OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 11 July 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 PAUL TSE WAI-CHUN, J.P.

THE HONOURABLE CLAUDIA MO

THE HONOURABLE MICHAEL TIEN PU-K-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, B.B.S., 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, S.B.S., 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

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, J.P.

THE HONOURABLE TANYA CHAN

THE HONOURABLE CHEUNG KWOK-KWAN, J.P.

THE HONOURABLE HUI CHI-FUNG

THE HONOURABLE LUK CHUNG-HUNG, J.P.

THE HONOURABLE LAU KWOK-FAN, M.H.

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 JIMMY NG WING-KA, J.P.

THE HONOURABLE KENNETH LAU IP-KEUNG, B.B.S., M.H., J.P.
PUBLIC OFFICERS ATTENDING:

THE HONOURABLE LAU KONG-WAH, J.P.
SECRETARY FOR HOME AFFAIRS

MR JOSEPH CHAN HO-LIM, J.P.
UNDER SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY, AND
SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY

DR RAYMOND SO WAI-MAN, B.B.S., J.P.
UNDER SECRETARY FOR TRANSPORT AND HOUSING, AND
SECRETARY FOR TRANSPORT AND HOUSING

PROF THE HONOURABLE SOPHIA CHAN SIU-CHEE, J.P.
SECRETARY FOR FOOD AND HEALTH

THE HONOURABLE KEVIN YEUNG YUN-HUNG, J.P.
SECRETARY FOR EDUCATION

THE HONOURABLE PATRICK NIP TAK-KUEN, J.P.
SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS

MR LIU CHUN-SAN, J.P.
UNDER SECRETARY FOR DEVELOPMENT

MR WESLEY WONG WAI-CHUNG, S.C., J.P.
SOLICITOR GENERAL

CLERKS IN ATTENDANCE:

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

MISS ODELIA LEUNG HING-YEE, DEPUTY SECRETARY GENERAL

MISS FLORA TAI YIN-PING, ASSISTANT SECRETARY GENERAL

MS DORA WAI, 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

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Other Papers

No. 125 — The Standing Committee on Legal Education and Training
Annual Report 2017
1 January 2017 to 31 December 2017

No. 126 — Clothing Industry Training Authority
Annual Report 2017
No. 127 — Hong Kong Deposit Protection Board
Annual Report 2017-2018

No. 128 — Prisoners' Welfare Fund
Report by the Commissioner of Correctional Services on the
administration of the Fund, Financial statements and Report of
the Director of Audit for the year ended 31 March 2018

No. 129 — Report of the Public Accounts Committee on Report No. 70 of
the Director of Audit on the Results of Value for Money
Audits (July 2018 — P.A.C. Report No. 70)

Committee on Rules of Procedure of the Legislative Council
of the Hong Kong Special Administrative Region Progress Report for the
period October 2017 to July 2018

Report No. 18/17-18 of the House Committee on Consideration of Subsidiary
Legislation and Other Instruments

Report of the Bills Committee on Human Organ Transplant (Amendment)
Bill 2018

Report of the Panel on Food Safety and Environmental Hygiene 2017-2018

Report of the Panel on Manpower 2017-2018

Report of the Panel on Commerce and Industry 2017-2018

Report of the Panel on Constitutional Affairs 2017-2018

Report of the Panel on Housing 2017-2018

Report of the Panel on Welfare Services 2017-2018

Report of the Panel on Transport 2017-2018

Report of the Panel on Education 2017-2018

Report of the Panel on Economic Development 2017-2018
Report of the Panel on Administration of Justice and Legal Services 2017-2018

Report of the Panel on Health Services 2017-2018

Report of the Panel on Financial Affairs 2017-2018

ADDRESSES

PRESIDENT (in Cantonese): Address. Mr Kenneth LEUNG will address the Council on the "Public Accounts Committee Report No. 70".

Report of the Public Accounts Committee on Report No. 70 of the Director of Audit on the Results of Value for Money Audits (July 2018 — P.A.C. Report No. 70)

MR KENNETH LEUNG: President, on behalf of the Public Accounts Committee ("the Committee"), I have the honour to table our Report No. 70 today.

Out of the eight chapters covered by the Director of Audit's Report No. 70, the Committee has decided to hold hearings to examine three chapters in detail. They are Chapter 1 on "Management of restored landfills", Chapter 3 on "Integrated education" and Chapter 8 on "Sha Tin Section of Route 8". The Committee's Report tabled today covers our conclusions and recommendations on the Chapter on "Integrated education" only. In view of the complexity of issues raised in the other two Chapters, the Committee has decided to defer a full report on these two subjects.

The Committee has also studied the other five chapters by asking the relevant bureaux and departments to provide written replies to members' questions on how they addressed the inadequacies raised in the Director of Audit's Report. The Committee was satisfied with these replies, and decided that no public hearing on these Chapters was necessary. We would like to take this opportunity to express our appreciation to these bureaux and departments in providing detailed replies to our questions.
I will now highlight some of the Committee's conclusions and recommendations on the Chapter on "Integrated education".

Students with special educational needs ("SEN") refer to students who need special educational support because of learning or adjustment difficulties. According to the Administration's classification, there are nine categories of students with SEN.

Under the integrated education policy adopted since 1999-2000 school year, all public sector ordinary schools are required to provide an accommodating learning environment for students with SEN. Only students with more severe or multiple disabilities would be referred to special schools for intensive support services. In addition to regular subventions, the Education Bureau also provides all public sector ordinary schools with additional resources in the form of cash grant and additional teaching staff, professional support and teacher training to help schools cater for students with SEN.

The Committee notes that there was a 37% increase in the number of students with SEN in the past five school years. In 2016-2017 school year, there were a total of more than 42,000 students with SEN studying in public sector ordinary schools, representing about 7.8% of the total student population in these schools. The Education Bureau had spent more than $1.4 billion on integrated education in that year.

The Committee expresses concern that the inadequacies identified in the Director of Audit's Report have reflected that more resources are required for the effective implementation of integrated education. Noting that the Education Bureau is currently reviewing various measures, such as the Learning Support Grant, the Intensive Remedial Teaching Programme, and the School-based Educational Psychology Service, the Committee urges the Administration to allocate more resources to improve and expand the coverage of the measures under integrated education. Consideration should also be given to allocating additional resources to help students with SEN in other schools, such as Direct Subsidy Scheme schools.

For the Learning Support Grant, the Committee expresses serious concern that only 35 out of 277 schools have switched from an older scheme to this Grant which provides a recurrent cash grant calculated according to the number of
students with SEN at a school and their required level of support. According to the Education Bureau, schools had reservation about the stability of the teaching force in school under the Grant. In this connection, the Committee urges the Education Bureau to identify the reasons for the low switching rate and consider whether a new scheme should be introduced.

The Committee expresses serious concern about the inadequacies in the provision of the School-based Educational Psychology Service. In 2016-2017 school year, only 21% of 380 schools succeeded in their application for the enhanced Service. Noting that this is partly attributable to the limited supply of Educational Psychologists, the Committee urges the Education Bureau to expedite its liaison with local tertiary institutions to increase the supply of Educational Psychologists and formulate a plan to extend the enhanced Service to all schools as soon as practicable. All the Committee's conclusions and recommendations are detailed in the Report.

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

Thank you.
During this legislative session, the Committee studied a number of issues, including the procedural arrangements relating to meetings of the Council, the nomination process for the election of the President of the Legislative Council, as well as Members' conduct during and outside meetings of the Council and committees. Besides, the Committee also considered amendments to the Rules of Procedure proposed by Members.

President, the Committee discussed the proposed arrangements relating to the attendance of the Chief Executive at meetings of the Legislative Council to answer Members' questions and the improvements to Members' question time. Views were also sought from Members and the Administration on the proposed arrangements. After considering the relevant proposals, the Committee agreed that in addition to the current Chief Executive's Question and Answer Sessions, the Chief Executive should be requested to attend one additional Question Time lasting 30 minutes to be held each month in each legislative session. The proposed arrangement was adopted by the Administration and implemented during this legislative session. Meanwhile, Members could not reach a consensus on the proposed arrangement to improve the question time of Members. The Committee would need to discuss the arrangement again in due course.

The current-term Legislative Council Members were generally supportive to the inclusion of a provision in the procedures for the election of the President of the Legislative Council, setting out that candidates running for the post should be required to include a declaration during the nomination process to affirm that they have satisfied the requirements of nationality and residency in Hong Kong under the Basic Law. During this year, the Committee continued to discuss and consult Members on the form of the declaration. As a higher proportion of Members opined that candidates for the office of the President should be required to make a statutory declaration in compliance with the requirements under the Oaths and Declarations Ordinance, the Committee would study the implementation details, including revising the requirements under the Rules of Procedure.

At the beginning of this legislative session, some Members moved proposed resolutions to amend the Rules of Procedure. The proposed amendments, among other things, sought to specify the power of the President to select amendments and revise the quorum for a committee of the whole Council. The Committee considered these proposed amendments on the request of the President. Except one amendment, Members could not reach consensus on the
proposals. Subsequently, Members submitted their respective amendments to the Legislative Council in their own capacity. Amendments endorsed by the Council were listed in the Appendix of the progress report.

The Committee also discussed Members' conduct during and outside meetings of the Council and committees, including a mechanism to impose sanctions on Members for misconduct. The Committee would consult Members on this in due course.

President, I would like to take this opportunity to thank Members for their support for the Committee. My gratitude also went to the Secretariat for its efforts and assistance. Thank you, President.

(Mr Dennis KWOK stood up)

PRESIDENT (in Cantonese): Mr Dennis KWOK, what is your point of order?

MR DENNIS KWOK (in Cantonese): I would like to raise a point of order in accordance with Rule 21(6) of the Rules of Procedure. I hope that Mr Paul TSE can clarify why there is no mention of the legal advice obtained from senior counsels in relation to the constitutionality of the proposal to lower the quorum of a committee of the whole Council under Article 75 of the Basic Law.

