional limit is already at its highest and cannot be further increased? Since we now have an opportunity to discuss the jurisdictional limit of SCT, I think we should assess if there is still room for more cases to be heard in SCT.

President, my feelings were strongly aroused when handling the requests for assistance concerning the online shopping platform. Both the Legislative Council and the Government always encourage innovation and technology, claiming that adequate support should be provided. While a sound legal system is necessary to serve these initiatives, few people talk about this point. Therefore, should Internet-related companies close down, victims simply cannot claim full compensation. How can we give confidence to investors doing business in Hong Kong?

President, I remember that when I followed up on the above mentioned litigation concerning the wholesale and retail sectors, I did have some profound impression. Therefore, I seize this opportunity to speak in support of the amendment proposed by Mr James TO, so that more disputes involving online shopping platform or monetary disputes, such as those relating to decoration fees, can get justice through SCT regardless of the claim amount.

Furthermore, I would like to ask Mr Junius HO not to worry about the increasing risk arising from the increase in the jurisdictional limit. Despite the increase in the claim amount, the reality is that the litigants must take the initiative to provide SCT with evidence, so that a reasonable decision can be made by the judge. There are stringent requirements in this respect. A person who requests to claim \$1,000 may not necessary be granted a compensation of \$1,000. Therefore, even if the limit is increased, SCT will, based on the substantial evidence, decide who should pay compensation.

I hope that today's speech will draw more Members' support of Mr James TO's amendment. I so submit.

MR CHUNG KWOK-PAN (in Cantonese): President, I did not join the Subcommittee, but after listening to the speeches of several Members, I have formed some opinions. At the meetings of the Subcommittee, the representative of the Judiciary explained that the Judiciary would increase its manpower in two years' time, and then assess if the caseload of the Small Claims Tribunal ("SCT") has increased significantly after the jurisdictional limit was raised. Subsequently, the limit would be reviewed again. I think the Adjudicators of SCT should, after years of handling small claims, have a rough idea about the number of claims under \$10,000, \$30,000 and \$50,000. Hence, I think the Judiciary should have the basic data.

I have recently joined two Bills Committees concerning the Inland Revenue Ordinance. One of which is to scrutinize the Inland Revenue (Amendment) (No. 3) Bill 2018, which aims at providing a 300% super tax concession for expenditures incurred in relation to investments in research and development. At first we all wondered when this new measure would be implemented. After we voiced our views, the Commissioner for Innovation and Technology took on board our views expeditiously and suggested providing a three-month grace period. We suggested six months instead, fearing that three months would be insufficient, and the Commissioner readily agreed. Our major concern was that when the new tax deduction took effect, a large number of additional staff would be needed in the Innovation and Technology Department as well as in the Inland Revenue Department to handle the new tax refund applications. As the new legislation has yet to be enforced, it is impossible to predict for the time being the number of organizations that will apply for the super tax concession, yet the Commissioner still took on board Members' views and granted a six-month grace period.

Another Bills Committee I joined is to scrutinize the Inland Revenue (Amendment) (No. 6) Bill 2017 on transfer pricing, the provisions of which have to tie in with the international standards promulgated by the Organisation for Economic Co-operation and Development. What are the standards? I am worried that the President would say that the above Bill has nothing to do with the Small Claims Tribunal Ordinance but they are actually related. Let me make a comparison. The initial proposed threshold was that enterprises with total assets and total annual revenue exceeding \$100 million and more than 100 employees had to meet the filing obligation. But after discussion, the Government finally agreed that enterprises with total revenue exceeding \$400 million and total assets exceeding \$300 million, and more than 100 employees have to meet the filing obligation. This is a new bill and the Government does not have any operational experience and data, but it has still accepted the recommendation of the Bills Committee.

Since SCT has handled many cases in the past, the Government should be able to estimate the manpower and resources needed. Why should it only increase SCT's jurisdictional limit to \$75,000 but not \$100,000? I look at this issue from the perspective of micro, small and medium enterprises. These enterprises have many business disputes and SCT handles countless litigations involving monetary disputes.

Some Members have mentioned that the limit of \$50,000 is not enough. If someone owes me \$70,000 but I must deliberately lower the claim amount to \$49,999 in order to institute a proceeding in SCT. Hence I cannot claim the arrears in full. Of course, it is very good to raise the limit to \$75,000, and it would be better if the limit is raised to \$100,000. Frankly speaking, business people hate to engage the service of lawyers because of the high legal fees which may not be compensated by the money recovered. At the same time, lawyers may not want to take up these cases because the amounts involved are too small. They would rather take up cases involving large amounts of money. Hence, a small increase of the limit is not cost-effective at all.

If SCT suffers from manpower shortage, it should recruit additional manpower. The Government can apply to the Finance Committee or the Establishment Subcommittee of the Legislative Council for additional funding to recruit more staff. We will certainly approve the application. Mr Dennis KWOK has just pointed out that there was a shortfall of 36 District Court Judges and 7 High Court Judges. The Judiciary has always suffered from manpower

shortage. It may not be able to recruit judges even if higher remunerations are offered. We know very well that people do not become a judge for money. Lawyers in private practice can earn an astronomical sum of money, but the remunerations of judges are known to the public. I believe that those are willing to work as judges are motivated by upholding legal justice and safeguarding Hong Kong's judicial independence, rather than making money. They are highly respectable. It turns out that the problem lies with manpower shortage.

I just recall that two days ago, when we discussed how to increase the number of practicing lawyers at the meeting of the Panel on Administration of Justice and Legal Services, the Hong Kong Bar Association ("the Bar Association") indicated that it would establish a new assessment mechanism different from the traditional way of training lawyers. According to the tradition, law graduates must obtain the Postgraduate Certificate in Laws ("PCLL") in order to become a trainee solicitor. At present, the Bar Association has disputes with the few universities of Hong Kong that offer the PCLL course. In my view, owing to the interest involved, those universities are trying to bar the Bar Association from establishing a new assessment mechanism.

Presently, about 1 200 law graduates apply for the PCLL course each year, but only 700 places are available in Hong Kong. A Mr CHOW from the University of Hong Kong actually said, "Are there sufficient job vacancies in the market for graduates? If there are insufficient job vacancies, why should we provide additional places?" As an education expert, he dares make such remarks. Is it because the universities providing PCLL course have limited the number of places that fewer graduates can take up the post of trainee solicitors? We would like to ask the Secretary for Justice and the Chief Secretary for Administration to review the situation in this respect. If there are students and demands, but there is a shortage of places, then it is a structural problem.

If there are 1 200 PCLL places but not 700 PCLL places for 1 200 law undergraduates, more students can enrol in the course and may become trainee solicitors upon completion of the course. These trainee solicitors may, after gaining certain experience in practice, join the Judiciary. If so, the 36 judge vacancies may be filled very soon. I believe this is a structural problem rather than a monetary problem. When there are students but insufficient training places, certainly fewer people will join the legal profession, resulted in manpower shortage as mentioned by Mr Dennis KWOK. I just thought of the connection.

Hence, apart from carrying out reform to deal with the problem with the District Court and SCT as mentioned today, I believe the Government must conduct a comprehensive review of the legal education system on the whole.

President, I will speak again when Mr James TO moves his amending motion. Thank you, President, I so submit.

MR WU CHI-WAI (in Cantonese): President, the Democratic Party considers that the two proposed resolutions today are heading toward the right direction because obviously, both have the same goal of lowering the litigation costs to enhance the public's access to justice. I am deeply impressed by such words. A Member has mentioned that the District Court is now in short of 36 Judges. At present, the Government is going to significantly increase the financial limit of civil jurisdiction of the District Court by three times from the current \$1 million to \$3 million. We must not forget that currently, claims exceeding \$1 million must be filed with the High Court, which may incur higher litigation costs. But people instituting such litigations can afford the cost. However, for claims to be handled by the Small Claims Tribunal ("SCT"), as pointed out by Mr CHUNG Kwok-pan, they are obviously made by micro, small and medium enterprises, or made by the general public, involving claims relating to building management, water seepage in buildings, financial disputes among neighbours or other contractual disputes; the amounts involved are usually relatively small.

Even though the amounts of such claims are not big, SCT's jurisdictional limit has not been able to cover all such claims over the past 19 years. Consequently, when faced with financial disputes, many members of the public are forced to lower the amount of their claims to less than \$50,000, say \$49,900, so as to avoid the litigation cost. I would like to ask a very simple question concerning the three factors to be considered by the Government, as stated by the Chief Secretary in his speech.

The first factor is better access to justice for the public. Obviously, raising the jurisdictional limit will make it easier for the public to access to justice. In order to access to justice, one has to consider whether the litigation cost paid is proportional to the justice sought. If it is not proportional, people would naturally seek help from SCT because it allows people to seek justice without legal representation.

The second factor is the impact of a raised jurisdictional limit on the demand for SCT's service and its operation. I think that the authorities have to take the real situation into account. Based on the increase in the number of claims handled by SCT over the past two decades, even if the jurisdictional limit of SCT is doubled from \$50,000 to \$100,000, it has not exceeded the scope in reality.

In the case of water seepage in buildings that I am familiar with, the repair fee for water seepage has increased 50% since 2003. If we compare the fees of one or two years ago, the increase rate may be even higher. To claim compensation for water seepage cases, one must pay extra fee to a loss adjuster firm to conduct investigation. If there is a lawsuit, an expert must be employed to write a report. All these expenses will likely exceed \$50,000 or even \$75,000. As for general contractual disputes, such as the membership dispute concerning Physical, a fitness Club, the amounts claimed are not small either. When considering the jurisdictional limit, should the authorities take the real situation into consideration?

As regards the impact on the demand for SCT's service and its operation after its jurisdictional limit is increased to \$75,000, the Government had made an assessment late last year. But has the Government considered whether raising the jurisdictional limit from \$75,000 to \$100,000 will have a significant impact on the demand for SCT's service and its operation? If there is a significant impact, does it mean that if no changes are made, the access to justice for the public will be affected?

From our past experience, if the operation of the Judiciary cannot meet the increased demand for services, the listing time will be extended. But even if the listing time is extended, the claimant can still have access to justice to recover the arrears through litigation. If people do not have the chance to file a lawsuit in court owing to the jurisdictional limit set by the Judiciary, I believe the impact will even be bigger because these people have no access to justice. This is the most important spirit and principle of this proposed resolution.

Of course, I understand that when the Government decided to raise the limit to \$75,000, it might have already consulted The Law Society of Hong Kong, the Panel on Administration of Justice and Legal Services of the Legislative Council as well as the Hong Kong Bar Association, and they agreed to this limit. But does it mean that they will strongly oppose to raising the limit to \$100,000? I doubt it personally.

Mr CHUNG Kwok-pan has mentioned another point just now, which is, many lawyers or law firms are not willing to take up small claims cases. As a matter of fact, if we look at more statistics, this phenomenon is well evident. Last year, the Government increased the fees of duty lawyers providing free legal advice. Under the Legal Aid Schemes, the estimated fee for engaging a lawyer to handle a District Court case is over \$10,000, and that is the fee for appearing in court for one day. It will cost more if the fees for preparation work and other additional expenses are included. From this perspective, we can imagine that even if the limit is raised to \$100,000, when compared to the current market needs, the limit cannot be considered as too high by the standard of the Legal Aid Department.

Considering all the points mentioned above, I hope that colleagues will consider more seriously. The problem we are facing is not whether we should agree in principle or not, but whether we should reasonably increase the jurisdictional limit of SCT by 100%, that is, according to Mr James TO's amendment, the limit should be increased from the proposed \$75,000 to \$100,000, doubling the present limit of \$50,000. When compared to the proposed 300% increase in the financial limit of civil jurisdiction of the District Court, the increase rate is rather small. I implore Members to consider supporting this amendment. I believe that we have come across cases in our daily work in which the claimants have deliberately lowered the amount claimed in order not to exceed the jurisdictional limit of SCT. As such, the case can be handled in SCT where no legal representation is required and justice can then be sought.

Lastly, I implore Members to seriously consider all the points brought up just now, so that more cases can be filed in SCT, even if the filing period will be extended. The Government will then be pressed to increase manpower and court facilities in SCT in the next one or two years to meet the increased demand for service. This is far better than allowing the Government to stall and review the situation again after two years and submit another proposed resolution to the Legislative Council if there is such a need.

Should Mr James TO's amendment be passed today, the administrative problem to be resolved is that the Government should increase manpower and facilities; otherwise, we may have to undergo another lengthy consultation exercise. Even if the relevant proposed resolution will eventually be passed, it will take a long time as it will have to go through two steps. First, the

Government will have to apply to the Legislative Council for funding approval to increase the posts and facilities in SCT; and then the Government will have to submit a proposed resolution similar to the one submitted today to the Legislative Council for approving a new jurisdictional limit. Consequently, it will take a longer time to achieve the goal of enhancing access to justice for the public.

Hence, I hope that Members will consider whether the jurisdictional limit of SCT should be increased to \$100,000 now, thereby enhancing access to justice for the public and, at the same time, various small claims faced by the public in their daily lives can be settled more reasonably.

With these remarks, I support the amendment proposed by Mr James TO. I hope that the Government will consider it seriously and I also hope that the pro-establishment colleagues will also consider supporting Mr James TO's amendment. Thank you, President.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Chief Secretary for Administration, you may now speak on Mr James TO's amending motion.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): President, I thank the eight Members who have just spoken. I would like to reiterate that the proposals of increasing the civil jurisdictional limits of the District Court and the Small Claims Tribunal ("SCT") were made by the Judiciary upon careful consideration of various factors and consultation of the stakeholders. The proposals can help rationalize the distribution of caseload of civil cases amongst the Court of First Instance, the District Court and SCT, thereby allowing better use of judicial resources. Besides, the proposals also help lower legal costs, thus enhancing access to justice in an easier manner for the public.

Increasing the jurisdictional limit of SCT to \$75,000 will provide a quick and less costly avenue for more litigants to resolve civil disputes involving lower claim amounts in SCT. In connection with the jurisdictional limit of SCT, as I

have pointed out in my opening speech just now, any changes would have certain impacts on the operation of SCT and even the use of court services by court users. Therefore, the Judiciary should implement the new jurisdictional limit only after conducting detailed and objective analysis of the impacts and consulting the stakeholders comprehensively. This practice is lawful, sensible and reasonable, and the Judiciary has also adopted this principle when adjusting civil jurisdictional limits in the past.

During the scrutiny of the proposed resolution, the Administration and the Judiciary have explained to the Subcommittee of the Legislative Council and Mr James TO that the proposal of increasing the jurisdictional limit of SCT from \$50,000 to \$75,000 was made by the Judiciary after going through the analysis and procedures that I mentioned just now. The increment is generally supported by stakeholders, including the Hong Kong Bar Association, The Law Society of Hong Kong, as well as the Panel on Administration of Justice and Legal Services of the Legislative Council during the Judiciary's consultation. After considering the explanation of the Government and the Judiciary, the relevant Subcommittee of the Legislative Council also supported the proposal of raising the jurisdictional limit of SCT to \$75,000.