PRESIDENT (in Cantonese): Mr Paul TSE, do you wish to make a clarification?

MR PAUL TSE (in Cantonese): President, this report was prepared pursuant to the established procedures and practice. Indeed, the proposal referred to by Mr Dennis KWOK is not as simple as he suggests. Rather, it is highly controversial. Should I include this issue in the report, I am afraid I would have to spend a lot of time to explain the opinions in favour of and against it. This would deviate from our usual practice. In preparing the report, I sought to take on a neutral point of view as far as possible according to the usual practice of the Rules of Procedure and the Legislative Council Secretariat. Thank you, President.
PRESIDENT (in Cantonese): Mr Steven HO will address the Council on the "Report of the Panel on Food Safety and Environmental Hygiene 2017-2018".

Report of the Panel on Food Safety and Environmental Hygiene 2017-2018

MR STEVEN HO (in Cantonese): President, in my capacity as Chairman of the Panel on Food Safety and Environmental Hygiene ("the Panel"), I report on the major work of the Panel in this legislative session.

In respect of food safety and supply, members generally supported the Administration's proposal to amend the Food Adulteration (Metallic Contamination) Regulations and the proposed implementation of the Convention on the Conservation of Antarctic Marine Living Resources in Hong Kong. Members also welcomed the Administration's consultancy study on "cooking oils in use", and the introduction of new measures to cultivate a low-salt-low-sugar dietary culture.

The Administration proposed to lift the import ban on all vegetables, fruits, milk, milk beverages and dried milk from four prefectures of Japan, namely Ibaraki, Tochigi, Chiba and Gunma, with conditions, while continuing to prohibit the import of banned products from Fukushima. Members expressed concern about the safety of imported food, and urged the Administration to uphold an effective gatekeeping role to ensure that food imported from the four prefectures would meet the safety standards for radiation levels.

On environmental hygiene and hawker management, members supported the plan of the Administration to gradually extend the Internet Protocol Camera Scheme to hygiene black-spots across the territory on a trial basis for one year. Members also supported the Food and Environmental Hygiene Department's replacement of the existing radio communications system in order to strengthen the capability and efficiency of its hawker management work.

Members were concerned about the provision and utilization of columbarium facilities. The Administration proposed to introduce an extendable arrangement for the use of public niches, and to give additional ballot weightings to unsuccessful applications in the coming and future allocation exercises, so that they would stand a higher chance of success. The majority of members were supportive of the general direction of the two proposals.
On animal welfare, members generally supported the proposed amendment to Road Traffic Ordinance (Cap. 374) to enlarge the scope of "animal" under its section 56 by bringing cats and dogs under the coverage along with the existing seven animals of horse, cattle, ass, mule, sheep, pig and goat. The proposed amendment requires a driver to stop in case of a traffic incident involving damage to any of these animals. Meanwhile, members also called on the Administration to provide support to animal welfare organizations to facilitate their continued implementation of the "Trap-Neuter-Return" trial programme.

The Subcommittee on Issues Relating to Public Markets under the Panel already commenced work to study and follow up on policies and measures relating to public markets.

Lastly, I would like to take this opportunity to thank all members for supporting the work of the Panel and the Legislative Council Secretariat for its hard work. I so submit.

PRESIDENT (in Cantonese): Mr KWOK Wai-keung will address the Council on the "Report of the Panel on Manpower 2017-2018".

Report of the Panel on Manpower 2017-2018

MR KWOK WAI-KEUNG (in Cantonese): President, in my capacity as Chairman of the Panel on Manpower ("the Panel"), I now table before the Legislative Council the Panel's work report for this legislative session. Since the Panel's work is already detailed in the report, I will only highlight the major work of the Panel to this Council.

The Panel continued to follow up the progress of the legislative proposals on protecting employees' rights and benefits. Members noted that the authorities already introduced a bill on increasing statutory paternity leave from three days to five days into the Legislative Council. As for the abolition of the offsetting arrangement under the Mandatory Provident Fund system, some members and the business sector still had reservation about the Administration's latest conception. But the Administration advised that it was exchanging views with major stakeholders, in the hope of formulating a more acceptable proposal. Most
members urged the authorities to expeditiously complete the whole task and submit the relevant legislative proposal as soon as possible.

Members were concerned that most employees earning the statutory minimum wage were outsourced contract workers of the Government. The Panel passed several motions on urging the Administration to review the mechanism for evaluating outsourced service tenders, enhance the deterrent effect of the demerit points system, and examine the contents of the Standard Employment Contract, so as to improve employment benefits for outsourced workers.

The Panel discussed the review findings on the operation of the Continuing Education Fund. Members welcomed the various enhancement measures and requested the authorities to consider the idea of increasing the amount of subsidy for enrolling on the relevant programmes, lifting the age limit on applicants, and expanding programme coverage. Having regard to members' views, the authorities agreed to raise the subsidy ceiling from $10,000 to $20,000 per person.

Members discussed employees' occupational safety and health. Members called on the authorities to expedite its legislative work to bring in higher penalty for breaching the legislation on occupational safety and health.

Most members were disappointed at the authorities' decision of refusing to take forward any legislative proposal on standard working hours and overtime compensation, while considering that the 11 sector-specific working hours guidelines which the authorities intended to formulate could not resolve the problem of prolonged working hours faced by employees. The Panel would continue to follow up the effectiveness of the guidelines concerned.

Besides, the Panel discussed the provision of support services for job seekers with employment difficulties and the formulation of a talent list. Members were of the view that the authorities should project the manpower demands in specific industries and endeavour to train up local talents to dovetail with market needs.

President, I so submit.
MR WU CHI-WAI (in Cantonese): President, in my capacity as Chairman of the Panel on Commerce and Industry ("the Panel"), I submit the report on the work of the Panel for this session and briefly highlight its major areas of work.

On the development of innovation and technology, members supported the setting up of two research clusters at the Hong Kong Science Park and the injection of funds into the Innovation and Technology Fund ("ITF"), so as to launch new initiatives, including the Technology Talent Scheme, and to provide funds to the Hong Kong Science and Technology Parks Corporation ("HKSTPC") for supporting researches on, among others, health care technologies. Members suggested authorities to improve the application and vetting procedures of the various funding programmes under ITF and urged them to further encourage investment in research and development. Concerning the introduction of the Technology Talent Admission Scheme ("TechTAS"), members considered that eligible TechTAS applicants should not be limited to tenants and incubatees of HKSTPC and Cyberport. The authorities should also explain clearly the rationale for the introduction of TechTAS, so as to address the concerns about the competition for employment opportunities between overseas/Mainland technology talents and local talents.

Members supported the staffing proposals of the authorities for the Belt and Road Office. Members urged the authorities to assist Hong Kong's financial services sector and the legal profession to tap the Belt and Road markets. Members opined that the authorities should take the lead to formulate a uniform commercial code for the Belt and Road countries.

On the Free Trade Agreement ("FTA") and a related Investment Agreement signed between Hong Kong and the Association of Southeast Asian Nations in 2017, members urged the authorities to forge a similar FTA with the European Union and requested the authorities to assist various sectors of professional services to go global and grasp the business opportunities provided by FTA.
Members supported the proposals to inject funds into the Dedicated Fund on Branding, Upgrading and Domestic Sales and the Export Marketing and Trade and Industrial Organization Support Fund. They called on the authorities to collaborate with industry organizations to promote the various funding schemes to small and medium enterprises ("SMEs"). Members also urged the authorities to follow up with the Hong Kong Monetary Authority to address the difficulties faced by SMEs in opening bank accounts, especially those with business operations in the Mainland and Belt and Road countries.

On economic and trade development, members were concerned about the progress of the strategic dialogue with the United Kingdom Government in preparation for Brexit, and enquired whether Hong Kong would initiate similar strategic dialogue with the United States Government. Members also suggested the authorities to explore the possibility of Hong Kong joining the Trans-Pacific Partnership. Moreover, members also suggested the authorities to make reference to Israel's experience and put in place a set of key performance indicators to evaluate the work performance of each Overseas Hong Kong Economic and Trade Office.

President, the work of the Panel has been set out in detail in the report. I would like to take this opportunity to thank members for supporting the work of the Panel.

PRESIDENT (in Cantonese): Mr Martin LIAO will address the Council on the "Report of the Panel on Constitutional Affairs 2017-2018".

Report of the Panel on Constitutional Affairs 2017-2018

MR MARTIN LIAO (in Cantonese): President, in my capacity as Chairman of the Panel on Constitutional Affairs ("the Panel"), I report to the Council the main areas of deliberation of the Panel during the current legislative session.

The Government issued a consultation paper on review of electoral arrangements at the end of last year and consulted the Panel for its views. Members in general expressed support for the recommendation of introducing a
provision of targeted exemption of the criminal liability of a third party (i.e. individuals and groups other than the candidates concerned and their election expense agents) who incurred electricity and Internet access charges in publishing election advertisements on the Internet. Some members, however, were disappointed by the authorities' proposals that the existing regulation on exit polls would remain unchanged and that the present polling hours of Legislative Council and District Council elections should be maintained. The Administration promised to propose the way forward after conducting studies on the various issues related to polling hours.

The Panel had discussed the practical arrangements for the 2018 Legislative Council By-election. Members discussed in detail the arrangements at polling stations and matters concerning the internal physical and technical security guidelines governing the handling of personal data. Moreover, they also made various recommendations to the Administration.

The Panel was consulted on an outline of the proposed content of the National Anthem Bill ("the Bill"). It held two special meetings to receive public views on the subject. Members relayed to the Government the public concern as many people were worried that they might breach the law unintentionally. The Government said that in drafting the Bill, it would thoroughly consider the concerns raised by various parties. The Government explained that the legislative principle was to ensure that the legislative intent and objectives of the National Anthem Law would be implemented through the local legislation, whilst taking into account the legal system and the circumstances of Hong Kong.