Since both the Government and the Judiciary cannot support adjusting the jurisdictional limit of SCT without assessing relevant impacts, without making necessary preparations and without consulting stakeholders, we oppose Mr TO's amending motion. I understand that when Mr TO proposed his amending motion, he might have referred to the information and open data on the past caseload of the District Court and SCT provided by the Judiciary upon his request, and has thus concluded that SCT can competently manage the impacts created by the increase of the jurisdictional limit to the proposed \$100,000.

President, I might perhaps point out here that in assessing the impacts on the operation and services of SCT, we also have to carefully consider various crucial factors besides analysing past caseload data. First, after the increase of the jurisdictional limit of SCT, the so-called "suppressed demands" might arise, or in other words, many litigants might file claims in view of the lower litigation costs involved in SCT. Second, with an increased jurisdictional limit, new cases filed in SCT will involve even higher claim amounts and be more complicated; and third, given that SCT does not allow litigants to have legal representation at hearings, its operation might be further affected when hearing more complicated cases.

Mr TO's amending motion has not duly taken into account the considerations that I mentioned just now, nor would it help SCT resolve the potential operational impact. The Judiciary has taken note of Mr TO's proposal, and pledged to closely monitor the statistics on the caseload of SCT and the actual operational impact for two years upon the implementation of SCT's jurisdictional limit of \$75,000, so as to see if there is a case for further raising the jurisdictional limit of SCT.

As regards whether there will be more frequent reviews of the jurisdictional limit of the District Court, the Judiciary has clearly stated that following the present adjustment to the jurisdictional limit of the District Court, it will keep more closely in view changes in the civil caseload of the District Court, operational impact, changes in economic indicators and views from stakeholders, with a view to conducting a review in due course.

I implore Honourable Members to support my two motions today, and vote down the amending motion proposed by Mr James TO, so as to increase the civil jurisdictional limit of the District Court, and allow the civil jurisdictional limit of SCT to be increased from \$50,000 to \$75,000 as soon as possible, thus enhancing more litigants' access to justice in an easier manner.

President, I so submit.

PRESIDENT (in Cantonese): This Council now first votes on the Chief Secretary for Administration's first motion.

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

(Members raised their hands)

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

(No hands raised)

Mr Holden CHOW rose to claim a division.

PRESIDENT (in Cantonese): Mr Holden CHOW has claimed a division. The division bell will ring for five minutes.

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

PRESIDENT (in Cantonese): Mr Jeffrey LAM, are you going to vote?

(Mr Jeffrey LAM cast his 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.

Mr James TO, Mr LEUNG Yiu-chung, Mr Tommy CHEUNG, Prof Joseph LEE, Mr Jeffrey LAM, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Hak-kan, Mr CHAN Kin-por, Mr WONG Kwok-kin, Mrs Regina IP, Ms Claudia MO, Mr Michael TIEN, Mr Steven HO, Mr Frankie YICK, Mr WU Chi-wai, Mr YIU Si-wing, Mr MA Fung-kwok, Mr Charles Peter MOK, Mr CHAN Chi-chuen, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Mr Kenneth LEUNG, Ms Alice MAK, Dr KWOK Ka-ki, Mr Dennis KWOK, Mr Christopher CHEUNG, Dr Fernando CHEUNG, Dr Helena WONG, Mr IP Kin-yuen, Dr Elizabeth QUAT, Mr Martin LIAO, Mr POON Siu-ping, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan, Mr Alvin YEUNG, Mr Andrew WAN, Mr CHU Hoi-dick, Mr Jimmy NG, Dr Junius HO, Mr HO Kai-ming, Mr LAM Cheuk-ting, Mr Holden CHOW, Mr SHIU Ka-fai, Mr SHIU Ka-chun, Mr Wilson OR, Ms YUNG Hoi-yan, Mr CHAN Chun-ying, Ms Tanya CHAN, Mr CHEUNG Kwok-kwan, Mr HUI Chi-fung, Mr LUK Chung-hung, Mr LAU Kwok-fan, Mr Kenneth LAU, Dr CHENG Chung-tai, Mr KWONG Chun-yu, Mr Jeremy TAM, Mr Gary FAN, Mr AU Nok-hin, Mr Vincent CHENG and Mr Tony TSE voted in favour of the motion.

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

THE PRESIDENT announced that there were 62 Members present and 61 were in favour of the motion. Since the question was agreed by a majority of the Members present, he therefore declared that the motion was passed.

PRESIDENT (in Cantonese): This Council now deals with the Chief Secretary for Administration's second motion and Mr James TO's amending motion.

Chief Secretary for Administration, you may move your second motion.

PROPOSED RESOLUTION UNDER THE SMALL CLAIMS TRIBUNAL ORDINANCE

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): President, I move my second motion as set out in the Appendix to the Script.

The Chief Secretary for Administration moved the following motion:

"RESOLVED that—

- (a) the Small Claims Tribunal Ordinance (Cap. 338) be amended as set out in the Schedule; and
- (b) this Resolution is to come into operation on a day to be appointed by the Chief Justice by notice published in the Gazette.

Schedule

Amendments to the Small Claims Tribunal Ordinance

1. Schedule amended (jurisdiction of tribunal)

- (1) The Schedule, paragraph 1—

Repeal

"\$50,000"

Substitute

"\$75,000".

(2) The Schedule, paragraph 2(b)—

Repeal

"\$50,000"

Substitute

"\$75,000".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the second motion moved by the Chief Secretary for Administration be passed.

PRESIDENT (in Cantonese): Mr James TO, you may move the amending motion to amend the Chief Secretary for Administration's second motion.

MR JAMES TO (in Cantonese): President, I move that my amending motion, as set out in the Appendix to the Script, be passed.

Mr James TO moved the following motion:

"RESOLVED that the motion to be moved by the Chief Secretary for Administration under section 6 of the Small Claims Tribunal Ordinance (Cap. 338) at the Legislative Council meeting of 27 June 2018 be amended as set out in the Schedule.

Schedule

Amendment to Motion to be Moved by Chief Secretary for Administration under Section 6 of Small Claims Tribunal Ordinance

- 1. Schedule amended (amendments to Small Claims Tribunal Ordinance)**

The Schedule—

Delete section 1

Substitute**"1. Schedule amended (jurisdiction of tribunal)**

(1) The Schedule, paragraph 1—

Repeal

"\$50,000"

Substitute

"\$100,000".

(2) The Schedule, paragraph 2(b)—

Repeal

"\$50,000"

Substitute

"\$100,000"."."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amending motion, moved by Mr James TO to amend the Chief Secretary for Administration's second 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.

(Members raised their hands)

Mr James TO rose to claim a division.

PRESIDENT (in Cantonese): Mr James TO 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, Mr LEUNG Yiu-chung, Mr Frankie YICK, Mr CHUNG Kwok-pan, Mr SHIU Ka-fai and Mr KWONG Chun-yu voted for the amending motion.

Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Kin-por, Mr Steven HO, Mr YIU Si-wing, Mr MA Fung-kwok, Mr Christopher CHEUNG, Mr Martin LIAO, Mr POON Siu-ping, Ir Dr LO Wai-kwok, Mr Jimmy NG, Mr Holden CHOW, Mr CHAN Chun-ying, Mr LAU Kwok-fan, Mr Kenneth LAU and Mr Tony TSE voted against the amending motion.

Prof Joseph LEE, Mr Charles Peter MOK, Mr Kenneth LEUNG, Mr Dennis KWOK, Mr IP Kin-yuen, Mr HO Kai-ming, Mr SHIU Ka-chun and Mr LUK Chung-hung abstained.

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

Geographical Constituencies:

Ms Claudia MO, Mr WU Chi-wai, Mr CHAN Chi-chuen, Dr Fernando CHEUNG, Dr Helena WONG, Mr Andrew WAN, Mr CHU Hoi-dick, Mr LAM Cheuk-ting, Mr HUI Chi-fung, Dr CHENG Chung-tai, Mr Gary FAN and Mr AU Nok-hin voted for the amending motion.

Mr CHAN Hak-kan, Mrs Regina IP, Mr Michael TIEN, Mr CHAN Han-pan, Dr Elizabeth QUAT, Dr Junius HO, Mr Wilson OR, Ms YUNG Hoi-yan, Mr CHEUNG Kwok-kwan and Mr Vincent CHENG voted against the amending motion.

Mr WONG Kwok-kin, Ms Alice MAK, Dr KWOK Ka-ki, Mr Alvin YEUNG, Ms Tanya CHAN and Mr Jeremy TAM abstained.

THE PRESIDENT announced that among the Members returned by functional constituencies, 33 were present, 6 were in favour of the amending motion, 18 against it and 8 abstained; while among the Members returned by geographical constituencies through direct elections, 28 were present, 12 were in favour of the amending motion, 10 against it and 6 abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amending motion was negatived.

PRESIDENT (in Cantonese): I now call upon the Chief Secretary for Administration to reply. Then, the debate will come to a close.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): President, I understand Mr James TO's purpose of moving the amending motion. He also hopes that more litigants will have better and easier access to justice. However, I hope Members will understand that the Government and the Judiciary have full and solid reasons not to accept Mr TO's amendments. I wish to stress that the Judiciary has made a very clear pledge that it will watch closely the impact on the caseload and practical operation of the Small Claims Tribunal ("SCT") in the two years after its jurisdictional limit is increased to \$75,000 to see if there are justifications for further increasing SCT's jurisdictional limit. I earnestly urge Members to support my original motion of increasing the jurisdictional limit of SCT from \$50,000 to \$75,000. Thank you.

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): The Secretary for Development and the Secretary for Labour and Welfare will each move a proposed resolution under the Construction Industry Council Ordinance and the Pneumoconiosis and Mesothelioma (Compensation) Ordinance respectively.

I have earlier informed Members through the Legislative Council Secretariat that as these two motions seek, in accordance with the recommendation of the Construction Industry Council, to raise the levy thresholds under the above Ordinances and were scrutinized by the same subcommittee, this Council will proceed to a joint debate on these two motions.

I will first call upon the Secretary for Development to speak and move his motion. Then I will call upon the Secretary for Labour and Welfare to speak but he may not move his motion at this stage.

Upon the conclusion of the joint debate, this Council will first vote on the Secretary for Development's motion. Irrespective of whether the Secretary for Development's motion is passed or not, the Secretary for Labour and Welfare may move his motion.

The joint debate now begins. Members who wish to speak on the two motions will please press the "Request to speak" button.

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

PROPOSED RESOLUTION UNDER THE CONSTRUCTION INDUSTRY COUNCIL ORDINANCE

SECRETARY FOR DEVELOPMENT (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed.

The purpose of this proposed resolution is to raise the levy threshold stipulated in Part 1 of Schedule 5 to the Construction Industry Council Ordinance ("CICO") from \$1 million to \$3 million.

The Construction Industry Council ("CIC") was established under CICO in February 2007. Under CICO, for construction operations with total value exceeding the levy threshold at \$1 million, contractors are required to pay a levy at 0.5% of the value of construction operations to CIC to support its functions, which include advising the Government on construction-related matters and providing training to construction workers. To alleviate the financial burden on small and medium contractors, small-scale construction operations with total value not exceeding the levy threshold at \$1 million are not liable to the levy. The prevailing levy threshold at \$1 million, which was adopted when CIC amalgamated with the then Construction Industry Training Authority in January 2008, has remained unchanged since stipulated in 1985.

To appropriately relieve the financial burden on small and medium contractors, CIC completed a review on the levy threshold. Taking into account inflation over the past years, CIC recommended the Government to raise the levy threshold to \$3 million. According to CIC's assessment, after raising the levy threshold, around one fourth of the construction operations currently paying the levy will be exempted. CIC would hence forgo around \$8 million annually, equivalent to about 1% of its annual levy income. Given its healthy financial position, CIC should be able to properly absorb the impact of the reduction in levy income. CIC has also reached consensus with industry stakeholders on the proposed amendment.

Apart from CICO, under the Construction Workers Registration Ordinance ("CWRO") and the Pneumoconiosis and Mesothelioma (Compensation) Ordinance ("PMCO"), contractors are also required to pay levies to CIC and the Pneumoconiosis Compensation Fund respectively for construction operations with total value exceeding the levy threshold at \$1 million. To avoid confusion to contractors and facilitate administration, we hold that the same amendment should be made to these three ordinances with a view to aligning the levy threshold.

In this connection, the Secretary for Labour and Welfare and I will move motions respectively to raise the levy threshold under CICO and PMCO. Earlier on, the Legislative Council formed a subcommittee on subsidiary legislation to scrutinize these two proposed resolutions. The Subcommittee has completed the scrutiny smoothly after holding one meeting and has not proposed any amendments to the two proposed resolutions. I would like to take this opportunity to thank the Chairman of the Subcommittee, Mr HO Kai-ming, and other Subcommittee members for their support.

Following the passage of the proposed resolutions under CICO and PMCO, we will table the amendment notice to revise the levy threshold under CWRO for negative vetting.

With these remarks, President, I implore Members to support this motion. Thank you, President.

The Secretary for Development moved the following motion:

"RESOLVED that the Construction Industry Council Ordinance (Cap. 587) be amended as set out in the Schedule.

Schedule

Amendment to Construction Industry Council Ordinance

1. Schedule 5 amended (levy)

Schedule 5, Part 1—

Repeal

"\$1,000,000"

Substitute

"\$3,000,000".

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

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, the purpose of the proposed resolution under the Pneumoconiosis and Mesothelioma (Compensation) Ordinance ("PMCO") is to revise the levy threshold under PMCO from \$1 million to \$3 million. This proposed resolution is printed on the Agenda.

The Pneumoconiosis Compensation Fund ("the Fund") is set up under PMCO to provide payment of compensation to persons and their family members in respect of incapacity or death resulting from pneumoconiosis and/or mesothelioma. The Fund is administered by the Pneumoconiosis Compensation

Fund Board ("PCFB"). Apart from compensation work, PCFB also conducts and finances educational, publicity, research and rehabilitation programmes in relation to pneumoconiosis and mesothelioma.

To finance the functions of PCFB, PMCO provides for the imposition of a levy in respect of construction operations carried out in Hong Kong as well as quarry products extracted or produced. The current levy rate is set at 0.15% of the value of construction operations and the value of quarry products. Construction operations with total value not exceeding \$1 million (i.e. the levy threshold set out in Part 1 of Schedule 5 to PMCO) are exempt from the payment of levy. The levy threshold has remained unchanged since June 1985.

Taking into account the accumulative inflation over the past three decades, the Construction Industry Council ("CIC") completed a review on the levy thresholds under the Construction Industry Council Ordinance and the Construction Workers Registration Ordinance. As the same levy threshold also applies to PMCO, CIC recommended the levy thresholds under the three ordinances be raised from \$1 million to \$3 million after having reached consensus among stakeholders of the construction industry.

PCFB has assessed that it would forgo around \$3.5 million annually of its levy income after the amendment. This would be equivalent to 1% of its average annual levy income. Given the healthy financial position of the Fund, the proposed amendment of levy threshold would not affect the financial viability of PCFB in discharging its statutory functions.

Having considered the recommendation of CIC and the financial position of PCFB, we propose to raise the levy threshold under PMCO from \$1 million to \$3 million. PCFB agreed to the proposal while members of the Labour Advisory Board had no objection. The Legislative Council Panel on Development discussed the proposal on 27 March 2018, and members of the Panel on Manpower and other Legislative Council Members were also invited to join the discussion. The meeting raised no objection to the aforesaid proposal.

This proposed resolution was scrutinized by a subcommittee formed under the House Committee at a meeting held on 6 June. I would like to take this opportunity to give my heartfelt thanks to the Chairman of the Subcommittee, Mr HO Kai-ming, and other Subcommittee members for their efforts. The Subcommittee has not proposed any amendments to the proposed resolution.

After listening to the valuable opinions given by the Subcommittee members on the provision of compensation and support under PMCO to patients suffering from pneumoconiosis and/or mesothelioma, we will actively follow up on and study their proposals with PCFB.

I hope that Members will support raising the levy threshold specified in PMCO from \$1 million to \$3 million.

Thank you, President.

MR HO KAI-MING (in Cantonese): President, in my capacity as the Chairman of the Subcommittee on Proposed Resolutions under Construction Industry Council Ordinance and Pneumoconiosis and Mesothelioma (Compensation) Ordinance, I report to the Legislative Council on the salient points of the work of the Subcommittee.

The purpose of the two proposed resolutions is to revise the respective levy thresholds set for construction operations under the two aforesaid ordinances from \$1 million to \$3 million.

The Subcommittee members have no objection to raising the levy thresholds. They have noted that the rise in levy thresholds will have little impact on the work of the Construction Industry Council ("CIC") as it is in a healthy financial position and the consequent reduction in levy income will only account for about 1% of its annual levy income. It is also learnt that the exclusion of low-value construction operations from the levy net will help alleviate the financial burden of small and medium contractors.

Noting that the accumulated fund under the Pneumoconiosis Compensation Fund ("the Fund") amounts to \$2.37 billion, members have expressed concern over how the Fund can be put to good use to better support the patients and their families. In the view of members, the prevailing compensation under the Pneumoconiosis and Mesothelioma (Compensation) Ordinance ("PMCO") is inadequate while the eligibility criteria for compensation are too stringent. They have urged the Government to conduct a comprehensive review of the statutory compensation, including compensation for medical expenses and expenses for medical appliances under PMCO.

In response to members' concerns, the Administration has advised that the Labour Department ("LD") is conducting a study on the expansion of compensation scope under PMCO to cover expenses for using non-invasive positive pressure ventilation devices and sputum suction devices. LD expects to consult the Pneumoconiosis Compensation Fund Board ("PCFB") and the Labour Advisory Board in the fourth quarter of 2018 and will then submit the proposal to the Legislative Council as soon as possible. LD will also work with PCFB to explore the possibility of financing the use of medical appliances not yet covered by PMCO before legislative amendment.

The Subcommittee has also noted that, in the past, the Administration would from time to time review the coverage of PMCO and the compensation amounts, including reviewing the level of compensation under individual compensation items every one or two years. Apart from granting compensation, PCFB has also persistently allocated resources for conducting and improving rehabilitation programmes, with the expenses incurred increased substantially from \$4.64 million in 2016 to \$16.8 million in 2017. PCFB will also meet and discuss with the relevant patient groups from time to time to gauge their demands.

Given that the review of the statutory compensation under PMCO is a wider policy issue, the Subcommittee has agreed to refer this issue to the Panel on Manpower for follow-up.

Besides, members have enquired why there was no review of the levy thresholds in the past 30 years or so and whether a regular review mechanism will be introduced. According to the Administration, the proposal to raise the levy thresholds is made pursuant to a review by CIC. Taking into account the cumulative inflation as well as the financial positions of CIC and PCFB, the review has confirmed that there is room for a rise in levy thresholds. The Administration has advised that similar reviews will be conducted in future as and when necessary.

The Subcommittee raises no objection to the two proposed resolutions and will not propose any amendments. It has noted that after the passage of the two proposed resolutions, the corresponding amendment of the levy threshold under the Construction Workers Registration Ordinance will be introduced into the Legislative Council for negative vetting. To avoid confusion to contractors, the Administration intends to align the effective dates of the new levy thresholds under the three ordinances.

President, the following are my personal views.

The Fund, which now has a balance of \$2.3 billion, is financially sound to maintain its services for 1 400 workers. During the meeting of the Subcommittee, we focused more on the support for the patients than on the revision of levy thresholds. Mr LEUNG Yiu-chung gave a lot of views in this area. It is true that the Administration has failed to give adequate support to the workers and their families. I do not understand why the Government had, at that time, imposed so many restrictions on the application for compensation, such that if legislative amendment is not made, it is not possible to buy non-listed medical appliances for sick workers, or finance workers to buy the appliances. Therefore at the meeting, we had a lengthy and detailed discussion over the inclusion of various appliances such as breathing machines.

President, in my view, this issue should be handled by a subcommittee rather than being discussed by the Council. As the problem right now is the overly stringent eligibility criteria for compensation, can the authorities relax such criteria to allow the 1 400 workers, whose health conditions are irreversible, to apply for compensation? Even with such a relaxation, the Fund—with a balance at \$2.3 billion—is expected to have an increase, but not a decrease, in revenues each year. On the contrary, if the eligibility criteria are not relaxed, how can permission be given to sick workers to buy medical appliances to facilitate their daily lives? How can their family members obtain a carer subsidy without having to go through draconian vetting?

I hope that the Labour and Welfare Bureau will address the aforementioned issue in its future review. It should not merely consult PCFB about the expansion of the list of medical appliances in the fourth quarter of this year, and consider that the work has been completed. Is it necessary to list all relevant medical appliances in the legislation? Or should PCFB be delegated with the authority to decide on the inclusion of medical appliances? I urge the Secretary for Labour and Welfare to carry out a study after learning this view and should not only discuss the inclusion of certain appliances in the fourth quarter of this year. A more fundamental issue is the highly insufficient support provided by the Labour and Welfare Bureau and LD for workers with work-related injuries or diseases.

President, according to friends from LD, while there are about 50 000 work injury cases per year, only some 20 officers are tasked to answer enquires from injured workers. Owing to the serious shortage of manpower, LD has arranged

some clerical staff to answer the enquiries of sick workers. As these clerical staff may not have the capability or the qualification to handle such enquiries, they have to seek assistance from their officer colleagues beforehand. Yet, in view of the overwhelming number of enquiries, the clerical staff have to take up the onerous work of answering the workers' enquiries.

What are the consequences? Workers can only get vague answers but not specific replies, and LD staff are subject to great pressure and fail to perform well. Many cases have hence dragged on for a long period of time. In particular, it takes a long time for workers suffering from pneumoconiosis to go through medical examination as only a few doctors under the Hospital Authority are responsible for this task. In many cases, although the workers concerned are in stable conditions, nobody dare to take a step forward before medical examination is made. On the part of employers, they dare not allow the workers concerned to resume duty for fear that they have to bear enormous liabilities should workers get injured again. As for workers, even if they are fit to work, they dare not resume duty before a medical examination is made, for they are afraid of being blamed for getting back to work before there is a statutory order. Therefore, the process of medical examination has locked a lot of manpower and slowed down different procedures.

Former legislator Mr IP Wai-ming had contacts with many of these workers. He found that if workers could not get back to work for more than two years, they would lose the motivation to work. In this case, how can the process of medical examination be sped up? I think LD should make some changes. During the meeting, the Subcommittee mainly focused its discussion on the problems with the Labour and Welfare Bureau and did not say much about the Development Bureau. I urge the Secretary to relay these problems to PCFB and LD, hoping that they will work out a solution after negotiation, so that workers would suffer no more.

President, I so submit.

MR LEUNG YIU-CHUNG (in Cantonese): President, as stated by Mr HO Kai-ming, Chairman of the Subcommittee, we do not object to the revision of the levy thresholds under the two ordinances. We do not object not only because the revision will have positive impact on the construction industry, but more importantly, we share the Government's view that the Pneumoconiosis

Compensation Fund ("the Fund") has accumulated so much reserves that the money would never be used up. It is thus quite meaningless to obtain more funds through levying. But how come the Fund is overflowing with money? The major reason is that the Government has not done its part to properly monitor the Pneumoconiosis Compensation Fund Board ("PCFB"), which hence fails to well utilize the Fund to help workers in need.

As we all know, Hong Kong has developed from a small fishing port to become an international metropolis today. In the development of Hong Kong, the construction industry has played a crucial role. Our prosperity today is built by countless frontline workers engaging in the construction works, they have not only contributed blood and sweat, but even their lives. Regrettably, in the 1960s, 1970s or even 1980s, the then Government had shown no concern over the work safety of construction workers, and paid no heed to their occupational illness. Apart from contributing their youth, these workers have lost their health and lived a miserable life. Most distressing of all, there is no cure for their lung diseases. When their health conditions deteriorate with age, they need care and attendance of families and friends. Being frail, these workers can no longer work, and they also have to face high medical cost.

The Government is not too bad in the sense that it has set up the Fund to help these workers. The Fund does provide assistance, both in the past and present. However, as Mr HO Kai-ming said just now, the Fund now has a balance of \$2.37 billion, which is by no means a small amount. In the meantime, the number of patients is falling and the number of new cases is small. For example, there were only 72 new cases in 2017. When the overall number of patients is decreasing and the reserves of the Fund are abundant, why can't the money be used to benefit the workers? This situation is really heart breaking.

Apart from failing to provide sick workers with sufficient assistance, the Government has done little to subsidize the support groups. These workers who toiled hard in the past are now chronically ill, and they are desperately in need of a support group as they grow older or weaker. Support groups can actually offer channels for patients to support each other in group activities. Yet, over the past few years, PCFB has imposed various barriers, such that these support groups cannot receive due subsidy, and in turn cannot provide appropriate services. While we accede to the Government's wish to raise the levy thresholds, will the Government also listen to us and show more concern about the financial

conditions of these support groups? Can the Government provide them with more funding so that they can organize more activities to better serve or benefit sick workers who are in their old age? Is that possible?

Sick workers are, at the same time, burdened with high medical expenses. Can the Government provide them with more financial support? In February this year, the Legislative Council increased the amounts of compensation for medical expenses stipulated in the Employees' Compensation Ordinance and the Pneumoconiosis and Mesothelioma (Compensation) Ordinance ("PMCO") to \$300 and \$370 respectively, after they had remained unchanged for 15 years. President, while it sounds good to raise the compensation amounts, the increase in effect only seeks to catch up with the rise of fees charged by the Hospital Authority for public health care services. In other words, in spite of the increase, the compensation payment is still only enough for the workers to pay for public health care services. Nevertheless, as public health care services are in short supply, the service quality may not be that good.

Given that there are far too many patients in the public health care system, these workers can hardly receive good services. They are therefore keen to make use of private health care services. However, how can they afford to see private doctors when the compensation amount is as low as \$300 or \$370? It is simply impossible. The compensation is simply insufficient. The workers have repeatedly asked for an increase in compensation to the level that they can pay for the basic private health care services, but the Government has declined their request. President, their request is reasonable as they only ask for an increase from \$300 or \$370 to \$600, but the request has been rejected by the Government. I do not know the Government has refused to increase the amount of compensation. While the Fund has a balance of \$2.37 billion, the Government refused to slightly increase the amount of compensation. What is in the mind of members of PCFB? Even if they are muddle-headed, is it possible for Government, which is responsible for monitoring PCFB, to suggest them think over this issue? Nonetheless, the Government has failed to do so.

Today, the Government proposes a raise in the levy thresholds, saying that the construction sector will then have more capital for business development. The Government sounds impressive, but what is the motive behind? The motive is to help developers and contractors. Yet, it does not care much about the sick workers. Does the Government actually have a good conscience?

As Mr HO Kai-ming mentioned just now, these sick workers suffer from many other illnesses, ranging from shortness of breath, coughing up blood, breathing difficulties, pneumonia, tuberculosis, pleural effusion, and even lung cancer. Dr KWOK Ka-ki has a good knowledge of these illnesses. Please give us a more detailed explanation later. Currently, these workers are only granted with a compensation of some \$5,000. How can they make their ends meet? Even if they can barely maintain their living, they cannot afford to pay for their medical expenses. They requested the Government to increase the level of compensation, but the Government refused and asked them to apply to the Community Care Fund or the Samaritan Fund for additional financial support. Not everyone can apply for these two funds. Their high application thresholds have rendered many applications unsuccessful. Has the Government ever thought of this problem? Are the members aware of this situation? Have the members ever met with the sick workers to learn about their actual needs in daily life? For patients suffering from the aforesaid illnesses, the treatment provided by public hospitals is not enough. Therefore, they often have to seek private health care services, which are really costly.

Regarding the breathing machines mentioned by Mr HO Kai-ming just now, after medical examination, the sick workers are usually only allowed to apply for an oxygen concentrator, but not a breathing machine. This is a big problem. According to the Government, it will consider financing the purchase of additional medical appliances and it aims to consult PCFB and the Labour Advisory Board in the fourth quarter of 2018. In this situation, we can only hope that the Government will walk the talk. Meanwhile, I urge the Government to hold more consultations with patients' groups and families in the process. The issues concerned should be presented to the Legislative Council expeditiously for discussion, so that the patients can benefit as soon as possible. There should be no further delays.

Lastly, I would like to talk about the support given to the family members of patients, including the provision of subsidy for funeral expenses. Many organizations and workers have been urging the Government to consider this issue. At present, subsidy is granted to the family members of the deceased workers, regardless of the cause of death. However, the amount of subsidy is not enough. Can the Government increase the subsidy amount to ease the worries of family members about funeral expenses?

When it comes to increases in subsidies, I also hope that the Government will consider providing carers with more subsidies. As I mentioned just now, patients suffer miserably from lung diseases. They have to take a rest after walking a few steps, not to mention climbing upstairs or downstairs. Therefore, patients have to be accompanied by carers whenever they go out. In this regard, will the Government enhance its support, so that patients can go out with the company of carers? At present, the eligibility threshold for carer subsidy is so high that only a handful of seriously ill workers are granted with this subsidy each year. I hope that the Government will not forget the past contributions of these workers to society and provide them with more support in times of illness.

As I recall, among the 1 600 beneficiaries of the Fund in 2015, only three of them were granted with extra subsidies for carers. Three out of 1 600 is a terrifying ratio. Why was the Fund so miserly? Given the abundance of its reserves, I think the Fund should have more than \$2 billion in 2015. How come only so few workers were granted with additional carer subsidies? I really do not know why. The Government should give an account in its response later.

Under PMCO, workers may apply for compensation for care and attention if their incapacity is resulted from the diseases in question. However, they must also prove that without the care of others, they will not be able to carry out their daily activities. This requirement is very harsh. Can the Government relax this requirement to benefit more workers?