The Government consulted the Panel on the legislative proposals which sought to implement eight recommendations of priority set out in the report on the Discrimination Law Review ("DLR") for its views. Members generally supported the legislative proposals, where two motions were passed by the Panel: one was to urge the Government to also cover the acts of harassment, vilification and offensive behaviour towards breastfeeding in the Sex Discrimination Ordinance and to classify such acts as unlawful; and the other was to urge the Government to expeditiously implement the various prioritized recommendations under the DLR with respect to the Race Discrimination Ordinance.
The Panel received public views on four reports and outlines on different international human rights treaties submitted by the HKSAR Government. Besides, the Panel received briefings respectively by the Equal Opportunities Commission Chairperson and the Privacy Commissioner for Personal Data on an update of their work. The Panel was also briefed on the work of the Government in managing government records and promoting the Basic Law.

President, I so submit.

PRESIDENT (in Cantonese): Ms Alice MAK will address the Council on the "Report of the Panel on Housing 2017-2018".

Report of the Panel on Housing 2017-2018

MS ALICE MAK (in Cantonese): President, in my capacity as Chairman of the Panel on Housing ("the Panel"), I submit to the Legislative Council the report of the work of the Panel for the 2017-2018 session and report on several major areas of work of the Panel.

On public housing supply, the Government has set the ten-year supply target at 200,000 public rental housing ("PRH") units under the Long Term Housing Strategy ("LTHS"), but the huge number of PRH applicants on the waiting list just keeps growing. Worrying that it would be difficult to meet the supply target of PRH housing should the Government fail to secure adequate housing sites, members urged the Government to increase public housing supply while reallocating more of those sites originally earmarked for private housing developments to the Hong Kong Housing Authority ("HA") for construction of public housing.

In the light that the waiting time of general applicants for PRH allocation was way longer than the target of the HA of providing the first offer of PRH units at around three years on average, and that the progress of PRH production was not satisfactory, members made various suggestions to the Administration to increase housing supply, including identifying more spade ready sites for HA to provide public housing, expediting the development process of non-spade ready
sites, converting the agricultural land currently owned by private developers into residential use through public-private collaboration, relaxing in an appropriate scale the development restrictions (e.g. plot ratio and building height for public housing sites), and conducting a review of the policy on private recreational leases ("PRLs") so that facilities on large pieces of land leased under PRLs were used for meaningful purposes.

Members expressed concern that the HA's move of regularizing Green Form Subsidised Home Ownership Scheme ("GSH") would reduce the PRH supply and thus urged the Administration to accord priority to the PRH supply over the provision of other housing units for meeting home ownership aspirations. They considered that the land earmarked for PRH developments should not be used for providing GSH.

Given the current high prices of Home Ownership Scheme ("HOS") flats, members request the HA to comprehensively review the selling prices of subsidized sale housing, which they considered should be delinked from market prices as well as set on the basic considerations of construction costs and the ability of the public to afford.

Members were generally of the view that in conducting squatter clearances to resume land for PRH developments, the Government should rehouse and compensate the affected occupants of squatter structures in the first place. The Panel had held joint meetings with the Panel on Development to discuss the rehousing and compensation arrangements regarding the public housing development Phase 1 at Wang Chau, Yuen Long, and to receive views of those affected by the clearance operations.

Lastly, President, I would like to express my gratitude to members of the Panel and Secretariat staff for their support and efforts made in the past year.

Thank you.

PRESIDENT (in Cantonese): Mr SHIU Ka-chun will address the Council on the "Report of the Panel on Welfare Services 2017-2018".
Report of the Panel on Welfare Services 2017-2018

MR SHIU KA-CHUN (in Cantonese): President, in my capacity as Chairman of the Panel on Welfare Services ("the Panel"), I would like to submit to the Council the Report on the work of the Panel during this legislative session. I will focus on introducing a few aspects of the work of the Panel.

Some members took the view that since the implementation of the Lump Sum Grant Subvention System ("LSGSS"), service quality of many non-governmental organizations ("NGOs") receiving subvention under LSGSS had deteriorated, manpower resources allocated to service delivery had shrunk and public accountability of NGOs had not been improved. Some NGOs had also abused the flexibility in resource deployment, resulting in a great disparity in the pay levels between staff at the top and bottom tiers and high staff turnover. Some members opined that these NGOs should offer the staff with reasonable remuneration and foster an environment for staff's upward mobility. Members learned that the Social Welfare Department had already set up the Task Force for Review on Enhancement of Lump Sum Grant Subvention System ("Task Force"). Some members requested that the scope of review of the Task Force should include the possibility of abolition of LSGSS and the name of the Task Force should be revised accordingly.

Members were concerned that the Comprehensive Social Security Assistance ("CSSA") Scheme had not been reviewed by the Administration for many years and considered that there was a number of problems in the Scheme. For example, the CSSA payment rates were insufficient to meet basic needs, and the eligible age for elderly CSSA would be raised from 60 to 65. The Administration was therefore requested to conduct a comprehensive review of the CSSA Scheme. Specifically the Administration was requested to ensure that the level of the rent allowance under the CSSA Scheme could cover the actual rent paid by 90% of CSSA households living in private housing and to immediately remove the age adjustment arrangement.

Members had also discussed the Elderly Services Programme Plan. Some members considered that the Administration should put emphasis on community care services for the elderly in terms of future development of long term care services. They also requested the Administration to provide specific details for
implementing "ageing-in-place" and for achieving the target of zero waiting time for community care services for the elderly.

Noting that a Review Working Group would be established under the Rehabilitation Advisory Committee to take forward the task of formulating the new Hong Kong Rehabilitation Programme Plan ("RPP"), some members asked the Administration to consider appointing Legislative Council Members and service users with different background to the Review Working Group, and consider renaming RPP as "Plan on issues relating to disabilities" or "Policies and planning for issues relating to disabilities". The Administration was also requested to establish a Commission on Persons with Disabilities to formulate and oversee implementation of policies for persons with disabilities.

Finally, I would like to take this opportunity to thank members for participating in the work of the Panel over the past year, and the representatives for many organizations and members of the public for raising their precious views to the Panel.

PRESIDENT (in Cantonese): Mr Frankie YICK will address the Council on the "Report of the Panel on Transport 2017-2018".

Report of the Panel on Transport 2017-2018

MR FRANKIE YICK (in Cantonese): President, in my capacity as Chairman of the Panel on Transport ("the Panel"), I now submit the Report on the work of the Panel for this year. I will give a brief account of several major items of its work.

In this year, the Panel continued to closely monitor policies and issues of public concern relating to transport matters.

The Subcommittee on Matters Relating to Railways under the Panel also continued to follow up on matters relating to railway planning, the implementation of railway projects under construction and the operation of existing railways.
In May 2018, the Panel was briefed on the fare adjustment of the MTR Corporation Limited ("MTRCL") in 2018, which would be implemented in accordance with the Fare Adjustment Mechanism ("FAM") as reviewed in 2017. The overall fare adjustment rate for MTR fares in 2018-2019 came to +3.14%. Members were generally dissatisfied that MTRCL would increase the fares according to FAM despite its hefty profits. Members noted that upon the implementation of new fares, MTRCL would provide the "3% Rebate" to Octopus users for at least six months. Members in general considered that more fare concessions should be offered to passengers.

The Panel has been concerned about the progress of the Hong Kong-Zhuhai-Macao Bridge ("HZMB") project and the transport arrangements after its commissioning. In May 2018, the Administration consulted the Panel on the operational arrangements for the HZMB and the Hong Kong Port.

The Administration had consulted the Panel on a number of major transport infrastructural projects, including Cross Bay Link, Tseung Kwan O—Construction, and widening of Tai Po Road (Sha Tin Section). Members also raised their suggestions on how to speed up the works progress and properly implement mitigation measures to minimize the noise impact and air pollution caused to the nearby residents by the works during the construction period.

In this year, the Panel continued to follow up on the issue of serious shortage of parking spaces and the progress of implementing the measures recommended in the Public Transport Strategy Study. It also held public hearings to collect views on this front and recommended effective improvement measures to the Administration. Besides, the Administration consulted the Panel on the Public Transport Fare Subsidy Scheme, the legislative amendments on enhancing the safety requirements of road works and the implementation of a new generation of on-street parking meter system. In addition to expressing support, members also voiced their opinions proactively for consideration by the Administration.

President, a detailed account of the other work of the Panel can be found in the written report. I so submit.

PRESIDENT (in Cantonese): Dr CHIANG Lai-wan will address the Council on the "Report of the Panel on Education 2017-2018".
Report of the Panel on Education 2017-2018

DR CHIANG LAI-WAN (in Cantonese): President, in my capacity as Chairman of the Panel on Education ("the Panel"), I now report some major items of work of the Panel for the 2017-2018 session.

One of the items of concern of the Panel was student guidance services in primary schools. Members were in support of the Administration's proposal on "one social worker for each school", but worried that Student Guidance Teachers ("SGT") and student guidance personnel ("SGP") would be replaced by social workers. Members called on the Administration to adopt a "one social worker plus one SGT/SGP" service mode in each primary school. The Education Bureau undertook that it would review the mode of collaboration between student guidance and social work services, and explore with the education sector various feasible proposals.

Another item of concern of the Panel was the development of kindergarten ("KG") education sector. Under the new KG education policy, 70% of KGs offering whole-day ("WD")/long WD ("LWD") programmes collected school fees below $1,000 per month, which was a great improvement as compared to merely 5% in the previous school year. Members strongly requested the Administration to provide full subsidies and more places to WD and LWD KGs. Besides, under the efforts of the Panel over these years, the Administration undertook to explore the feasibility of setting up a salary scale for KG teachers, and it was expected that a decision would be made in about three years' time.

After many rounds of discussion by the Panel, Primary Three Territory-wide System Assessment ("P3 TSA") this year would adopt a sampling approach observing the principle of "no student names, no school names, and no collection of school reports". However, schools who would like to obtain school-level reports could arrange for the participation of all of their P3 students, and Members were worried that drilling practice would continue. Members urged the Administration to give students the choice in regard to their participation or otherwise in P3 TSA, establish a mechanism to monitor the implementation of P3 TSA and take follow-up actions if drilling persists.
Members were generally of the view that excessive homework would have negative effects on students' physical and psychological development. They called upon the Administration to adopt measures in alleviating the homework pressure of students, such as arranging some tutorial sessions within school time for students to complete part of their homework and implementing "No Homework Day",

The Panel had voiced its opinions on the promotion of sex education as well as moral and civic education ("MCE") in schools. Members urged the Administration to step up MCE to nurture positive values in students, and to review the implementation of sex education and map out a way forward.

In regard to universities, members were in support of setting up a Hostel Development Fund, speeding up hotel developments so that all university students could experience hostel life.

The Panel was also very concerned about the learning support for students with special educational needs. Due to insufficient boarding places in specials schools, students would have to commute a long way to school. Members were of the view that the Administration needed to formulate a long-term plan to increase the boarding places in specials schools.

Finally, I take this opportunity to thank members for their active participation. I so submit.

PRESIDENT (in Cantonese): Mr Jeffrey LAM will address the Council on the "Report of the Panel on Economic Development 2017-2018".

Report of the Panel on Economic Development 2017-2018

MR JEFFREY LAM (in Cantonese): President, in my capacity as Chairman of the Panel on Economic Development ("the Panel"), I now submit the Report on the work of the Panel for this year, and I will give a brief account of several major items of its work.
The Panel was briefed by CLP Power Hong Kong Ltd. and The Hongkong Electric Company Ltd. ("the two power companies") on the new development plan from 2018 to 2023 and the results of the tariff reviews in 2018 and 2019. Noting that Hong Kong was transforming to use the cleaner but more expensive natural gas for power generation, members expressed grave concern about the future electricity tariff increases. Members called upon the Administration to effectively play the gatekeeping role in striving to strike a balance between environment protection and cost control, and monitor the increase in electricity tariffs and pay more efforts in promoting energy saving measures. Members also urged the two power companies to identify supply sources of less expensive natural gas or other alternative fuels to mitigate the pressure on the tariff increases.

The Panel was briefed by the Airport Authority Hong Kong ("AAHK") on the implementation progress of the three-runway system ("3RS") project, the various government measures provided by the Administration to support 3RS and the extra manpower demand. Members were concerned about the progress and expenditure of the project. They urged the Administration to ensure that the delivery of the project could be completed in time and within budget. The Panel was assured that the Administration had adopted a multi-pronged approach in monitoring the work of AAHK. AAHK also undertook to submit progress report of the project to the Panel half-yearly.

The Hong Kong Disneyland Resort ("HKDL") is a long-term investment of the Hong Kong Government in tourism infrastructure. Members were concerned about the net loss recorded despite the rise in total park attendance and revenue increase of HKDL for the fiscal year 2017. One reason for the net loss was the increased depreciation arising from the new assets launched in the year. The Panel passed the motions urging the Administration to review the utilization of the vacant site reserved for the Phase 2 development of HKDL and to devise a mechanism concerning the management fees and royalties of HKDL.

The development of the Guangdong-Hong Kong-Macao Bay Area ("the Bay Area") is a key national development strategy and a golden opportunity to inject new impetus to Hong Kong's economy. In order to better understand the Bay Area development, in April this year, the Panel, Panel on Financial Affairs, Panel on Commerce and Industry, and Panel on Information Technology and Broadcasting conducted a duty visit to five cities in the Bay Area, namely Guangzhou, Shenzhen, Foshan, Dongguan and Zhongshan. Members met with
representatives of the Guangdong Provincial Government as well as the Municipal Governments concerned, and a wide range of issues of mutual concern were discussed.

A detailed account of the other work of the Panel can be found in the written report. I would take this opportunity to thank members and colleagues in the Secretariat for their support to the work of the Panel over the past year.

President, I so submit.

PRESIDENT (in Cantonese): Dr Priscilla LEUNG will address the Council on the "Report of the Panel on Administration of Justice and Legal Services 2017-2018".

Report of the Panel on Administration of Justice and Legal Services 2017-2018

DR PRISCILLA LEUNG (in Cantonese): President, in my capacity as Chairman of the Panel on Administration of Justice and Legal Services ("the Panel"), I now submit the Report on the work of the Panel for this year, and I will give a brief account of several major items of its work.

In this legislative session, the Panel continued to receive briefings by the Administration and provide views on the legislative proposals in respect of policy matters relating to the administration of justice and legal services, including the Evidence Ordinance, the Report on "Hearsay in Criminal Proceedings" and the "Arrangement on Reciprocal Recognition and Enforcement of Civil Judgments in Matrimonial and Family Cases by the Courts of the Mainland and of the Hong Kong Special Administrative Region". The Panel also discussed the amendments to the Fatal Accidents Ordinance proposed by members.

The Panel also continued to pay attention to the legal aid services provided by the Administration. The Administration briefed the Panel on the proposed legislative amendments. Besides, the manpower of the Judiciary was also one of the main concerns of the Panel, and advice was given by the Panel to the
Judiciary. The Panel expressed concern over the case of a man taking out a chopper in the courtroom, and invited the Judiciary to report on the enhanced security measures.

Moreover, the Panel was concerned about a number of major policy issues relating to the administration of justice and legal services, including the preliminary outcome of the study conducted by the Law Reform Commission to consider various options to enhance its efficiency and operation, the establishment of a framework for an reciprocal recognition and enforcement of judgments arrangement with the Mainland to cover civil and commercial judgments. In regard to the Consultation Paper on Gender Recognition issued by the Inter-departmental Working Group on Gender Recognition in June 2017, the consultation caused much public concern and controversy, and the Panel held a public hearing to gauge public opinions. Members held divergent views towards this topic and a consensus had not yet been reached by the Panel.

In the course of discussion, the Panel also invited two legal professional bodies to exchange views on issues of concerns to the legal profession, including the future development of the legal profession under the trend of globalization and the roles that should be played by the Department of Justice under this trend, legal education and training in Hong Kong, and briefing out of criminal and civil cases by the Department of Justice. Concerning legal education and training in Hong Kong, the Panel invited to the Legislative Council various stakeholders and representatives from the law schools of the universities to exchange views, especially on the Law Society Examination proposed by The Law Society of Hong Kong ("The Law Society"), including the impact of the Examination on the prospects and development of graduates of Postgraduate Certificate of Laws, Bachelor of Laws or Juris Doctor programmes. Members expressed various views to The Law Society's proposal and a conclusion had not yet been drawn by the Panel.

President, I take this opportunity to thank the Secretariat and various members for their support to and participation in the work of the Panel for this year. A detailed account of the other work of the Panel can be found in the written report.

I so submit.
PRESIDENT (in Cantonese): Prof Joseph LEE will address the Council on the "Report of the Panel on Health Services 2017-2018".

Report of the Panel on Health Services 2017-2018

PROF JOSEPH LEE (in Cantonese): President, in my capacity as Chairman of the Panel on Health Services ("the Panel"), I now table before the Legislative Council the Panel's work report for this legislative session. I will highlight several areas of work undertaken by the Panel.

The Panel was very concerned about Chinese medicine development in Hong Kong. Members requested the Administration to report to the Panel on the way forward after it had determined the details of a designated fund for supporting Chinese medicine development and the positioning of the relevant Chinese medicine hospital and the Chinese Medicine Centres for Training and Research in the public health care system.

Members generally supported the direction of developing primary health care services laid down by the present-term Government and put forth various recommendations on the authorities' plan of setting up a District Health Centre in Kwai Chung on a trial basis. With a view to achieving the target of alleviating the burden of non-communicable diseases on the overall health care system, members urged various Policy Bureaux and departments to join hands to formulate a policy favourable to encouraging people to adopt a healthy lifestyle.

On the prevention, detection and treatment of individual diseases, members urged the authorities to formulate a comprehensive cancer prevention and control strategy and improve the existing mechanism, so as to enable patients to use effective cancer drugs as early as possible at standard fees and charges. The Panel also followed up mental health issues and requested the authorities to strengthen professional support for students with mental health needs. As for the measures for coping with seasonal influenza, some members urged the authorities to increase seasonal influenza vaccination uptake rate among young school children by providing free outreach vaccination at the primary school setting in the upcoming year. Besides, members considered that the Administration should make efforts to engage more non-governmental
organizations as active partners in the prevention of the Acquired Immune Deficiency Syndrome.

The Panel discussed two legislative proposals on tobacco control. Members supported the Administration's legislative proposal on implementing a smoking ban at bus interchanges leading to expressways or tunnels as a means of providing people with further protection against passive smoking in public places. Members also approved of the Administration's policy direction of regulating novel cigarette and tobacco products, such as electronic cigarettes, heat-not-burn tobacco products and herbal cigarettes. But they held dissenting views on the regulatory framework.

President, finally, I wish to take this opportunity to thank members for their support for the Panel's work.

I so submit.


Report of the Panel on Financial Affairs 2017-2018

MR KENNETH LEUNG: President, in my capacity as Chairman of the Panel on Financial Affairs, I submit the report on the work of the Panel for this year and outline some major areas of work.