President, at first, I was worried that you might ask me to discuss the enhancement of the Fund on other occasions as this was not our subject of discussion today. I was afraid that you would only allow us to talk about the rise in the levy thresholds for contractors. The rise will certainly reduce the income of the Fund. However, when seeing that the Fund has failed to well utilize its abundant reserves for the benefit of workers, we have no choice but to take this opportunity to ask the Government for a comprehensive review after the passage of this resolution. I made the same request for a comprehensive review at the meeting of the Subcommittee, hoping that these workers, who have contributed a lot to the economic and social development of Hong Kong, will be given more support. In times of serious illness, they should have a helping hand and their family members or carers should also be better supported. The workers can then have proper care and fewer burdens financially or otherwise in their hard times.

President, I so submit.

DR FERNANDO CHEUNG (in Cantonese): President, we support these two proposed resolutions for their impact on the Construction Industry Council and the Pneumoconiosis Compensation Fund ("the Fund") is minimal. While it is proposed in the proposed resolutions that the levy thresholds be raised from \$1 million to \$3 million, this proposal is unlikely to cause a big fall in levies, given that the construction operations nowadays usually have a higher total value than those in the past. Therefore, we do not think the actual impact will be significant.

In fact, the Fund is overflowing with money. As mentioned by Mr LEUNG Yiu-chung mentioned earlier, the Fund now has a balance of \$2.37 billion, or almost \$2.4 billion. Meanwhile, its income exceeds expenditure every year. While the annual income amounted to over \$300 million in the past few years, its annual expenditure was only some \$200 million, which means it has a surplus of more than \$100 million each year. But is it true that the Fund has more money than it needs?

As a matter of fact, the problem is that the Fund is simply stingy in that a number of services had been cancelled. For example, the discharged support for patients used to be provided by the Hospital Authority ("HA") had regrettably been withdrawn. The carer services were gone too. The funding that the Fund offers to support groups is also minimal.

(THE PRESIDENT'S DEPUTY, MS STARRY LEE, took the Chair)

Recently, we have found that the compensation for incapacity has been lowered instead of being enhanced since 2018. This compensation is calculated on the basis of the median monthly wage of construction workers but, for unknown reasons, the amounts of compensation have been slightly lowered over the year. As a result, some patients receive a lesser amount of compensation, ranging from \$10 to \$230 a month. In our view, this reduction will give people a bad impression. Will the proposed resolutions directly lead to a reduction of the amounts of compensation for these chronic patients? I do not think so, but it is a fact that the compensation amounts have been reduced. On this point, I think the Labour and Welfare Bureau should conduct a review to see if there is any problem with the calculation method for the compensation amounts. Compensation should indeed be linked to the people's livelihood because in times

of inflation, when commodities prices are on the increase but compensation payment is reduced based on fluctuations in wages, patients will have financial difficulties.

Just now, Mr LEUNG Yiu-chung also talked about the constant attendance allowance. He pointed out that, according to the annual report of the Fund, only three patients were granted with this allowance in 2015. He remarked that he had no idea why there were so few successful cases. In order to apply for the constant attendance allowance, a patient is required to receive medical examination to prove that his physical condition warrants constant attention from others. However, for patients who are very weak, they will have difficulty going through the medical examination. Worse still, the Labour Department, for unknown reasons, refuses to accept the diagnosis provided by HA's health care professionals and insists that the patients should receive medical examination in its specified places. More often than not, the patients have to pay three or four visits to take breath tests and other tests. While these patients may have to be hospitalized frequently due to poor physical condition, they can hardly complete this examination procedure. Consequently, they are ineligible for the constant attendance allowance.

In my view, this requirement is highly ridiculous. When the patients are in need of constant attention, they are surprisingly required to undergo a procedure that they are too weak to complete and are thus not eligible for the attendance allowance. The Labour and Welfare Bureau or Secretary Dr LAW Chi-kwong may not be aware of this issue, but a review should be conducted to examine why the compensation cannot tie in the actual needs of patients. Even if they are granted with the constant attendance allowance, they are be required to go through another medical examination before they can receive a higher attendance allowance as they grow weaker. Yet, this requirement is simply impossible to fulfil.

As regards pneumoconiosis or other diseases caused by dust in lung tissue (e.g. mesothelioma and lung cancer), the small number of new cases contrasts with the large number of fatal cases. On average, one patient dies every three days. The number of support group members is persistently on the decline, from 1 600 two or three years ago to 1 400 at present. If the Fund is really serious in helping the patients, its resources are more than enough. To patients suffering from lung or respiratory diseases caused by dust in lung tissue, the breathing

machines and sputum suction machines mentioned earlier are some basic medical appliances which they need. Why can't the Fun finance patients to purchase these basic life-supporting medical appliances?

This issue was discussed by the Subcommittee in detail and the authorities at that time promised to deal with it in the fourth quarter of this year. However, I have recently heard that the handling of this issue will be postponed again to, probably, the first quarter of next year as the authorities will have to make legislative amendment, so on and so forth. Given that one patient dies every three days on average, I urge the authorities to handle this issue expeditiously. Any further delay will deprive more patients of the necessary support.

Moreover, at meetings of the Joint Subcommittee on Long-term Care Policy chaired by me, the authorities once promised that ... as some of the patients need to carry oxygen cylinders with them when they go out, the Hong Kong Occupational Therapy Association has repeatedly asked the Government to amend the Public Bus Services Regulations (Cap. 230A), hoping that patients with respiratory or lung diseases, as well as people who have to use oxygen cylinders, will be allowed to carry oxygen cylinders to get on board a public bus. Under the current Dangerous Goods Ordinance, these people are indeed allowed to bring with them two oxygen cylinders. No licence is required for carrying a maximum of two oxygen cylinders. The Public Bus Services Regulations, however, prohibit passengers from travelling on buses with oxygen cylinders, limiting the freedom and convenience of patients to travel around.

The Government promised to make legislative amendment to this purpose as early as in 2012, and now we are in 2018. When I met with government representatives last December, the Government undertook to introduce a relevant legislative proposal to the Council in the 2017-2018 legislative session. Deputy President, today we are at the end of June. This session will soon conclude in July. When will the Government introduce the bill? There is no trace of the Government's promise. I will not say that the Government is trying to filibuster, but it has forgotten its own promise. The Government asked the Fund to take care of this small group of the most vulnerable patients, but the Fund has, during its operation, ceased to provide the patients with some long-standing support, such as the provision of breathing machine, which is the most basic medical appliance.

I would like to invite Dr KWOK Ka-ki to talk about mesothelioma later. Mesothelioma is a cancer medically proven to be caused by long-term asbestos inhalation and is obviously an occupational disease. However, under the Pneumoconiosis and Mesothelioma (Compensation) Ordinance, a compensation ordinance with the word "mesothelioma" in its title, the Fund fails to cover immunotherapy for mesothelioma. The patients are asked to apply to the Samaritan Fund and the Community Care Fund for financial assistance. Nevertheless, Secretary Dr LAW Chi-kwong should be well aware that this safety net is far from perfect and is rife with flaws. That is why the Government is now conducting a review. It is really weird for a compensation fund set up for mesothelioma patients not to finance their drugs. I think the authorities should examine why there are so many loopholes in the actual operation of the Fund. Deputy President, I do not mean to filibuster. I just want to highlight the need to review the operation of the Fund.

In my view, it is a good practice to set up a fund for workers with work-related injuries. After the establishment of the Fund, workers diagnosed with pneumoconiosis or mesothelioma can seek assistance from the Fund and start their rehabilitation programmes early. They do not have to rely on the public health care system as workers in normal work injury cases do. In normal work injury cases, medical examination will take years to complete. Meanwhile, the employers concerned may not immediately admit that the injuries are work-related. The injured workers will thus have to wait in the long queue for public health care services. As we all know, patients in the public health care system often have to wait for years just to receive a follow-up consultation. If patients can receive early treatment in the golden period for rehabilitation (i.e. six months after injury or diagnosis), it will be highly desirable; and the Fund is actually performing this function.

Therefore, I hope that Secretary Dr LAW Chi-kwong will seriously consider expanding this practice by setting up a central rehabilitation fund for injured workers in the future so that workers suffering from work-related injuries or diseases may make use of the fund at an early stage for treatment. Then, they will not have to compete with other patients for resources in the public health care system. It is indeed an employer's responsibility if a work-related injury occurs. By taking out insurance, employers have to provide certain support to the injured employees; but even so, these employees still have to compete for resources in the public health care system. It is actually unfair to employees. I urge the Secretary to give careful thought to this matter.

Lastly, I implore the authorities to expeditiously put breathing machines, sputum suction machines, humidifiers and other relevant medical appliances into the list of appliances financed by the Fund. Drugs for mesothelioma, lung cancer and other cancers clearly linked to dust in lung tissue should also be put on the list. Moreover, the authorities should conduct an immediate review on the approval procedure of the constant attendance allowance. We also hope that the authorities will directly review the overall operation of the Fund, so as to give genuine support to the patients and support groups.

Thank you, Deputy President.

MR WONG TING-KWONG (in Cantonese): Deputy President, the law provides for the imposition of a levy on the stakeholders in the construction industry by the Construction Industry Council ("CIC") and the Pneumoconiosis Compensation Fund Board ("PCFB"). These two proposed resolutions under the Construction Industry Council Ordinance and the Pneumoconiosis and Mesothelioma (Compensation) Ordinance amend the levy thresholds from \$1 million to \$3 million. In other words, the contractors of construction operations the total value of which does not exceed \$3 million are not liable to pay the levy. The proposal is actually very simple.

We also understand that as CIC is financially stable, the proposal will help alleviate the financial burden of small and micro contractors. The Administration has said that the forgone levy income is equivalent to 1% of the average annual levy income of PCFB and the Pneumoconiosis Compensation Fund ("the Fund") has accumulated a total of \$2.37 billion as at the end of 2017. According to the relevant information, the total annual expenditure and estimated expenditure of the Fund last year and this year are more than \$270 million and 290 million respectively, and the total income and estimated income are \$400 million, so the financial situation is satisfactory. Coupled with the improvement in the existing protection measures, the number of patients concerned is also decreasing. Therefore, the Democratic Alliance for the Betterment and Progress of Hong Kong and I support the proposed resolutions. As some Members have just mentioned, given ample funds, the authorities should seriously consider enhancing support for sick workers.

Deputy President, I particularly want to talk about what happened at the meeting for the selection of the Chairman of the Subcommittee on Proposed Resolutions under Construction Industry Council Ordinance and Pneumoconiosis

and Mesothelioma (Compensation) Ordinance ("the Subcommittee") to set the record straight. The Subcommittee met for the first time on 6 June this year. According to the usual practice and the seniority of Members, Mr LEUNG Yiu-chung was responsible for chairing the meeting before the Chairman of the Subcommittee was elected. At that time, I was in the meeting room next door attending the meeting of the Establishment Subcommittee but I returned to attend the meeting of the Subcommittee. There were three other Members including Mr POON Siu-ping and Mr LEUNG Yiu-chung, which just met the requirements on the quorum of meeting.

Since the proposed resolutions are not very controversial, it does not really matter who the Chairman is. Therefore, I proposed that Mr LEUNG Yiu-chung should be the Chairman because he was already sitting on the chairman podium. However, Mr LEUNG Yiu-chung repeatedly refused and nominated me to be the Chairman instead. I immediately refused because I was attending the meeting of the Establishment Subcommittee in the meeting room next door. I attended the meeting of the Subcommittee at the last moment.

Some people queried why I did not take up the chairmanship since I am a member of the Subcommittee. However, I must emphasize that, first of all, I joined the Subcommittee to indicate my absolute support. My work in this Council is quite onerous, excluding other committees and subcommittees on subsidiary legislation, I have joined more than 20 Bills Committees this year and half of them are still scrutinizing bills. I really do not have extra time to be the Chairman of other committees. Furthermore, Dr Fernando CHEUNG and Dr KWOK Ka-ki who proposed to set up the Subcommittee did not attend the meeting. After the meeting was suspended for 10 minutes and members refusing to take up the chairmanship for various excuses, Mr HO Kai-ming from the Hong Kong Federation of Trade Unions was appointed as the Chairman at the last moment.

The whole process is really inconceivable. These Members are surprisingly very irresponsible. They proposed to set up a subcommittee on the two uncontroversial proposed resolutions and convene a meeting. They might say that though the proposed resolutions were not too controversial, it did not mean that there was no problem. At the Subcommittee meeting, members spent most of their time asking for a review on enhancing the statutory compensation under the Pneumoconiosis and Mesothelioma (Compensation) Ordinance and increasing support for the patients concerned. These matters have nothing to do

with the proposed resolutions and are not within the scope of the proposed resolutions. They also knew that they had digressed from the subject, so they finally agreed to follow up on the issues at the Panel on Manpower when dealing with related matters in due course.

Some Members requested to convene a meeting, but they were late and shirked responsibilities. Their attitude towards work are thus questionable. This incident reflects that these Members always create trouble and chaos. In fact, the opposition camp has always used the same approach of requesting to set up committees on issues important or otherwise, with the objective of affecting the operation of this Council. As everyone knows, two, three or even four meetings are often held at the same time. Their practices will affect the efficiency of the SAR Government in policy implementation. I hope members of the public will see with discerning eyes whether these Members are stirring up trouble.

On the following day, there were media reports claiming that Mr LEUNG Yiu-chung was a deserter. That was unfair to Mr LEUNG as the real deserters were Dr KWOK Ka-ki and Dr Fernando CHEUNG. As Dr KWOK Ka-ki will speak after me, let me find out how he disguises the fact that he was a deserter on that day.

With these remarks, Deputy President, I support the proposed resolutions.

DR KWOK KA-KI (in Cantonese): Deputy President, for Members like Mr WONG Ting-kwong with such a standard, I actually do not need to respond to what he said.

First of all, we have no strong views about the Government's proposal to amend the levy threshold from \$1 million to \$3 million. However, looking back at the process of setting up the Subcommittee on Proposed Resolutions under Construction Industry Council Ordinance and Pneumoconiosis and Mesothelioma (Compensation) Ordinance ("the Subcommittee") and the Pneumoconiosis Compensation Fund ("the Fund"), we have reasons to have reservations about the Government's levy reduction. As we all know, the Fund supports patients suffering from pneumoconiosis or mesothelioma. I would like to give some factual information on mesothelioma and I hope to draw the public's attention.

In Hong Kong and various places around the world, more than 80% of the patients suffering from mesothelioma have been exposed to asbestos in the course of work, while most of the patients suffering from pneumoconiosis have been engaged in the construction or mining industry. When I was a university student, I participated in the work of a voluntary agency in providing services to serving and retired miners in the Ma On Shan Village. These miners worked at the Ma On Shan Quarry before its closure in 1976. The levy is disguised as a measure to help the workers, but I will call it a letter of indulgence. The letter of indulgence is the responsibility to be borne by employers of the construction and stone mining industries as well as the Government.

I will talk about mesothelioma first. All health care workers would know that mesothelioma is a disease that is very difficult to cure. The average life expectancy of patients who can undergo surgeries is only 11 months and the average life expectancy of patients who cannot undergo surgeries is 12 to 18 months. In other words, for most of the patients in confirmed cases, their days are numbered. Therefore, the Government really needs not worry about offering long-term assistance to patients under the Fund. On average, workers who are eligible for compensation will receive compensation for not more than two years, and some of them even died of the disease within a year.

I would also like to talk about workers suffering from silicosis. The two Secretaries could, if having the chance, visit the respiratory ward of a hospital to find out more about the situation of workers suffering from silicosis. In general, the lungs of human beings are mobile. But if the lungs of a patient suffering from silicosis are cut open, they are just like two stones that are completely immobile. Due to insufficient protection in their working environment, they inhaled dust into their lungs. The lobes of the lungs on both sides could originally move but they have slowly become two completely immobile objects. The lungs of patients suffering from silicosis have completely lost their respiratory functions, so these patients need breathing machines all the time.

There are two embarrassing situations under the existing Pneumoconiosis and Mesothelioma (Compensation) Ordinance ("PMCO"). First, the Fund has excess surplus and the accumulated amount reaches \$2.3 billion, but very few patients can benefit. Under PMCO, there are only around 1 600 eligible applicants, but more than 100 of them pass away each year. More unfortunately, even after years of promotion and publicity, and requiring employers and the Labour Department to enhance protection, the number of patients suffering from

silicosis or mesothelioma has not decreased, which is completely contrary to our expectation. There are new cases every year and there are eligible patients applying for the compensation. In fact, I absolutely do not want anyone to be eligible for this compensation.

Some think that there are sufficient reasons for reducing the levy because the Fund has an excess surplus. However, I wonder if they have noticed that it is quite difficult for sick workers and their families to successfully apply for compensation. The medical examination process is a big challenge for them. Some workers even do not know that they can ask for a second or even a third medical examination. Since there is a lack of voluntary organizations or social worker support services funded by the Government, many workers still do not know that they can receive more than one medical examination with a view to obtaining more reasonable compensations.

When workers undergo medical examination, they have to carry some instruments including breathing machines and they have to be assisted by others. At present, the committee responsible for medical examination makes judgments on the basis of very superficial indicators such as X-ray films, etc. It seldom examines the actual remaining working ability and self-care ability of the patients. At present, the compensation for pain, suffering and loss of amenities is \$4,650 per month and the compensation for a patient who passed away is only \$110,390. Imagine that a young worker who was originally engaged in the stone mining or construction industry had made contributions to the industry throughout his life, but he eventually became sick. These two diseases can actually be described as irreversible. The conditions of a patient suffering from mesothelioma will be deteriorating and even if a patient suffering from silicosis can fortunately linger on, they can hardly work or have social lives. Basically, they have difficulty leaving home to go outside or have a walk in the park. The Government has a huge levy reserve but it offers no help to these patients.

Their requests are actually very simple. At the Subcommittee meeting, a number of members seized the opportunity to hold discussions as they have few opportunities to speak for these workers in this Council. The workers mainly make two requests. First, the Government should at least provide more support, such as providing more support to self-help associations or patient support groups as the present support provided by the Government is insufficient. Second, the rehabilitation services currently provided by the Government actually involve outsourcing upon outsourcing. The Government has recently outsourced the services to profit-making health maintenance organizations which are very

disappointing to workers. They originally thought that the authorities would provide more support through non profit-making organizations but the services have eventually been outsourced to profit-making health maintenance organizations ...

DEPUTY PRESIDENT (in Cantonese): Dr KWOK Ka-ki, how are your remarks related to these two proposed resolutions?

DR KWOK KA-KI (in Cantonese): Deputy President, I will return to the subject as soon as possible. I would like to talk about the reason why the Subcommittee has queries about reducing the levy threshold. Back in 2012, the levy threshold was actually reduced from 0.25% to 0.15%. The Government has repeatedly reduced the levy threshold that supposedly is used for providing help to the patients.

I wish to say that the second request of the patients is also very simple and the Government should be able to meet their request. In fact, they only ask for the provision of breathing machine and sputum suction machine. I really do not understand why they have to strive so fight for this simple request. They have also voiced their request to the Pneumoconiosis Compensation Fund Board ("PCFB") over the years. All patients and respiratory doctors know that breathing machines and sputum suction machines can improve the patients' conditions, but so far the Fund has not acceded to their demands.

The amount of subsidy provided to patients for outpatient treatment is still determined on the basis of the public sector standard, which is about \$300 as charged by the Hospital Authority. The Government thinks that this subsidy will help save expenditures. I am going to give some statistics, hoping to make the Government understand the actual situation. First, it is difficult for the patients concerned to visit outpatient clinics. Just imagine, they have difficulties going downstairs from their homes, not to mention visiting specialist outpatient clinics or hospitals. It is also well-known to all that it is difficult to make appointments for general outpatient clinics. Patients have to press certain buttons on a tone phone to make appointments. For specialist outpatient services, the shortest waiting time is at least three months and the longest waiting time exceeds six months. The Government does not have enough resources to cater for the patients' needs.

Second, the costs of government outpatient services are actually not low. The cost of a treatment at a general outpatient clinic is about \$500 and the cost of a treatment at a specialist outpatient clinic is \$700 to \$1,200. These figures are provided by the Government. In other words, the Government originally thought that referring patients to public outpatient clinics will save some expenses, but what happened is exactly the opposite. So, patients request to relax the funding ceiling for daily medical consultations. They dare not ask for a 100% increase; they only want to have more choices or consult other doctors. I hope that PCFB and the Government will solve the problem as soon as possible because the number of people who can receive assistance is on the decline. These patients had contributed a lot to our society when they were young, but as they have now been incapacitated due to sickness, they can only rely on relief. We often talk about how much contribution the construction industry has made to our economy but these construction workers have been abandoned by the Government.

Under PMCO, a person who suffers from the disease may, in every 21 months, request for a further medical examination. However, as everyone knows, very few patients can stay alive for 21 months. During the period, the conditions of some patients may deteriorate and may have to be hospitalized. Therefore, the Subcommittee considers that the current provision on a further medical examination every 21 months is unrealistic. I also hope that the Government will allocate more resources so that the patients in need can request for a further medical examination every 6 to 12 months.

In addition, the patients suffering from pneumoconiosis and mesothelioma are now subject to financial assessment by the Community Care Fund and the Samaritan Fund for certain drugs but this arrangement is absolutely uncompromising. Take mesothelioma as an example, if the patients suffering from mesothelioma are working in the construction or stone mining industry, it is almost 100% certain that the disease is caused by their work. There are a small number of confirmed cases each year and if they need some expensive drugs, I think they should not be required to apply to the Community Care Fund and the Samaritan Fund under the current mechanism. The patients need medication treatment simply because they are engaged in these industries. If the Government will conduct a review on the levy threshold or medical expenses in the future, it must provide the patients with the drugs they need, including cancer drugs for treatment.

Deputy President, most of the above patients are currently receiving treatment in public hospitals. To be honest, with a medical subsidy of a mere \$300, they simply cannot consult other doctors. In future, even if the Government will subsidize the medical expenses of these workers, I will have to say jokingly that the Government is trying to repent for its wrongdoings, trying to compensate those patients who get sick for engaging in the industries in question.

While the Fund has a reserve of \$2.3 billion, there are fewer and fewer recipients. The Government should no longer make any cruel and inconsiderate decisions that will let the patients down. When these patients are still alive, the Government should review the compensation mechanism as soon as possible. After all, they do not have much time to enjoy the meagre assistance from the Government.

Mr WONG Ting-kwong's cruel and inconsiderate practice that completely ignores the workers well reflects the ugly faces of the business community and Members defending the functional constituencies. He strives to defend the interests of his sector and the business community and is indifferent to the suffering of sick workers who had contributed to Hong Kong for many years. Such Members are the products of the political system today. I so submit.

DEPUTY PRESIDENT (in Cantonese): Dr KWOK Ka-ki, I remind you that you have basically stated your views on matters related to the patients just now and the contents of your speech have gone beyond the scope of the proposed resolutions. I hope that Members who are going to speak will focus on the contents of the proposed resolutions; otherwise, I will consider that they have digressed from the subject.

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 Labour and Welfare to speak again, and then the Secretary for Development will reply. Then, the debate will come to a close. Secretary for Labour and Welfare, please speak.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Deputy President, I would like to thank Members for their speeches and their support for the proposed resolution under the Pneumoconiosis and Mesothelioma (Compensation) Ordinance. The Subcommittee has provided valuable views on the compensation and support for patients and carers under the Ordinance and I have heard Members' opinions again today. The Government will join hands with the Pneumoconiosis Compensation Fund Board to actively study and follow up on these proposals and we will also follow up on the matters with Members at the Panel on Manpower at an appropriate time.

I implore Members to support the passage of the proposed resolution to be moved.

Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): I now call upon the Secretary for Development to reply.

SECRETARY FOR DEVELOPMENT (in Cantonese): Deputy President, I sincerely thank Members for supporting the Government's proposal to increase the levy thresholds under the three Ordinances.

The motion proposed by the Government can reasonably alleviate the financial burden of small and medium contractors. The new thresholds reflect the inflation levels in the past few years and the Construction Industry Council is capable of handling the slight impact of reducing levy incomes, and it has already reached a consensus with the stakeholders in the construction industry.

I sincerely thank all Members for supporting our proposal to adjust the thresholds. I implore Members to support the relevant motions. Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for Development 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): Secretary for Labour and Welfare, please move your motion.

PROPOSED RESOLUTION UNDER THE PNEUMOCONIOSIS AND MESOTHELIOMA (COMPENSATION) ORDINANCE

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Deputy President, I move that the motion, as printed on the Agenda, be passed.

The Secretary for Labour and Welfare moved the following motion:

"RESOLVED that the Pneumoconiosis and Mesothelioma (Compensation) Ordinance (Cap. 360) be amended as set out in the Schedule.

Schedule

Amendment to the Pneumoconiosis and Mesothelioma (Compensation) Ordinance

1. Schedule 5 amended (levy)

Schedule 5, Part 1—

Repeal

"\$1,000,000"

Substitute

"\$3,000,000".

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Labour and Welfare 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)

Mr WONG Ting-kwong rose to claim a division.

DEPUTY PRESIDENT (in Cantonese): Mr WONG Ting-kwong claimed a division. The division bell will ring for five minutes.

(While the division bell was ringing, THE PRESIDENT resumed the Chair)

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.

Mr LEUNG Yiu-chung, Mr Jeffrey LAM, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Hak-kan, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mrs Regina IP, Ms Claudia MO, Mr Steven HO, Mr Frankie YICK, Mr WU Chi-wai, Mr YIU Si-wing, Mr Charles Peter MOK, Mr CHAN Chi-chuen, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Mr Kenneth LEUNG, Ms Alice MAK, Dr KWOK Ka-ki, Mr Dennis KWOK, Mr Christopher CHEUNG, Dr Fernando CHEUNG, Dr Helena WONG, Mr IP Kin-yuen, Dr Elizabeth QUAT, Mr POON Siu-ping, Mr Dr LO Wai-kwok, Mr Alvin YEUNG, Mr Andrew WAN, Mr CHU Hoi-dick, Dr Junius HO, Mr HO Kai-ming, Mr LAM Cheuk-ting, Mr Holden CHOW, Mr SHIU Ka-fai, Mr SHIU Ka-chun, Mr Wilson OR, Ms YUNG Hoi-yan, Ms Tanya CHAN, Mr CHEUNG

Kwok-kwan, Mr LUK Chung-hung, Mr LAU Kwok-fan, Dr CHENG Chung-tai, Mr KWONG Chun-yu, Mr Jeremy TAM, Mr Gary FAN, Mr AU Nok-hin, Mr Vincent CHENG and Mr Tony TSE voted for the motion.

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

THE PRESIDENT announced that there were 52 Members present, 51 were in favour of the motion. Since the question was agreed by a majority of the Members present, he therefore declared that the motion was passed.

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. Motion under the Legislative Council (Powers and Privileges) Ordinance.

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

I call upon Dr CHENG Chung-tai to speak and move the motion.

MOTION UNDER THE LEGISLATIVE COUNCIL (POWERS AND PRIVILEGES) ORDINANCE

DR CHENG CHUNG-TAI (in Cantonese): I move that the motion on inquiring into the incident of suspected falsification concerning the Hung Hom Station of the Shatin to Central Link ("SCL") under the Legislative Council (Powers and Privileges) Ordinance ("the Ordinance"), as printed on the Agenda, be passed.

President, may I speak immediately?

(THE PRESIDENT indicated that Dr CHENG may do so)

Before I formally deliver my speech, I hope that when the Under Secretary later responds to the speech of mine and of other Members, he will clearly explain to us why the Secretary for Transport and Housing did not attend the

Council meeting today to respond to our discussion on the Hung Hom Station of SCL, suspected falsification, shoddy work and use of inferior material, and even dereliction of duties on the part of public officials. In my view, such behaviour of the Secretary alone adequately proves that the Legislative Council should inquire into the above mentioned incident with the powers and privileges conferred by the Ordinance. What important business has hindered Secretary Frank CHAN from attending this Council meeting to respond directly to the SCL incident? I do not know whether the Legislative Council Secretariat or the President of the Legislative Council has asked the Secretary to give a written or formal response. Nevertheless, it is obvious that Frank CHAN has disappeared today, and in fact, since the occurrence of the incident, Frank CHAN has disappeared. This point alone has infuriated all Hong Kong people and all Members and we reprimand him severely.

Furthermore, the MTR Corporation Limited ("MTRCL") placed a full page advertisement in all major newspapers today in response to the allegations made these two days about the expansion works at the Hung Hom Station of SCL. The full page statement makes a number of points. Point four alone should adequately convince all Members that such kind of intimidation or threat, as I see it, made by a domineering and even autocratic public organization should not be accepted.

Point four of the statement reads: "Anyone with information that proves that illegal activities are involved in the incident should immediately provide the information to the Government or law enforcement agencies. Just making one-sided allegations or speculations repeatedly will not help resolve the issue in any way, but will unnecessarily undermine public confidence in railway infrastructure projects." The senior management of MTRCL will please eat the words of the first sentence. Since the uncovering of the incident, many companies have informed MTRCL of the alleged "cutting of steel bars" or falsification of information concerning the works. Since MTRCL was aware of the situation, why did it not report to the Police? Nevertheless, MTRCL has talked nonsense today and issued a statement in the form of an advertisement, advising those who claimed to have information as proof to report to the Police. Yet, MTRCL itself has not taken the appropriate actions. That is my first point.