On Hong Kong's macroeconomic issues, members have expressed concern about the impacts of a possible trade war between China and the United States. Besides urging the Administration to formulate contingency measures to prepare Hong Kong for the possible shocks, members have called on senior government officials to visit the United States to lobby the United States Government for exempting Hong Kong from the trade restrictive measures imposed against China. As regards the property market, members have expressed serious concern about the continual surge in flat prices despite the implementation of several rounds of demand-side management measures by the Administration and counter-cyclical macroprudential measures by the Hong Kong Monetary Authority ("HKMA"). Some members have urged the Administration to
consider relaxing the cap on loan-to-value ratio for residential mortgages to assist potential flat buyers in making the down payment, and to introduce vacancy tax on completed but unsold first-hand residential properties.

Regarding the work of HKMA, the Panel notes that the weak-side Convertibility Undertaking of the Linked Exchange Rate System has been triggered several times since April 2018, which subsequently caused HKMA to buy Hong Kong dollar to maintain the currency peg. Members have raised concerns about capital outflow from Hong Kong arising from the onset of the United States interest rate hikes and the anticipated rise in local interest rates. Members have also urged HKMA to devise a regulatory regime of crypto currencies in light of increasing prevalence of the investment product among investors and the high risks involved.

On the development of financial services industry in Hong Kong, members support the Administration's proposed initiatives to promote and facilitate the development of green finance in Hong Kong. While welcoming the Administration's work in promoting financial technologies ("Fintech"), members have stressed the importance for the Administration and financial regulators to step up efforts in promoting the development and application of Fintech in areas including electronic payment systems and the use of the blockchain technology. Members have expressed diverse views on the incorporation of the Financial Services Development Council as a company limited by guarantee.

The new listing regime for emerging and innovative companies was implemented on 30 April 2018, which mainly seeks to allow the listing of pre-revenue biotech issuers and companies with weighted voting right structures ("WVR companies"). While members in general welcome the new listing regime, they have stressed the need to strike a balance between increasing competitiveness of Hong Kong's listing regime and enhancing protection to investors of WVR companies, given that a class action regime is not available in Hong Kong. Some members have also urged the Hong Kong Exchanges and Clearing Company Limited to consider expanding the scope of pre-revenue companies under the new regime so that more local companies can benefit from the regime.

I would also like to take this opportunity to thank all members of the Panel and the Secretariat for supporting the work of the Panel. Thank you.
ORAL ANSWERS TO QUESTIONS


Subsidence of viaduct piers of the Yuen Long section of West Rail Line

1. MR KWONG CHUN-YU (in Cantonese): Last month, the media uncovered that the MTR Corporation Limited (“MTRCL”) had discovered in 2013 that two viaduct piers of the Yuen Long section of West Rail Line showed subsidence of up to 20 millimetres, allegedly due to the construction works nearby. MTRCL had forthwith informed the Buildings Department (“BD”) but had not made public the incident. In this connection, will the Government inform this Council:

   (1) of the relevant government departments and policy bureaux which BD had informed after learning of the incident of the subsidence of the viaduct piers; the follow-up actions taken by such departments and bureaux, and the reasons for not making public the incident;

   (2) given that BD and MTRCL had learnt of the incident of the subsidence of the viaduct piers as early as in 2013, why the remedial works did not commence until last year; and

   (3) of the mechanism in place for dealing with similar railway works problems in future?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, regarding the various parts of the question by Mr KWONG Chun-yu, the following is my consolidated reply in consultation with the Development Bureau.

The Government has always accorded top priority to railway safety and has put in place a stringent regulatory system. The Electrical and Mechanical Services Department ("EMSD") regulates and monitors the safe operation of the railway system according to the Mass Transit Railway Ordinance and its subsidiary regulations. The Buildings Department ("BD") regulates the
planning, design and construction of buildings and associated works on private land to prescribe building safety standards according to the Buildings Ordinance ("BO").

To safeguard the safety of railway structures, construction works located within the railway protection area as stipulated under Schedule 5 of BO should comply with a more stringent set of standards. BD would require the registered building professionals to monitor the effect arising from the building works to the adjacent railway structures according to the requirements set out in BO and its subsidiary regulations, and the issued "Practice Note for Authorized Persons, Registered Structural Engineers and Registered Geotechnical Engineers" ("PNAP"). Agreement and comments of the MTR Corporation Limited ("MTRCL") have to be sought for the plans of the proposed works and the monitoring proposal. The registered building professionals are also required to inform MTRCL direct before the commencement of any building works to enable the formulation of appropriate monitoring plan.

As for MTRCL, its dedicated railway protection team will monitor the status of various railway facilities in accordance with a set of stringent railway protection measures and procedures, including regular machinery inspection of railway structures to ensure that the track is always maintained in a safe and good condition. The contractor responsible for the building works will also be required to set up additional monitoring checkpoints at appropriate locations to assist MTRCL to monitor the situation. If there are any defects, MTRCL will immediately notify the relevant persons. Moreover, MTRCL maintenance team has been conducting annual inspections of the viaducts in accordance with the rigorous railway infrastructure and asset maintenance and repair systems, inspecting the bridges and piers in details to ensure their structural safety.

As to the present case involving settlement of the viaduct piers of Yuen Long Station, after MTRCL and BD were informed about the slight settlement of the two viaduct piers in mid-2012, jointly with the Geotechnical Engineer Office ("GEO") under the Civil Engineering and Development Department, they met with the registered building professionals responsible for the piling works for the project, representatives of the developer and the registered contractors ("RC"), requiring them to increase the frequency of measuring the settlement monitoring checkpoints and to regularly report to BD, GEO and MTRCL on the readings of the settlement monitoring checkpoints and changes of settlement levels of the
monitoring checkpoints, so as to be informed promptly of the settlement situation and take necessary follow-up action. In addition, the Registered Structural Engineer responsible for the development project also submitted a revised plan including remedial measures to BD so as to minimize the effect of piling works on the two viaduct piers. After consulting GEO and MTRCL, such revised plan was approved.

Although the settlements has not exceeded the maximum tolerable settlement limit of 20 mm\(^{(1)}\) which is stipulated in the PNAP, upon the request of MTRCL, the developer of the development project voluntarily suspended the piling works in September 2013, and the situation has remained so until present. After the suspension of the piling works at the site concerned, BD has continued to closely monitor the changes of the settlement levels, and has requested the RC to continue to monitor settlement readings of the monitoring checkpoints, and submit settlement records. During the period, MTRCL has also been closely monitoring the structure of the viaduct piers and the tracks, and confirmed that railway safety has not been affected by the settlement of the two viaduct piers.

At the same time, to further strengthen the relevant railway facilities, MTRCL submitted a proposal for the preventive underpinning works for the two concrete columns to BD in October 2014. It was accepted by BD in June 2015. As the underpinning works concern the structure of the railway facilities, and involve complicated procedures, MTRCL commissioned an independent consultant to assist in examining the implementation details of the underpinning works to ensure that the works will not affect railway safety and services, and minimize the impact to nearby residents. The underpinning works commenced in September 2017 and are expected to be completed within this year.

I would like to stress that this case has not affected railway safety. BD, EMSD and MTRCL have worked in accordance with the above mentioned mechanism to effectively monitor the safe operation of the railway system, and

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\(^{(1)}\) In order to safeguard the structural safety and integrity of railway facilities, piling works carried out within the railway protection area should comply with a set of standards which is more stringent than that for piling works outside the railway protection area. For example, the relevant PNAP stipulates that piling works should not cause more than 20 mm settlements to the railway structures (The settlement standard of not exceeding 25 mm to other structures/buildings is adopted for piling works conducted outside the railway protection area.)
the building works within the railway protection area. That said, in response to this incident, various government departments (including BD and EMSD) and MTRCL will review the communication and information dissemination arrangements of similar incidents in order to enhance transparency. We have reviewed information on projects within the railway protection area. According to MTRCL, there are 64 projects under settlement monitoring within the railway protection area, of which 56 involves construction works in the vicinity of the heavy rail, 8 involves construction works in the vicinity of light rail. There have been 2 cases of suspension of works due to settlement, one concerns the viaduct pier of Yuen Long Station and the other concerns the platform of Ting Wing Stop of the light rail. The future communication and information dissemination arrangements aims to enhance transparency.

MR KWONG CHUN-YU (in Cantonese): President, the Secretary keeps sidestepping the question. Whether it is the construction works at Hung Hom Station or Exhibition Centre Station under the Shatin to Central Link project, or the problems at other railway stations, they share one commonality and that is the Government only makes public of the incidents after they are uncovered by the media. With a daily patronage of 410 000 for the West Rail Line, the settlement of the viaduct piers of Yuen Long Station will affect many passengers. Commuters simply cannot skip this station. Yet, the authorities have delayed informing the public of the settlement until five years later. Is the Transport and Housing Bureau aware of the case beforehand? If so, how long does the Transport and Housing Bureau intend to conceal the facts in case of the recurrence of similar incidents?

I want to ask why the Government did not timely inform the public of the incident.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): First, I thank Mr KWONG Chun-yu for the supplementary question. Railway safety always comes first under the existing mechanism. Indeed, railway safety has not been compromised in the Yuen Long incident. As the settlement levels do not exceed the benchmark levels, there is no need to make notification according to the existing reporting mechanism. Nevertheless, we understand there is room for improvement. In response to this incident, we are studying ways to
strengthen the reporting mechanism to enhance transparency. BD, EMSD and MTRCL are jointly working on this.

As I have just said in the main reply, it is our aim to enhance transparency, and we will go in this direction in our effort to improve the reporting mechanism.

MR LUK CHUNG-HUNG (in Cantonese): President, the settlement of the viaduct piers of the West Rail Line not only involves deficiencies of the reporting mechanism, but it is also a matter of efficiency. Not until five years later did MTRCL commence works to deal with the settlement. According to the information provided by the authorities, MTRCL and BD discovered the problem in 2012 and the piling works was suspended in 2013. MTRCL submitted its proposal in 2014, which was accepted by BD in 2015. It then took two years for MTRCL to commission a consultant to examine the proposal before commencing the underpinning works in 2017.