Second, the statement asks people not to "unnecessarily undermine public confidence in railway infrastructure projects". I would like to point out, when Frederick MA made the following responses about the Express Rail Link, "if we

say it is OK, then it is OK" and "the management of XRL can't sleep well", Hong Kong people has lost confidence in MTRCL. Many people and netizens cannot help but query what has happened to the mission of "MTR—A Railway For You" back then. More outrageously, and I am certainly speculating, MTRCL's statement is obviously targeting at our colleague Mr Michael TIEN. Mr TIEN has, for instance, said that according to some information, 5 000 steel bars were suspected to have been cut short. If I interpret the statement literally, it is obviously intimidating or threatening Mr Michael TIEN, asking him to stop defaming MTRCL.

As Members of the Legislative Council, we should perform our duties. In particular, as our speeches made in this Chamber are protected, we can boldly ask: Is the problem caused by China Technology Corporation Limited; is the problem caused by Leighton-China State Joint Venture ("Leighton"), the Transport and Housing Bureau or MTRCL? About a month after the incident, our colleague even has to apologize for his remarks made on the basis of what he had been informed for fear that he might be sued for defamation by MTRCL or other companies concerned. These facts tell us that we Members of the Legislative Council have to face unfair treatment by MTRCL, Leighton, or even the Hong Kong Government. Under the circumstances, how can we not invoke the Ordinance to protect Hong Kong people?

The statement published by MTRCL today well justified our claim that the Chairman of MTRCL should have stepped down long ago. Finally, the statement even states that "[i]n order to enhance public confidence, MTRCL has commissioned an independent consultant to conduct a safety test on the platform slab at the Hung Hom Station, and will submit the report to the Government." When pro-establishment Members speak later to respond to my remarks, I believe many of them will say, Chief Executive Carrie LAM has exercised her summoning powers under the Commissions of Inquiry Ordinance and commissioned Mr Michael John HARTMANN a reputable and trusted member of the legal profession and the community and the former non-permanent Judge of the Court of Final Appeal, to inquire into the MTR incident. Since the Government has commissioned an independent Commission of Inquiry to inquire into the matter, we should trust the Judge and the judicial system of Hong Kong. They will also say that we democrats are the ones who often emphasize that the Judiciary should be independent or that the judicial system of Hong Kong is our most important core value.

If their argument is considered valid, and MTRCL has also commissioned an independent consultant to inquire into the matter, the Legislative Council will not be in a position to take part in their discussions at all. The Executive Authorities will conduct an inquiry according to the established rules and powers because the Chief Executive is so incompetent that she is unable to supervise her subordinates; she allows Frank CHAN to disappear and fail in supervising the entire Transport and Housing Bureau. Thus, she has exercised her statutory powers and established the Commission of Inquiry under the Commissions of Inquiry Ordinance, and conferred the Judge with powers to conduct the inquiry, including the power to summon witnesses. Nevertheless, such powers of the Executive Authorities have nothing to do with the legislature.

First, I must make one point clear. Later on, pro-establishment Members will say in response that since the Chief Executive has established the Commission of Inquiry, we should not interfere with the work of the Judge. This argument is totally irrelevant. It does not hold water.

Second, the incident will certainly affect public confidence in the Judiciary. For example, after the incident was uncovered, the Highways Department only reported to the Police three weeks ago to inquire if anyone has been suspected of concealing and falsifying information or even committed a crime. I also believe that when pro-establishment Members respond later, they will say that since the Police are following up the matter, and legal proceedings have commenced, we should not interfere. I have to point out that this is precisely the most despicable and shameless direction and approach adopted by the SAR Government. It often scares the public with legal proceedings, telling them not to interfere with the court and asking them to respect the legal proceedings, etc. Please do not use legal proceedings or the court to cover up the shameful act any more.

Furthermore, the Police's investigation will focus on whether anyone has broken the laws or committed any crimes, whereas according to the powers conferred to Members under the Ordinance, we not only investigate whether anyone has broken the laws, but also whether anyone is responsible for maladministration, whether any official should be held liable for putting the lives and properties of Hong Kong people at risk and should bear the administrative responsibility of making Hong Kong's infrastructural development increasingly corrupt in the whole incident. I believe these are matters which the Commission of Inquiry may not deal with. The Lamma incident, if Members still remember, is a case in point. The facts of the incident proved that someone had made

mistakes; and what was the final result? Finally, the Assistant Director was prosecuted and the case is still under appeal. Certainly, I respect the independence of the Judiciary and will not comment on the case any further.

However, from the incident now under discussion, it reflects that for MTRCL, the Transport and Housing Bureau or the Government as a whole, when there are any merits or achievements, the top management will take the credit; and when there are troubles, the subordinates will take the blame. In fact, we can foresee the findings of the Commission of Inquiry led by former Judge, Mr Michael John HARTMANN. We are certain that a couple of civil servants will be named to take the blame. Thus, we must invoke the Ordinance today to inquire into the incident of the Hung Hom Station or other stations of SCL, so as to do justice to frontline civil servants and frontline MTRCL staff in a more lenient manner. How come some people do not have to bear any responsibility? How come Frank CHAN does not have to step down? Frederick MA even said that he had to go home and sleep. That is an important direction that we must take in invoking the Ordinance to face and deal with the corrupt administration of the Hong Kong Government.

Due to the time restraint, I want to raise one last point. The incident not only reflects the maladministration of the HKSAR Government, but also its ineffective governance, as stated by some people. In what way has the Government governed ineffectively? I believe society will have its own judgment on whether Frank CHAN should step down. In fact, we have already reached a conclusion, i.e. he should step down. Second, Frank CHAN said that some frontline colleagues, i.e. the civil servants I mentioned earlier, were aware of certain circumstances but failed to report to him, which was disappointing. Then, he said that the Director of Highways and the Secretary for Transport and Housing, i.e. he himself, learnt about the incident only from the press, and he found the situation highly regrettable. Why didn't he say that he only knew he was involved in the matter when he saw his merged image online? Have all the people been asleep?

I think Under Secretary Dr Raymond SO has been unfairly treated. Since he assumed office, his black hair has gone and I think he will lose more hair in the future. Why? His supervisor is incompetent and shirks responsibility. After the incident was exposed, his supervisor has disappeared. Why should Dr SO harbour such a person? I advise pro-establishment Members to understand the present circumstances. What we are now dealing with is not simply a problem of ineffective governance on the part of the Hong Kong

Government. When a reporter asked Frederick MA why Leighton had not given any account of the incident, he said, "That is true. We cannot do anything about the company; we cannot compel it to give an account". What kind of an answer is that? Is Leighton a state enterprise? Is Leighton a government of the People's Republic of China led by XI Jinping? No. Why should it be allowed not to give an account? What powers do we have to inquire into the incident? If, after the Commission of Inquiry has conducted the investigation, found that a civil servant should take the blame and the companies concerned do not have to bear any responsibility, how can we accept this outcome?

During the British-Hong Kong era, if an independent contractor committed a minor fault, it could not bid in future tenders; but what has Hong Kong become now? All enterprises which may be related to the interests of the state or the Communist Party of China can ride roughshod over others. Thus, let me give a piece of advice in my conclusion. If pro-establishment Members treasure the anti-corruption work in Mainland China done by XI Jinping in the past four years, they have no reason to make Hong Kong a law-defiant place, otherwise, they cannot live up to the expectations of Chairman XI. What does Chairman XI intend to achieve by working so hard, even to the extent of changing the constitution in order to extend his tenure for four more years? Certainly, I was speaking from the perspective of pro-establishment Members just now.

In the later discussion, I believe all Hong Kong people and Members will agree that it is only reasonable to use the powers of the Legislative Council to inquire into the problems of SCL instead of leaving the work to others; and Members have the responsibility to do so too.

I so submit.

Dr CHENG Chung-tai moved the following motion:

"That this Council appoints a select committee to inquire into the incident of the MTR Corporation Limited's suspected concealment of the alleged substandard construction works carried out at the new platforms of Hung Hom station of the Shatin to Central Link, and other related matters; and that in the performance of its duties the committee be authorized under section 9(2) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) to exercise the powers conferred by section 9(1) of that Ordinance."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Dr CHENG Chung-tai be passed.

UNDER SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, the Government has all along attached importance to railway service as the backbone of Hong Kong's public transport system. The Shatin to Central Link ("SCL"), with a total length of 17 kms, consists of two sections, namely, Tai Wai to Hung Hom Section and Hung Hom to Admiralty Section. Tai Wai to Hung Hom Section is the extension of Ma On Shan Line from Tai Wai via Southeast Kowloon to Hung Hom where it will join West Rail Line; and Hung Hom to Admiralty Section is an extension of the existing East Rail Line from Hung Hom across the Victoria Harbour to Wan Chai North and Admiralty.

SCL will have 10 stations. Apart from bringing improvements to the existing Tai Wai Station, the SCL project will involve construction of new stations or extension of existing stations at Hin Keng, Diamond Hill, Kai Tak, Sung Wong Toi, To Kwa Wan, Ho Man Tin, Hung Hom, Exhibition Centre and Admiralty. Among them, Admiralty Station and Ho Man Tin Station will become integrated stations providing interchange service to passengers of SCL and the South Island Line (East), and passengers of SCL and Kwun Tong Line Extension respectively.

SCL is a government-owned railway project implemented under the concession approach. In 2008, the Highways Department ("HyD") commissioned a consultant, Lloyd's Register Rail (Asia) Limited ("Lloyd's"), to review and develop the appropriate institutional arrangements for entrusting the MTR Corporation Limited ("MTRCL") to implement the project of the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL"). In view of the good reputation of MTRCL in railway construction in Hong Kong over the decades and its healthy project management system, the consultant recommended at the time to HyD that the Government may adopt the "Monitoring and Verification" role in the design and construction of XRL, the "Check the Checker" role to monitor the "project manager" MTRCL and engage its own professional consultants with railway experience to conduct monitoring and verification work. Specifically, this would use a risk-based sampling approach to verify compliance of the obligations regarding the major procedures of works under the Entrustment Agreement signed with the Government. Lloyd's also advised that the Government's resources could be utilized more

effectively under the arrangement, and it would avoid overlapping in project management obligations with MTRCL. Considering that both projects of SCL and XRL are implemented under the concession approach, HyD adopted Lloyd's recommendation that the Government will perform the "Check the Checker" role to monitor and verify MTRCL in carrying out the works of SCL.

MTRCL is entrusted by the Government to design, construction and commissioning of the SCL works. According to the Entrustment Agreement signed between MTRCL and the Government, MTRCL warrants that the Entrustment Activities shall be carried out with the skill and care reasonably to be expected of a professional, including the assurance of quality of works up to the standards required. While MTRCL is responsible for the overall management of the design and construction of the SCL project, HyD has been closely overseeing the work of MTRCL under a three-tiered monitoring mechanism.

In the first tier, the Project Supervision Committee led by the Director of Highways holds monthly meetings with the Projects Director of MTRCL to review the progress of the SCL project, as well as monitoring procurement activities, post-tender award cost control and resolution of contractual claims. In the second tier, an HyD officer at Assistant Director level holds monthly Project Coordination Meetings with General Managers of MTRCL mainly to deal with matters which may have potential impact on the progress of the project and interface with other projects, so as to complete the land-related work in a timely manner. In the third tier, two officers at Chief Engineer level hold monthly Project Progress Meetings with the site supervision staff of MTRCL on major civil and electrical and mechanical works, focusing on the works progress in relation to the major contracts of works.

HyD has also engaged a monitoring and verification ("M&V") consultant to assist the department in monitoring and regularly auditing the works. The M&V consultant will monitor the expenditure, progress and public safety of the works through regular site inspections and meetings, and report to HyD on whether there are risks of slippage in the progress of the SCL project and advise on the appropriateness of the delay recovery measures proposed by MTRCL. In addition, the M&V consultant will verify whether the works of MTRCL complies with the requirements under the Entrustment Agreement signed with the Government.

HyD has all along adopted the "Check the Checker" arrangement in monitoring the SCL project implemented by MTRCL. The Director of Highways also holds meetings with the Secretary for Transport and Housing on a monthly basis, submits reports to the Secretary on the progress of the project and raises any important matters relating to the project as required.

In ensuring structural safety, the design and construction of the SCL project is governed by different mechanisms, depending on whether the site is within unleased land or leased land. However, regardless of the type of mechanism, structural safety requirements of the project also have to be on par with the requirements of works supervision under the Buildings Ordinance (Cap. 123). In relation to the Hung Hom Station platform for instance, if any serious violation involving safety and quality is found, the Building Department may consider taking legal or disciplinary actions against the relevant persons according to the Building Ordinance.

The Government has been honest in giving an account to the public on the SCL project, like any other railway projects. Since June 2014, the Government and MTRCL have been submitting quarterly progress report to the Subcommittee on Matters Relating to Railways and attended its meetings to respond to Members' questions. Problems encountered while the works of the SCL project were in progress, e.g. discovery of relics at the Sung Wong Toi Station, deferral of the handover date of the site in Wan Chai, failure to remove the pipe pile at the site in Wan Chai North and works problems at the tunnel north of Hung Hom Station, etc. have been reported in detail in the quarterly reports to inform Members of the progress of the SCL project and various challenges encountered. The Government has all along adopted an open, transparent and honest approach in relation to the SCL project.

The expansion works of Hung Hom station under the SCL project is carried out under Works Contract No. 1112 signed by MTRCL and Leighton Contractors (Asia) Limited ("Leighton"). In accordance with the Entrustment Agreement signed with the Government, MTRCL is required to ensure that the contractors and subcontractors employed are of a level of qualification which is consistent with those required by MTRCL for implementing ordinary railway projects. MTRCL, as the project manager, shall ensure all the design requirements are reflected in the works contracts signed with the contractors and sub-contractors in order to ensure the quality of works comply with the requirements of the Entrustment Agreement and the works carried out by the contractors and subcontractors are in compliance with the standards during construction. HyD

and the M&V consultant visit the sites of SCL regularly. In general, about six to eight works contracts are visited in a month and the works contract of Hung Hom station is visited about once in every three months.

On 30 May, the media started reporting that steel bars were found to be cut short at the platforms of Hung Hom Station. HyD took immediate follow-up action and inspected on the same day the site of Hung Hom Station with the M&V consultant and checked MTRCL's inspection records. Although no apparent problems were found in the site inspection, as the matter has aroused public concern, the Director of Highways met with senior officers of MTRCL on 31 May to reiterate HyD's grave concern. The Director of Highways also demanded MTRCL to submit a report on the incident within a week. Furthermore, to allay public concern about the safety of the concrete structures, the Director of Highways demanded MTRCL to arrange an independent third-party expert to conduct a load test as soon as possible and submit a test report to ensure the structures can sustain the design loads.

On 6 June, MTRCL held a press conference to give an account to the public of the incident of the platforms of Hung Hom Station. Nevertheless, MTRCL has not ascertained how many steel bars have been cut short; by whom and the reasons for that.

The Government is highly concerned about the incident. The Chief Executive announced on 12 June the decision to set up an independent Commission of Inquiry chaired by former Judge Mr Michael John HARTMANN under the Commissions of Inquiry Ordinance (Cap. 86) to conduct an independent and comprehensive investigation into the incident to allay public concern.

The Government received the report submitted by MTRCL on 15 June. The report states that the statements given by one of the subcontractors of Leighton, the main contractor, are not consistent with those given to MTRCL by Leighton. While Leighton has strenuously denied the allegations, MTRCL did not express any opinion on this matter. According to the information provided by MTRCL separately to HyD, HyD considers that the matter may involve criminality and HyD has therefore referred the matter to the Police for follow-up action. The Government has no comment on this matter at this stage. As regards other contents and technical information in the report, HyD will thoroughly examine and request MTRCL to make clarifications or provide supplementary information if necessary.

The SCL project is still in progress. When the project is completed, MTRCL shall submit the required documents and the completion report (including the test report and inspection records) to the Government for examination and confirmation. In addition, HyD, in collaboration with the M&V consultant and relevant government departments, participates the pre-handing over inspection of MTRCL before the relevant works are handed over to the Government.

Regarding the construction problems which occurred at Hung Hom Station, and subsequently at To Kwa Wan Station and Exhibition Centre Station, and the many questions left unanswered with the information provided by MTRCL, HyD has demanded MTRCL to give a full and detailed account of the incident, including a comprehensive review of MTRCL's implementation of the supervision system. MTRCL announced on Thursday last week (i.e. 21 June) that the Board of Directors has requested its Capital Works Committee to conduct a review of the process and procedures for the SCL project under its project management system. MTRCL will engage a consultant to assist the Capital Works Committee in the review and the Board of Directors has also instructed the management of MTRCL to immediately enhance its monitor and supervision over all contracts of SCL.

President, the Government does not support Dr CHENG Chung-tai's motion. It has been more than 30 years since the Legislative Council (Powers and Privileges) Ordinance ("the Ordinance") was enacted in 1985. The Ordinance has been invoked to set up committees of inquiry on fewer than 10 occasions. On each of those occasions, an incident of a very serious nature was involved, e.g. deaths and injuries, serious economic loss or conflicts of interests of public officers. The Legislative Council at the time also considered that it was necessary to invoke the Ordinance to monitor the Government, effectively summons the witnesses and obtain the necessary information from the persons or organizations concerned so as to find out all about the incident.

In relation to this incident, however, the Chief Executive announced on 12 June the decision to set up an independent Commission of Inquiry chaired by Mr Michael John HARTMANN under the Commissions of Inquiry Ordinance (Cap. 86) to conduct an independent and comprehensive investigation into the incident to allay public concern. The composition and terms of reference of the Commission of Inquiry will be determined by the Chief Executive in Council. After the Chief Executive in Council has made the decisions, the Government

will announce the details of the Commission of Inquiry as soon as possible. Meanwhile, MTRCL has, in response to HyD's demand, engaged an independent expert to conduct a load test. MTRCL will also fully cooperate with the investigation of the Commission of Inquiry. As the inquiry and test mentioned above are independent and comprehensive, it is not necessary for the Legislative Council to invoke the Ordinance to inquire into the incident.

Since the Chief Executive has set up a Commission of Inquiry and the law enforcement agencies are separately investigating the matter, it would be redundant for the Legislative Council to invoke the Ordinance and set up a committee to inquire into the incident. Besides, as staff members of the Government, MTRCL, the consultants and the contractor have to cooperate with the Commission of Inquiry in its inquiry, if they have to cope with the inquiry of the Legislative Council as well, it will unavoidably and seriously affect the progress of the remaining works of SCL, which may not be a result desired by the public.

The Government and MTRCL will continue to fully cooperate with the Subcommittee on Matters Relating to Railways and submit the reports required, and attend the special meeting to be held on 6 July to report our follow-up actions on the matter to Members.

The Transport and Housing Bureau believes that the Commission of Inquiry set up under the Commissions of Inquiry Ordinance (Cap. 86) will find out all the circumstances surrounding the incident, identify where the problems lie and make recommendations to improve the quality of our railway construction to restore public confidence.

With these remarks, President, I urge Members to oppose the motion.

MR AU NOK-HIN (in Cantonese): President, Dr CHENG Chung-tai was furious just now, because Secretary for Transport and Housing Frank CHAN is once again absent, and therefore Under Secretary Dr Raymond SO has to come to the Legislative Council to shield and defend him again. As I have often said, Under Secretary Dr Raymond SO is better than Secretary Frank CHAN. I hope Dr SO can be promoted to become the Secretary soon.

Now, I will speak in support of invoking the Legislative Council (Powers and Privileges) Ordinance to set up a select committee to inquire into the incident in which the MTR Corporation Limited ("MTRCL") is suspected of concealing a problem concerning the construction quality of Hung Hom Station of the Shatin to Central Link ("SCL").

President, as I see it, this debate is really an irony. Three weeks ago, the subject was already discussed by the House Committee. So, when preparing this speech, I naturally checked the information prepared by me three weeks ago to see if I could draw any reference from it. To my surprise, as it turned out, I found that 99% of the information prepared by me three weeks ago could not be reused. This is because over the past three weeks, there has been a dramatic turn of events with unexpected and dreadful developments. What we have seen is more spectacular than the "Shin Bangumi" released in April—I hope Members understand what "Shin Bangumi" means¹. The Under Secretary has just told us that the Highways Department has put in place a three-tier regulatory system and the Government is acting in an open and transparent manner. Had that been the case, the contractor and subcontractors would not have publicly reproached each other, and we would not have seen "new details" emerging every day. I wonder when the whole saga will come to an end.

After the revelation of the SCL construction problem, every time MTRCL gave an account of what had happened, it came up with a new script: at first it said the problem was discovered in December, but later it said the problem was discovered in August; at first it said the problem was noticed on one occasion, but later it said the problem was noticed on many occasions; at first it said five steel bars were found to be faulty, but later it said five steel bars at most were found to be faulty on each occasion. What is the truth? Are the different rumours going around in the community true or not? MTRCL has never responded directly but only asked the public to trust it. Initially MTRCL used every possible means to delay submitting its investigation report to the Government on various pretexts, but in the end, more dark secrets came to light after the report was submitted.

How come different subcontractors' testimonies or versions of events were treated differently in the report submitted by MTRCL? Why did a subcontractor bypass the internal mechanism and directly step forward to challenge MTRCL's handling of the issue? Did MTRCL deliberately ignore or even disregard certain

¹ "Shin Bangumi" is a Japanese term that means "new programme".

subcontractors' views? A Member has even accused MTRCL of trying to "catch the leaker" instead of properly tackling the construction problem and questioned, among other things, whether MTRCL has yet to disclose many hidden details. I believe no Member will think that this incident does not warrant an independent investigation.

Many pro-establishment Members will certainly ask this question: As the Government has set up an independent Commission of Inquiry to investigate the incident, why would the Legislative Council still have to invoke the Legislative Council (Powers and Privileges) Ordinance to set up a select committee and use it as a platform for another inquiry into the incident? Actually, the answer is very simple. It is because our discussion today is not only about finding the truth but also about ensuring the public's right to know. The main point of setting up a select committee is, of course, to ascertain the truth behind the incident, but what is equally important is that MTRCL, Leighton Contractors (Asia) Limited and the different subcontractors should be held accountable to all members of the public and clearly explain the relevant matters to them in a public setting.

The reason why the SCL project has caused such a colossal scandal is that there were too many black-box operations under this project in the past. The contractor and subcontractors for the project actually considered that they did not have to come clean because of such factors as a confidentiality agreement when MTRCL prepared its report for submission. MTRCL's black-box operations and its piecemeal approach of responding, which is like squeezing toothpaste out of a tube, have seriously undermined public confidence in MTRCL projects. Fellow Members, if you do not want to see this confidence crisis in society, it is even more imperative that you should support a public inquiry so that the public can monitor its process, with a view to restoring public confidence.

President, while I do not question the functions and professionalism of the Commission of Inquiry of the Government, I must point out that it is absolutely necessary for the Legislative Council to set up a select committee with the power to summon witnesses, and allow its inquiry to be conducted under public scrutiny, so that the public will not only be able to witness the process of the inquiry, but also be able to monitor whether Members can respond to public expectations in the course of the inquiry, and even take the initiative to directly ask Members to investigate matters relevant to the public interest during the inquiry.

"Not only must Justice be done; it must also be seen to be done." The meaning of this well-known saying about the rule of law and justice should by no means be limited to the result of justice being done, but should also apply to the process of implementing the rule of law. The public should by no means be only allowed to wait for a comprehensive investigation report, but should have the opportunity to take part in and monitor the process of the inquiry through the Legislative Council's mechanism of open meetings. The Legislative Council, as a body with a popular mandate, is duty-bound to ensure that government projects are subject to democratic supervision by the public. This is the most important reason why I think it is necessary for the Legislative Council to set up a select committee with the power to summon witnesses.

President, actually I do not need to highlight, but the construction problem of Hung Hom Station that we are discussing today is just the tip of the iceberg. There are many problems with To Kwa Wan Station and Exhibition Centre Station as well, but I am not going into detail about them, or else you, the President, will say that I am straying from the subject—you are so familiar with the Rules of Procedure. However, leaving aside the other problems with SCL, similar construction quality problems have been occurring in major infrastructure projects over the past few years.

Water leakage problems have been found at the Hung Hom construction site of SCL, the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL") terminus upon its completion, and the roof of the Passenger Clearance Building of the Hong Kong-Zhuhai-Macao Bridge ("HZMB") Hong Kong Boundary Crossing Facilities. Neither the Government nor the companies in charge of the construction works have taken the problems seriously or given a clear account to the public. On the contrary, the Government's approach to the problems is to play down the severity of them as far as possible, as if they were minor problems or not problems at all. Acting Chief Executive Matthew CHEUNG was here just now; according to a news report, a few days ago when he responded to a question about the water leakage problem of the roof of the Passenger Clearance Building of the HZMB Hong Kong Boundary Crossing Facilities, he said, "It is precisely the purpose of testing to see if there are water leaks in the structure undergoing testing." What a remarkable, amazing and superb response!

Maybe the government official does not quite understand Chinese and does not really know what "testing" means. If a public works project has just been completed and the Government takes actions to test it to see if there are problems

with it, I surely find it acceptable for the Government to describe such actions as "testing". However, if the project is basically complete or was even completed a long time ago, and it is just that the facility has yet to be officially commissioned, but the Government still describes such actions as "testing", then I would say this is no different from glossing over a construction problem. President, so far we have already seen six amber rainstorms and one red rainstorm in Hong Kong this year. If, to this day, such water leakage problems still cannot be properly solved and are even concealed, then they are not problems detected during testing but are actual construction problems.

Compared with XRL and HZMB, among all major infrastructure projects in Hong Kong over the past few years, the SCL project is the only one that can really be said to be an infrastructure project aimed at addressing livelihood issues. As regards XRL and HZMB, perhaps as some pro-establishment Members have said, if people really fear XRL and the co-location arrangement, they can choose not to take XRL and not to go to HZMB, or even ignore them. That said, if the public has an absolute right to know about any construction problem of XRL and HZMB, then the public should have a greater right to know about any problem of the SCL project, which is relevant to people's livelihood.

SCL is an important project which has a bearing on the entire transport system of Hong Kong. Anyone who leaves or enters the Legislative Council Complex via the footbridge may see an MTRCL construction site billboard which bears seven big Chinese characters meaning "spanning 14 districts across Hong Kong". What we are discussing today is a construction problem found in such a massive construction project affecting people in many districts: the SCL project. If we fail to properly monitor this project and ensure its construction quality; if it is only after the commissioning of SCL that we discover any construction safety problem with it, what will be affected then is not just an MTR station and the whole thing will no longer be a construction quality problem, as it will bring the entire public transport network of Hong Kong to the brink of total collapse.

Today, if the Legislative Council makes light of the problem ... The Under Secretary has just stated that the current mechanism is sound and the Highways Department has a three-tier problem management and handling framework under which MTRCL is required to ensure construction quality, and it is most important to act in an open and transparent manner. If the existing mechanism had been able to properly tackle the problem, we would not have seen Mr Michael TIEN

revealing secrets every day while the contractor and subcontractors spilling the beans and passing the buck to each other, saying "this is not a fact" or "that is not the truth".

President, as popularly elected Members, we really need to set up in the Legislative Council an independent select committee with the power to summon witnesses in order to truly prevent such things from happening in the black box again and to expose such evil deeds and problems under the sun. This is the Legislative Council's duty. I really do not understand why every time we make such a proposal in the hope of finding the truth for the public, pro-establishment Members always object to it and say that there are other ways to deal with the matter. That is not something they should do if they are to be truly accountable to Hong Kong people. I very much hope that the Legislative Council's inquiry will allow the contractor, the subcontractors, MTRCL and government officials to reconstruct the truth behind the incident and enable the public to truly understand the problem currently facing SCL. Through this process, people will be able to get the full picture of the problem and then face and solve it together.

Our generation may think that it does not matter even if people fail to face and solve the problem together. It is possible that nothing will go wrong during the initial operation of SCL, but the construction problem in question will lead to undesirable consequences in the long run, in which case we will regret having made a mistake that can hardly be rectified. So, President, should we really find any construction safety problem with SCL in the future, what we are doing today is a disservice to our popular mandate and the Legislative Council's bounden duty and functions.

With these remarks, President, I support Dr CHENG Chung-tai's motion.

MS CLAUDIA MO (in Cantonese): Just now I have been listening to the speech of the official who has spent more than 10 minutes accounting the ins and outs of the incident. He has recapped the relevant dates and places, presented a list of events and then finished speaking. He said that the Government would not make further comment on this issue. Yet, right after making this remark, he said that the Legislative Council (Powers and Privileges) Ordinance ("the Ordinance") should be invoke to inquire into incidents involving major casualties or major dereliction of duty on the part of public officials etc.; thus, the Ordinance should not be invoked under the present circumstances. What has this to do with the

officials? In the Legislative Council, we can decide on our own what issues should be investigated. The officials must not say that the Legislative Council can only conduct investigation on traffic and transport matters involving major casualties. This should not be the case.

On the question of whether there is dereliction of duty on the part of public officials, it may take a long time to argue. In the 1980s, aviation accidents frequently happened in Mainland China and the Director of the Civil Aviation Administration of China eventually resigned. This happened in Mainland China. The Director of the Civil Aviation Administration of China was not a pilot and he was not too familiar with civil aviation matters. He was a technocrat who had been transferred from a civilian post. Yet, being the highest responsible person, he had to take responsibility. However, Frank CHAN said that he only learnt about the incident after reading the newspapers. As the saying goes, "ignorance is no defence", the Secretary cannot use ignorance as an excuse or a reason to hide his fault. This is totally untenable and this point alone warrants an investigation to be conducted by the Legislative Council.

Now that there are a series of scandals about the Shatin to Central Link ("SCL"), we can evidently see that in the engineering and business sectors, as well as in the Government, the governance has been Mainlandized, characterized by concealing facts from the bottom to the top and shirking responsibility from the top to the bottom. The persons concerned are strongly condemned but lightly sanctioned and only internal investigations are conducted. The investigation will take three to six months, hence the importance of the incident will be downplayed and the problem will be resolved by taking no actions. That cannot possibly happen in this case.