I would like to ask the Secretary if this is a reflection of the inefficiency, slackness, and breaches of responsibilities on the part of BD and MTRCL. Or is the delay caused by secret talks over the liability between the Secretary and the developer? As the developer is reluctant to take on the responsibilities while MTRCL is afraid of the need to bear the costs of the relevant works once it shoulders the responsibilities, they make use of procrastination instead. President, is this the case?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): I thank Mr LUK Chung-hung for his supplementary question. First, I would like to reiterate that railway safety is our overriding consideration. There is indeed no question of procrastination. We called for the immediate suspension of the relevant works as soon as we found the settlement level a bit alarming because safeguarding the safe operation of MTRCL is always our top priority.

As I have mentioned in the main reply, since the railway line is in operation, we will need to consider how to minimize the disturbances which the underpinning works may cause to passengers. We would thus need more time to study the remedial proposal in the light of convenience to passengers and the
railway safety. In this respect, MTRCL also commissioned an independent consultant to assist in examining the implementation details of the underpinning works. The underpinning works already commenced last September after making the necessary preparation and scheduled for completion within this year. In the future, we will strive to enhance transparency to assure the public that we accord top priority to the safety of people, and that safety of railway operation always comes first.

PRESIDENT (in Cantonese): Dr CHENG Chung-tai, please ask your supplementary question.

(Mr LUK Chung-hung stood up)

PRESIDENT (in Cantonese): Mr LUK Chung-hung, which part of your supplementary question has not been answered?

MR LUK CHUNG-HUNG (in Cantonese): The Secretary has not answered whether the delay of the works is caused by talks between MTRCL and the developer over the question of liability.

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

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): I have nothing to add. Members may obtain the supplementary information from MTRCL.

DR CHENG CHUNG-TAI (in Cantonese): The danger posed by the viaduct pier settlement arising from the residential development on the Yuen Long Station of West Rail Line may be substantial. The Transport and Housing Bureau was aware of the incident years ago, but may I ask why it has never reported it to the
Legislative Council? I am not discussing public accountability. It is indeed the power and responsibility of the Legislative Council and of the Members to be informed of such an incident. Why the Transport and Housing Bureau has not done so?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): I thank Dr CHENG Chung-tai for the supplementary question. As I have said in the main reply, the settlement has not exceeded the maximum tolerable settlement limit. In their routine railway safety inspection, EMSD officials have not observed any areas which require our attention. The railway line is safe, and the settlement levels also meet the benchmarks. Strictly speaking, as far as railway safety is concerned, there is nothing which requires our special attention. I have to emphasize that this kind of settlement is not uncommon in construction works. The operation of the railway line is normal, and there is no particular area which require reporting. Telling the public about the viaduct pier settlement might only give rise to unnecessary panic. Having said that, we understand the public's desire for higher transparency. Under this circumstance, making public the relevant figures may able us to be accountable to the public and to the Legislative Council as well. We well understand that there should be room for further improvement. Hence, BD, EMSD, and MTRCL are working together to formulate a new reporting mechanism seeking primarily to enhance transparency. The formulation of a more open reporting system should enhance our accountability to the Council, and give the public the right to have access to more information. We are working hard on this.

MR LEUNG CHE-CHEUNG (in Cantonese): President, the Government promises to make public this kind of incident only after the disclosure of this particular incident by the media. As the Secretary has said, there will be a new mechanism to deal with similar incidents in the future. This shows that the Government has heeded public views. Yet, it may also reflect that MTRCL has failed to take the initiative to make public cases which the public is really concerned about. I think the Government should expeditiously carry out the review of the reporting mechanism arising from the viaduct pier settlement. Most importantly, the authorities should examine how to improve its accountability to the District Council concerned. I hope the SAR Government could pay special attention to this area.
Railway projects will affect the nearby developments in a number of areas, whether it is for the development of the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL") or the West Rail Line. In the current case, the settlement of viaduct piers has caused the developer to suspend its construction works. But if it is the other way around where housing developments are affected by nearby railway works, there is no need for the railway projects to suspend their works or to formulate any remedial proposals. In this connection, I would like to ask if BD will also put the railway works into its regulation, so that it could deal with the problem facing Wai Tsai Tsuen and other housing estates which are affected by the vibrations of the XRL trains. How could the authorities improve these issues?

PRESIDENT (in Cantonese): Which Secretary will answer this supplementary question?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): First, I thank Mr LEUNG Che-cheung for the supplementary question. As the issue in question is under the purview of BD, may I ask the Under Secretary for Development Mr LIU Chun-san to give a reply.

UNDER SECRETARY FOR DEVELOPMENT (in Cantonese): President, MTRCL's railway projects are also regarded as private developments. In general, it is the responsibility of registered structural engineers, registered geotechnical engineers, and registered contractors engaged in private developments to ensure that their piling works will not cause adverse effects on, or damage to, adjacent buildings, structures, and services. According to the requirements set out in the Buildings Ordinance and its subsidiary regulations, registered structural engineers have to submit piling plans to BD to set out details of monitoring requirements for the nearby buildings and services arising from the proposed piling works. The plans should include the setting up of monitoring checkpoints at appropriate locations, monitoring settlement records of the checkpoints, stipulating the maximum tolerable settlement limits at the checkpoints, and formulating contingency measures. In case the settlement of adjacent buildings arising from the piling works exceeds the maximum tolerable settlement limit, the piling works should be suspended and proposed remedial as
well as mitigating measures should be submitted to BD. The piling works could be resumed only with the approval of BD and after the completion of the relevant measures.

**MS ALICE MAK** (in Cantonese): President, many Members have asked why the Government did not make the notification as soon as it was informed of the incident. I know it is just hard for the Secretary to answer this question. So, I would rather ask how the Government will do with the reporting in the future. The Secretary concludes in the main reply that "in response to this incident … will review the communication and information dissemination arrangements of similar incidents in order to enhance transparency". Of course, I do not wish similar incidents to occur in the future, but in case of the recurrence of similar incidents, how will the authorities make the decisions, and how will the information be made public? How do the authorities decide on the information to be released and the timing of release? Specifically, when would the Legislative Council and the District Council concerned be informed of this kind of railway incident?

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): I thank Ms Alice MAK for the supplementary question. We will go in the direction of enhancing transparency and increasing openness of the dissemination of information. The three parties of BD, EMSD, and MTRCL are working hard on this. Still, a clear and overall direction is yet to be set out.

Anyway, we can look into several areas. For example, what are the benchmarks? We can let the public know what the benchmarks and criteria are. If some situations arise, we may consider making public the relevant information even though they do not exceed the benchmarks. Besides, we will enhance communication with District Councils to let them have a better grasp of the relevant information. We will also allow the Council to monitor our performance on a regular basis, and we are happy to explain our work to Members. We hope that these measures can enhance transparency and inspire public confidence. The Government is eager to enhance transparency and to be monitored by the Council, through which the Government can send a clear message to the public that it always puts safety first.
DR ELIZABETH QUAT (in Cantonese): President, I think as far as railway safety is concerned, it can no longer be determined by MTRCL alone. Its arrogance and its piecemeal approach in response to the problems, in a manner like "squeezing toothpaste from a tube", have made the public lose confidence in MTRCL's monitoring of its projects and in the Government's monitoring of MTRCL. Hence, the most important thing is that the future safety reporting mechanism should be an open and transparent system. It should set out the criteria to let the public know under what circumstances MTRCL and the Government must make public reporting to ensure the safety of the travelling public. The Democratic Alliance for the Betterment and Progress of Hong Kong has proposed earlier that the authorities should formulate a new reporting mechanism and to make public the criteria for reporting. Are the authorities working on this now?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): I thank Dr Elizabeth QUAT for her supplementary question and views. As I have just said, MTRCL, BD, and EMSD have been working hard to formulate a reporting mechanism to set out in detail a set of criteria for public reporting. We will timely release the reporting mechanism once it is ready to enhance transparency.

I have to emphasize that regular inspection of railway safety and maintenance has really been in place. It is untrue that we do not accord top priority to railway safety. To ensure railway safety, apart from the risk-based inspection of railway facilities, EMSD's railway protection team will also carry out regular audits and surveillance visits, and examine the operation of MTRCL. The safety of tracks, in particular, are in compliance with international standards. Hence, Members can put their minds at ease. We always put railway safety first, and there is absolutely no room for compromise.


Public playgrounds for children

2. MR VINCENT CHENG (in Cantonese): President, it has been reported that 13 "rocking chairs", play equipment for children located in a public housing estate, were in a dilapidated state, but the Government merely replaced them with
the same number of new "rocking chairs". Some members of the public have criticized that such play equipment was monotonous and uninteresting, and the spending of $210,000 on such equipment appeared to be a waste of public money. On the other hand, one of the tasks of the Commission on Children, which was established by the Government in May this year, is to review the designs of children's playgrounds throughout the territory with a view to making playgrounds more interesting. In this connection, will the Government inform this Council:

(1) whether it will comprehensively review and improve the designs and play equipment of the existing and the newly built playgrounds; if so, of the details and the implementation timetable;

(2) whether it will change the current standardized designs for children's playgrounds under the Leisure and Cultural Services Department and the Housing Department by collecting ideas of creative designs through design competitions or public engagement exercises, so as to introduce in various playgrounds more thematic designs and special features, add play equipment which makes use of various natural materials such as water and sand for provision of sensory experience, as well as introduce play equipment which offers more challenges to children while complying with safety standards; and

(3) as the United Nations Convention on the Rights of the Child stipulates that a child has the right to engage in play and recreational activities appropriate to the age of the child, and as the findings of an opinion survey conducted by a local group have shown that parents generally consider that the designs of the existing public playgrounds for children have failed to cater for the intellectual and physical development needs of children of different ages, whether the authorities or the Commission on Children will examine if the existing facilities in children's playgrounds are able to cater for this right of the child, and whether they will revise the guidelines for designing playgrounds; if they will, of the details?
SECRETARY FOR HOME AFFAIRS (in Cantonese): President,

(1) and (2)

The Leisure and Cultural Services Department ("LCSD") manages 640 leisure venues with outdoor children's playgrounds. A "universal play" concept is adopted by LCSD in planning for play equipment with a view to providing inclusive, interesting and innovative play equipment to cater for the needs of children of different ages and abilities and their parents. To strengthen the appeal to children, themes and popular play facilities such as climbing frames, slides and swings, etc. will also be included in the playgrounds as far as possible. All the facilities have to meet internationally recognized safety standards. In designing facilities for individual venues, LCSD and the relevant works departments will consider topographic features, site area and circumstances and views of the District Councils concerned, etc.

LCSD has been liaising with concern groups on children's play equipment and consulting them and the District Councils concerned on the design and play equipment in children's playgrounds for continuous improvement. To usher in brand new design concepts, LCSD, in collaboration with the relevant works departments, adopted the winning design of the Inclusive Play Space Design Ideas Competition as a prototype to build an innovative inclusive playground in Tuen Mun Park as part of a pilot scheme with inclusion of two natural elements of water and sand in the design. Through sand, water, light and shadow, play equipment that sways and spins, climbing frames and movable parts for knocking and touching, etc., children can enjoy the fun while acquiring different skills which will enhance their physical and psychological development. The inclusive playground in Tuen Mun is expected to open for public use in the third quarter of 2018.

In addition, as a pilot plan, workshops will be held to bring community involvement into the Kai Tak Avenue Park project in Kowloon City to gauge views from children and residents of the area on the provision of play equipment in the project. Suggestions
received from the public will be put into practice as far as possible in accordance with government procurement regulations and procedures.

LCSD and the relevant works departments will summarize and draw reference from experiences gained from the above mentioned pilot scheme and community involvement. Concern groups and organizations, as well as District Councils will be further consulted with a view to considering adopting the same approach in other suitable locations and projects.

In addition to focusing on the hardware of playgrounds, LCSD also organizes themed fun days in playgrounds with various organizations to encourage active participation by families in games and activities, thereby energizing public parks. Activities organized last year included "Storm the Park Days" featuring frisbee, painting, water play, model car, etc. and Orienteering@Park in large public parks.

According to information provided by the Transport and Housing Bureau, the Hong Kong Housing Authority ("HA") will provide recreational facilities for users of different age groups, including children's playground facilities, in its public rental housing ("PRH") estates under the concept of "communal play areas". For example, HA will try to integrate children's playground facilities with other facilities, such as elderly fitness facilities, Tai Chi gardens, pavilions, etc., in the same recreational area to enable adults who need to take care of their accompanying children to use the recreational facilities together in the same area.

HA has all along been adopting a pragmatic approach and fulfilling international safety standards when designing children's playground, and has been selecting materials that are durable and easy to maintain. Whenever feasible, HA will also conduct public engagement activities to collect stakeholders' views on individual proposals of playground facilities. HA will also conduct reviews and opinion surveys one year after flats intake of new PRH estates.
Furthermore, in order to maintain a comfortable, healthy and safe living environment for the residents of PRH estates, HA and the Estate Management Advisory Committees ("EMACs") will, from time to time, gauge the views and needs of the residents and stakeholders in order to continuously improve the children's playgrounds and other estate facilities. Where possible, HA will also replace or upgrade various kinds of playground facilities at appropriate locations.

Through meetings of the EMACs, resident representatives and other stakeholders, including local District Council members, can participate in reviewing the need for replacing the playground facilities in the estates. HA will consider various factors when replacing the playground facilities, including changes in the demographic structure of individual estate, conditions of the existing facilities, environmental limitations, future maintenance and repair issues, etc., in order to install suitable facilities to address the needs of the residents.

(3) As mentioned above, LCSD is committed to providing diversified play equipment at its playgrounds for children of different ages and abilities to help them attain a balanced development of mind and body, enhance their interaction with others and stimulate exploration of the surroundings through acquiring different skills by the play equipment.

Most of the children's playgrounds under LCSD provide play equipment for groups of children aged between two and five as well as five and 12. In addition, play facilities of inclusive design are available at a number of children's playgrounds (e.g. Quarry Bay Park and Sha Tin Park) for the enjoyment of children with or without disabilities. Diverse types of play equipment are installed at the venues, including tactile play panels and movable parts in different shapes suitable for visually-impaired children, movable parts that produce sounds when knocked, as well as transfer platforms or ramps that help children using wheelchairs to use facilities and allow them to join other children in playing with these facilities. These facilities enable children with or without disabilities to play and
grow up in a harmonious and happy environment and promote their physical and psychological development.

LCSD will draw reference from overseas examples, bring in more community involvement and work in close collaboration with the relevant works departments with a view to providing more innovative, challenging and inclusive play equipment in planning children's playgrounds in large public park projects and renovating the play equipment at children's playgrounds in major public parks to meet the needs of children.

MR VINCENT CHENG (in Cantonese): President, I published a survey jointly with a parents' group at the end of last year. Having conducted site visits, I found the play facilities installed in the parks in Kowloon West and numerous public rental housing ("PRH") estates stereotyped indeed, which are generally considered to be too monotonous by parents. President, I know that the outward appearances of individual playgrounds are undergoing progressive changes, but for the majority of old housing estates and dated playgrounds, only slides are available. Given that apart from children's physical development, social nature and creativity of the play facilities are also taken into account in installing them according to the LCSD, I would like to ask the Secretary: In what ways do these stereotyped play facilities comply with the aforesaid principles? In order to comply with the principles set forth by the United Nations Convention on the Rights of the Child, will the authorities draw reference from overseas examples to introduce more long slides, water play areas and the like that delight the children while making adults feel like playing along with the children on seeing those play facilities?

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, Mr CHENG's observations are quite accurate. Renovation works are now underway by phases as certain old play facilities need to be replaced, and it is necessary to consult the local residents so as to understand their needs. On the other hand, Mr CHENG may learn from my main reply that substantial forward-looking renovation and improvement works were carried out in large parks for installation of new play facilities. For example, a long slide, which Mr CHENG has mentioned just now, have been added to Hong Kong Park. Certainly, a lot of Members have
asked if we will consider expanding other parks as well, and their call is heeded. Regarding the introduction of play facilities using natural materials such as water, sand, etc. into parks as mentioned by Mr CHENG, it will be materialized in Tuen Mun Park. In addition, we will even conduct consultation and organize design competitions for relevant works so that we can usher in the best and most creative elements which will be reflected in the designs of play facilities. Tuen Mun Park will be open for public use next month. Members are welcome to visit our latest park by then, and we will be glad to listen to them if they have got fresh ideas for our reference.

MR KWOK WAI-KEUNG (in Cantonese): President, although the Secretary has submitted in his reply that the authorities will make special arrangements for themed playgrounds, many kaifongs would still like to know why those rather common play facilities such as roundabouts, ropes courses and "monkey bars" (i.e. climbing frames) in the past are rarely seen nowadays. I wish to make a suggestion here: In addition to consulting the District Councils, the authorities may consider conducting online referendums on the designs of play facilities in parks so that users can vote for their favourite play facilities while the authorities can finalize the contents of play facilities in parks with reference to the most popular choices of users. Perhaps Members have noticed that since there is no cycle of replacement set for play facilities in parks, those facilities will usually be repaired only when damaged. Even if there is any, the time span may be as long as 10 years or 20 years instead of several years for replacement to take place. This approach is different from that adopted by shopping arcades or other places ...

PRESIDENT (in Cantonese): Mr KWOK Wai-keung, please come to your supplementary question direct.

MR KWOK WAI-KEUNG (in Cantonese): Alright, President. Shopping arcades will regularly change the locations of their facilities in order to keep people refreshed. I want to ask if the authorities can replace the facilities in parks on a regular basis instead of replacing them only when they are damaged.
SECRETARY FOR HOME AFFAIRS (in Cantonese): President, I have pointed out in my reply just now that we will replace the old facilities in parks or playgrounds by phases. Certainly, the facilities will be repaired immediately if they are really damaged.

In respect of Mr KWOK’s remarks made just now about the gradual disappearance of certain facilities seemingly to be taking place, we have actually been reminded by some Members that the number of swings is too small and so I had asked those relevant departments to compile statistics in this regard. It is found that there are still playgrounds installed with swings in each of the 18 Districts throughout the territory, where some places even have as many as 30 swings, only that people may not be aware of this. Speaking from a different perspective, it will be most ideal if the amenities in every District have their own distinct features and are meant to meet local needs.

MR STEVEN HO (in Cantonese): President, the monotonous play facilities installed in children's playgrounds are undesirable of course, but parents are concerned if the facilities concerned are safe or if they are wholesome. Instances of bus seats slashed and planted with needles as reported in news recently have now spread to the play facilities in playgrounds. For example, some slides are also found to have been deliberately planted with needles.

I want to ask the Secretary whether the HKSAR Government has designated a dedicated department to take charge of repair work for children's playgrounds, see if their play facilities have met the hygiene standards, and monitor those facilities against vandalism as well as traps set to endanger the safety of or cause bodily harm to children? If it has, how will the department concerned ensure the safety of children, and how will the "needle-planting" incident be followed?

PRESIDENT (in Cantonese): Mr Steven HO has raised two questions. Secretary, you may choose to answer either one of them.

SECRETARY FOR HOME AFFAIRS (in Cantonese): At present, President, LCSD takes overall responsibility for the affairs concerning every playground and park under its purview, including the safety issue. Matters relating to
cleaning, security, repair and replacement mentioned just now are all taken care of by LCSD. Hence, we have dedicated staff to deal with the matters in question.