Some said that Dr CHENG Chung-tai has invoked the Ordinance to conduct an investigation only on the Hung Hom Station, does it mean that other MTR stations do not need to be investigated? It is really difficult to investigate the entire SCL; how can investigations be conducted? We do not know what can be investigated at the Hin Keng Station and there may be problems with the Kai Tak Station but we do not know what the problems are. The funniest thing is that the Government will set up an independent Commission of Inquiry. The Commission of Inquiry itself is not funny but it is funny that it will take half a year to investigate the Hung Hom Station alone. Those boot-licking royalists will definitely say that, since the Commission of Inquiry will be set up, pan-democrat Members need not set up another committee in the Legislative

Council to conduct investigation. However, there is such a need. Although the Chairman of the Commission of Inquiry, the retired Judge Mr Michael John HARTMANN, is highly competent, the problem is that the Commission of Inquiry often holds closed meetings and reporters are not allowed to stay inside the meeting rooms. I hope that they can have some open meetings but I really do not know what will happen. If an investigation is conducted by the Legislative Council, we will have closed meetings but we will also have open meetings and people will be invited to attend the meetings. The public can watch the proceedings of the meetings and read the final investigation report, but the Government's Commission of Inquiry may say at any time that it is inappropriate to make public its report. This is the first point.

Second, the Government can also say that the report contains confidential commercial information and hence many parts of the report will be covered up before allowing Members to read it. Third, the report may not be made public at all. Even if we ask the Government to make public the information according to the Code on Access to Information, the Government may refuse owing to the sensitive information involved. These are all unknown. If the Legislative Council can appoint a select committee empowered by the Ordinance, the select committee can definitely complement with the Government's Commission of Inquiry. This is my major argument.

I am taken aback after reading the statement placed by the MTR Corporation Limited ("MTRCL") in various newspapers today. First, MTRCL is a listed company. Second, the major shareholder holding 76% of the shares of MTRCL is the Hong Kong Government. How can MTRCL place a half-page statement in various newspapers, acting as if it was a private club? The contents of the statement are also utterly shocking. It is said that MTRCL has referred some unverified information received to law enforcement agencies for follow up. I do not know if the law enforcement agencies are the Police, ICAC or the judiciary i.e. the Department of Justice. Things are so mysterious. It is also said that the Highways Department has reported the incident to the Police for follow up. Is the incident reported by the Highways Department to the Police identical to the incident involving unverified information? MTRCL has given the public very confusing ideas and I tend to believe that it has deliberately done so. Point 4 of the statement is even more ridiculous, i.e. anyone with information that proves that illegal activities are involved in the incident should immediately provide the information to the Government or law enforcement agencies. Just making one-sided allegations or speculation will not help resolve

the issue in any way. These remarks also apply to the press, i.e. the press should not unilaterally disclose information in the future as it is incorrect to do so and will not help resolve the issue in any way.

At one time, I also received a complaint about SCL. Yet, there was no witness as the witness could not come forward to testify, and there was no material evidence because photos could not be taken when the incident occurred. Hence this was a one-sided allegation. I sought verification with the relevant authorities, in particular with MTRCL. MTRCL did not have the guts to deny and it had admitted the problem. Given that MTRCL issued a statement containing threatening words, there are queries whether MTRCL wanted to intimidate the Members concerned. I do not think so. My first reaction this morning was that MTRCL wanted to intimidate the subcontractor because MTRCL said repeatedly that the remarks made by the subcontractor were contradictory to that of the main contractor Leighton. It seems that MTRCL, being a villain, has brought in an indictment first. This gives people an impression that MTRCL is a villain, but in reality it may not be a villain. The Hong Kong Government is holding 75% of the shares of MTRCL, i.e. Hong Kong people are shareholders of MTRCL, no matter they have really hold the shares of MTRCL or not. Why should MTRCL play tricks as if it was a private club? Do the public still have the right to information? MTRCL mentioned law enforcement agencies and said that it had reported to the Police. I think the law enforcement agencies it mentioned might include ICAC, so corruption practices might be involved. This is another direction. Earlier on, there were views that some staff might have made careless mistakes in design or construction, and problems arose when they tried to conceal the mistakes. If corruption practices are involved, there may be cases of shoddy work to beat the deadline and using of inferior materials. Such cases can be verified and debate can be held. Do the public still have the right to information? As Hong Kong people are holding 75% or 76% of MTRCL shares, they should have the right to information.

The officials would certainly disagree to what I intended to say and they did not want to investigate into the incident. "MTR running for you" was once a slogan that made Hong Kong people think of brightness and sunshine, but now we can only think of shady acts. Therefore, it is desirable if an investigation is conducted by the Legislative Council. As the democrats do not have enough votes, the motion will not be passed when it is put to vote. Nonetheless, we

have to set the record straight in history. The Legislative Council will keep records of the acts of the business community, the Government or MTRCL in the transport sector. All such acts are utterly unacceptable.

MR ALVIN YEUNG (in Cantonese): President, today Under Secretary Dr Raymond SO has a hard time coming to the Legislative Council to take up all the challenges in place of Secretary Frank CHAN. Not only does he need to represent the Transport and Housing Bureau or the SAR Government, but he also needs to represent the MTR Corporation Limited ("MTRCL"), being subject to the derision, ridicule or criticism of Members. This is really not an easy job for him.

President, on 7 August 1998, the dam on the Yangtze River in Jiujiang, Jiangxi Province, was breached, and ZHU Rongji, the then Premier of the State Council, arrived at the site two days later for inspection. Premier ZHU then said, (I quote) "Didn't you say that the dam was impregnable? Who would have thought that the work was so shoddy! Some contractors do not have construction qualifications or they have taken up too many projects, hence they have subcontracted some items, leading to subcontracting and exploitation at various levels, and giving rise to quite a number of jerry-built shoddy projects through the use of inferior materials! As regards such projects, we must get to the root of the problem, and those who are responsible for design, construction and supervision shall all be investigated. This is a matter of life and death, an undertaking of the century and a cause of the millennium, how can we have such shoddy projects, such 'damned' projects! Corruption to such an extent is simply awful!" (End of quote)

President, these words of Premier ZHU must have aroused mixed feelings of Hong Kong people today. Why does Hong Kong need to implement "one country, two systems" following the reunification? In the words of Dayo WONG: "The Mainland also acknowledges that its one system is very scary". Exactly because the system of Hong Kong is more advanced than that of the Mainland, DENG Xiaoping then designed "one country, two systems". Twenty years ago, when former Premier ZHU Rongji saw the jerry-built projects that affected people's lives, he raised strong criticisms against contractors; 20 years later, when the Shatin to Central Link ("SCL") incident happened in Hong Kong, a place where the social system is supposedly more advanced, how come no government official dares make some fair comments and seek justice for Hong

Kong people? If construction problems had not been revealed by the media, and if SCL was commissioned as scheduled, a platform might have been collapsed—I very much hope that this will not happen—resulting in casualties. I can say for sure that by then, government officials would only say "we will seriously follow up on all fronts and from various perspectives."

President, the SCL shoddy project reflects the decay and downfall of a city. Within a mere 20 years, a serious phenomenon of following all the practices of the Motherland has emerged in Hong Kong. I will not recklessly speculate on the complex entanglements among the Executive Authorities, the construction and engineering sectors, and the arbitrators; nor will I assume that the contractor involved in this incident, Leighton Contractors (Asia) Limited ("Leighton"), and UGL, which belong to the same parent group, have any connection with former Chief Executive LEUNG Chun-ying. I only want to stress one point, that is, the emergence of such a shoddy project is simply attributed to the pursuit of interests, and the reason why Hong Kong is Hong Kong is that we have a set of well-established regulatory regimes to prevent people from seeking interests at the expense of public security.

This set of regime should be comprehensive, multi-angle, fair and just and, more importantly, transparent. Many royalist Members query why the Legislative Council should conduct a separate investigation when the Government has already set up an independent commission of inquiry to conduct an investigation. Do Hong Kong people still remember the lead-in-water water incident three years ago? The Government likewise set up an independent commission of inquiry led by a Judge, and the royalists vetoed a motion of the Council to invoke the Legislative Council (Powers and Privileges) Ordinance ("the Ordinance"), blocking the establishment of a select committee. In the end, the report of the independent commission of inquiry led by a Judge criticized various departments for a collective dereliction of duty, but the then Chief Secretary for Administration, Carrie LAM, indicated that no civil servant should be held accountable. Hong Kong people should remember that plumbers were ultimately found guilty, the responsibility was shifted to them, and they were held criminally liable. Where is our institutional justice, President?

More importantly, we should never forget that the Executive Authorities and the legislature are two independent bodies. The fact that the Executive Authorities have undertaken a certain task does not mean the Legislative Council is not duty-bound to perform the task. A main function of the Legislative Council is to monitor the work of the Government, so how can the monitoring

party be fully convinced that the party being monitored is infallible in everything it does? Another important point is that the Government is the major shareholder of MTRCL. Following the occurrence of a major works incident, the largest shareholder naturally has the responsibility to take the initiative to conduct an investigation. However, owing to the conflict of interest that may arise due to the Government's status as a major shareholder, will the Government put its shareholder interests above public security upon completion of the investigation? Will the Government take a fully independent and detached position to deal with this matter? Will members of the public have doubts even if the Government really intends to do so?

In addition, the independent Commission of Inquiry set up by the Government will only investigate Hung Hom Station, but it is alleged that there are also problems in To Kwa Wan Station and Exhibition Centre Station of SCL. Will the Government set up an independent commission of inquiry for every station that is in trouble? Will there be sufficient independent individuals or retired judges who are willing to be in charge of such independent commissions of inquiry? Even if some more independent commissions of inquiry are established, will they be superfluous as claimed by the Government and royalist Members? On the other hand, Dr CHENG Chung-tai's motion provides for inquiring into the platform of Hung Hom Station "and other related matters". If—I really hope this will only be hypothetical—any worrying problems occur at every station of SCL in the future, a select committee set up by the Legislative Council for investigation will avoid conflict of interest, have greater flexibility and operational independence to maintain and highlight our institutional justice.

Under Secretary Dr Raymond SO indicated just now that the Ordinance should only be invoked in case of a major incident involving casualties, public interests and dereliction of duty on the part of officials. President, I really want to ask Under Secretary Dr Raymond SO the following question. Has there been any other serious scandal concerning infrastructure project that involves such a large sum of money over the past 21 years following the establishment of the SAR? President, I fail to see any. If the aforesaid condition must be fulfilled before the Ordinance can be invoked to set up a select committee, may I ask Under Secretary Dr Raymond SO or royalist Members who may vote against the motion later whether the incident concerned is really not related to major public interests? I am truly puzzled. President, I sincerely hope that someone may tell me why this incident, which involves an extensive range of major problems and scandals on project works, is surprisingly not related to public interests.

I must remind Members and Hong Kong people once again that the last time the Ordinance was invoked to set up a select committee was 2012, and at that time, the investigation was related to the West Kowloon-gate scandal involving LEUNG Chun-ying. If royalist Members had not offered help by casting affirmative votes, a select committee would not have been set up at that time. If our voting for Dr CHENG Chung-tai's motion this time around is politicization, I hope Members will recall why royalist Members cast affirmative votes in 2012 and think about what is meant by politicization.

President, another protagonist in this incident is Leighton, which is the contractor of a lot of government projects, including the West Kowloon Terminus of the Express Rail Link and seven other government projects. According to media reports, such projects involve some \$60 billion. Is this company really so big that no one dares to touch it? If the SAR Government dares not to touch it, the Legislative Council can do the job for it.

Certainly, the chance of passing this motion moved under the Ordinance is slim. I merely hope to convince royalist Members that the shoddy project in question provides the best opportunity for us to rebuild Hong Kong people's confidence in infrastructure and the institutions of Hong Kong. None of us wishes to see that projects that cost hundreds of billions of dollars turn out to be shoddy and detrimental to public security. Neither do we wish to return to the era of ZHU Yuanzhang, when every brick of the city wall must be inscribed with the name of the official and the worker in charge, so that should any portion of the wall collapse, those who were in charge would be identified and beheaded. I only hope that Hong Kong can still be Hong Kong.

I so submit.

MR FRANKIE YICK (in Cantonese): President, the recent incident concerning the steel bars at Hung Hom Station of the Shatin to Central Link has caused an uproar in town. Since this is a major incident having a bearing on the physical safety of members of the public, the Liberal Party believes that it is absolutely necessary to conduct a thorough investigation into the incident and present the truth to the public.

As such, the Liberal Party is pleased to see that the Government shared people's concerns by setting up an independent commission of inquiry ("the Commission of Inquiry") last week under the Commissions of Inquiry Ordinance (Cap. 86) and appointing Mr Michael John HARTMANN, former

Non-Permanent Judge of the Court of Final Appeal, as the Chairman of the Commission of Inquiry. Since Mr Justice Michael John HARTMANN was the Chairman of the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link Independent Expert Panel in 2014, he has experience in investigating railway-related matters, and he is also well versed in matters relating to the project works of the MTR Corporation Limited. In addition, the Commission of Inquiry set up pursuant to the Commissions of Inquiry Ordinance has the statutory power to summon specific persons to give evidence. As no one can slip through its net, the Commission of Inquiry enjoys considerable credibility in society. I believe this is the best arrangement.

That said, Dr CHENG Chung-tai requests to invoke the Legislative Council (Powers and Privileges) Ordinance ("the Ordinance") today to, as far as this incident is concerned, appoint a select committee to commence work concurrently with the Commission of Inquiry. Is this move uncalled for and will it cause wastage of resources? If the Legislative Council appoints a select committee, Members have to take up the work apart from performing their routine tasks in the legislature, hence the efficiency in investigation will naturally be inferior to the Commission of Inquiry led by a former Judge. At the same time, the Government has requested the Commission of Inquiry to submit its report within six months.

In addition, the Ordinance should only be invoked as a last resort, rather than being arbitrarily invoked for no good reason. If we look at the whole picture now, we will realize that the Government has already set up the Commission of Inquiry to conduct a thorough investigation into the incident, so there is no need to invoke the Ordinance. The Liberal Party believes that we should wait for the report of the Commission of Inquiry before considering our next move.

For this reason, the Liberal Party opposes the motion moved by Dr CHENG Chung-tai pursuant to the Ordinance. President, I so submit.

SUSPENSION OF MEETING

PRESIDENT (in Cantonese): I now suspend the meeting until 9:00 am tomorrow.

Suspended accordingly at 7:24 pm.

Annex I

Road Traffic (Amendment) Bill 2018

Committee StageAmendment moved by the Honourable LAM Cheuk-tingClauseAmendment Proposed

4

[NEGATIVED]

By deleting subclause (5) and substituting—

“(5) After regulation 51(5A)—

Add

“(5B) A driver identity plate referred to in this regulation is valid for 5 years from the date of issue.”. ”.