MR AU NOK-HIN (in Cantonese): Of the playgrounds under LCSD, 98% have freestanding slides below 2 m in height, which are deemed too dull and uninteresting as it only takes a second to whizz down the slide. Moreover, the "spring rides" are totally immovable. Yet, workers of numerous children concern groups said that in addition to the safety issue, the authorities also have to consider providing our children with play facilities of varying levels of difficulty. For instance, among the play facilities provided in Okinawa, Japan is a huge play equipment placed in the park.

I want to ask the Secretary if the authorities will introduce appropriate amendments to the guidelines on playground design to the effect that playgrounds and parks are allowed to build more play facilities of varying levels of difficulty so that children will have different choices? If they will, when will the initiative be implemented?

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, we will listen to the public's views at different timing, carry out renovation works by phases and even launch innovative and creative activities and facilities. As I have told Members just now in my main reply, the new type of parks embraces creativity.

In addition to the shorter slides mentioned by Mr AU just now, there are also some longer ones. People who have been to Hong Kong Park might find that the slides there are longer. However, I hope Mr AU will understand one thing: It is actually irrelevant whether the slides in every playground are long or short because people will still have different views. While parents may consider short slides to be safer, children may find long slides more exciting. Hence, a fair balance has to be struck between safety and creativity in designing play facilities. We will bear this in mind and always cater for the needs of children of different ages as far as possible.

As regards relevant guidelines, we will conduct reviews from time to time and must make appropriate amendments if necessary.
MR KWONG CHUN-YU (in Cantonese): President, the Government has spent $210,000 on replacing the "spring rides" in Tsing Yi Promenade, but they are immovable. This kind of facility replacement is so scary indeed. Actually, the Secretary might have also been to the playgrounds to play there as a child unless he did not have any friends then? I believe he also wished to find play facilities such as roundabouts, swings, slides, etc. at the playgrounds in those days. In short, as I have also mentioned in the past, I want to defend swings because it has become increasingly difficult to see any of them. This is probably due to the fact that today's play facilities is becoming less challenging.

I would like to ask the Secretary a very simple question: As he had been to the playgrounds and played there during his childhood, what was his perception of playgrounds? Did he also wish to use facilities which are safe but of certain levels of difficulty or offer challenges?

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, it is true that I was a "street child" in my childhood days and was very fond of playing on streets then. Hence, I share Mr KWONG's view as we both wish that children can engage in more physical activities at parks or playgrounds apart from studying and playing with their electronic gaming devices at home nowadays. And this is precisely why we have installed in a park in Tuen Mun a creative play facility known as "Reptile Fun" (i.e. meaning full of fun) for children to fully train up their physical fitness.

Regarding swings as mentioned by Mr KWONG, we have consciously compiled statistics on the number of swings and found that that each of the 18 Districts throughout the territory does provide swing facilities. There are as many as 30 swings in some places. The authorities will still continue to provide swing facilities in parks and playgrounds regardless that people may hold different views on the number of swings. If Members consider it necessary to provide more swings, we will give due consideration to their views in installing this kind of facilities in future.

MR MARTIN LIAO (in Cantonese): President, the average area of public playgrounds per child in Hong Kong is 0.27 sq m only, and the difference between the play space available to children of well-off families and that of children of poor families is quite significant. As far as the venues in the public
playgrounds located on Hong Kong Island, in Kowloon and the New Territories, only 40% are available to children (average area per child). Despite that several overseas companies have opened some private indoor playgrounds in Hong Kong in recent years, children of grass-roots families can only use public play facilities.

Thus, I want to ask if the Government will, in carrying out town planning, consider integrating amusement elements into community infrastructure in order to enhance support for the play facilities in local communities? If it will, what are its specific plans and timetable?

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, I thank Mr LIAO for stating his views. At present, advance planning on community infrastructure will be carried out in accordance with specified standards for the progressive implementation of the initiative of providing adequate recreation, sports and amusement venues in newly established communities to cater for the needs of people of different ages.

Of course, with the population and community growth, there will be greater demand for these facilities. Hence, we will increase the provision of such facilities by phases. I think Mr LIAO must have been informed that the Government will progressively implement the provision of 26 new recreation and sports venues in the 18 Districts in the coming five years. For the time being, we are planning for the construction of 15 new recreation and sports facilities. We put in place these initiatives precisely for the purpose of meeting the public's needs.

MR LUK CHUNG-HUNG (in Cantonese): President, many Members are of the view that the play facilities provided nowadays just lack novelty. The Secretary has said repeatedly just now that a large number of swing facilities are provided in fact, but I wonder if he knows those swings currently provided are described as "nappy-style" swings by user. That means the lower body of the user is covered by the seat of the swing, making it difficult for the him or her to swing and impossible to stand on the seat to swing up high in the air. It is an entirely different experience as compared with the way we played swings in our childhood days, where we stood on the swing seats flying up in the air. Moreover, only super-short slides (1-metre long) are provided.
We opine that the playgrounds lack novelty nowadays because its play facilities are much too conservative and only focus on safety, thus causing the "extinction" of certain play facilities that are more exciting or involve more vigorous actions. I want to ask the Secretary if there is any data to show that play facilities of more dangerous designs did stand a greater chance of giving rise to accidents. I hope the authorities will take a more scientific approach in conducting studies in this connection.

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, old-fashioned facilities may not necessarily be uninteresting, like playing with swings as we have discussed just now. It is old-fashioned but Members are still very interested in it. Therefore, it is irrelevant whether the facilities are old or new. What really matters is whether they offer novel interests. Some facilities may lack novelty, but we must take into account users' safety. Facilities of creative designs may bring excitement, but they will inevitably incur certain risks.

Mr LUK, please do not forget that the views of the public will be heard every now and then. They are of the view that overly exciting games may not be safe and will probably cause injuries. Hence, we have to strike a fair balance: On the one hand, we will adopt new ideas for building facilities that are more physically demanding; on the other, however, we must attach a great deal of importance to safety since playgrounds are places open for use by the public which may be used by people of any ages and different abilities. In summary, the future direction for the design of playgrounds will embrace both safety and creativity.

PRESIDENT (in Cantonese): Third question.

Bus stops

3. **MR TONY TSE** (in Cantonese): According to the Transport Planning and Design Manual, the bus stop spacing in urban areas should be around 400 metres and it may need to be increased to 600 metres in the light of traffic congestions. However, the current bus stop spacing of certain bus routes in urban areas is only 130 to 200 metres, and the frequent pick-up/drop-off of passengers by buses has prolonged the journeys as well as aggravated traffic congestions and air
pollution. Besides, some members of the public have criticized that the bus stops are lacking facilities which are friendly to passengers and passers-by. In this connection, will the Government inform this Council:

(1) of the bus stops in urban areas with a spacing of less than 300 metres at present, and set out the details, such as the District Council districts in which the bus stops are situated, the bus stop spacing, as well as the names of the franchised bus companies, the bus route numbers and the start and end points of the bus routes concerned; whether the Government will discuss with the franchised bus companies and members of the local communities the consolidation of bus stops that are too close;

(2) of the regulatory measures it has put in place to ensure that a balance is struck among the following considerations in the design of bus stops: the generation of advertising income for franchised bus companies, the provision of a comfortable waiting environment for passengers, and the avoidance of causing obstruction on the pavements; and

(3) given that the Government announced in the 2016 Policy Address that it would allocate $80 million to subsidize franchised bus companies in installing seats and panels for display of real-time bus arrival information at bus stops, of the latest progress of such work?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, currently, around four million passenger trips are carried by franchised buses daily in Hong Kong, accounting for about 31% of the overall public transport patronage. Therefore, the Government has been encouraging franchised bus companies to enhance the bus stop facilities for the convenience of passengers and better waiting environment. My reply to the various parts of Mr Tony TSE's question is as follows:

(1) Regarding the location of bus stops, the Transport Department ("TD") will make reference to its Transport Planning and Design Manual when considering adding, changing or cancelling any en-route bus stops. According to the Manual, the ideal walking distance between two bus stops in urban area should be within
400 m, while the distance between en-route bus stops would preferably be 400 m to 600 m.

In adopting the suggestions in the Manual, TD will also need to take into account a host of factors in the light of the actual circumstances. Such factors include geographical constraints (e.g. whether the proposed bus stop is close to road junctions), road safety (e.g. whether drivers' view will be obstructed and whether vehicular access to nearby buildings will be obstructed during passenger boarding and alighting), the traffic flow in the vicinity, passenger demand, adequacy of space for waiting passengers and traversing pedestrians, etc. To facilitate orderly boarding of passengers, bus routes heading to the same destinations or destinations with close proximity will be arranged to use the same or a nearby en-route bus stop as far as possible. In determining the suitable location of en-route bus stops for individual route or a combination of routes, TD will also take into account the service frequency and the number of passengers using that particular bus stops.

Given the vast number of en-route bus stops, we have not maintained information on bus stops with a spacing of less than 300 m across the territory. Nevertheless, as mentioned above, TD will take into account various factors on a case-by-case basis to determine the location of a bus stop, and the spacing between en-route bus stops will be reduced as actual needs arise. Take the section of King's Road between Island Place and Kam Hong Street as an example. Since the pavement along the eastbound section of the road is relatively narrow to cater for the heavy flow of waiting and interchanging passengers there, two en-route bus stops with a spacing of approximately 140 m are provided for diverting passengers to ensure the safety of waiting passengers and pedestrians. As for the westbound of the same section of King's Road, two en-route bus stops with a spacing of approximately 150 m for two daytime routes are provided to meet the needs of students commuting to school in the morning and interchanging passengers.

All in all, when considering adding, changing or cancelling en-route bus stops, TD will continue to make reference to the suggestions in the Transport Planning and Design Manual, and make corresponding
adjustments having regard to the actual traffic conditions, passenger demand and views of the local community so as to provide passengers with safe and convenient franchised bus services.

(2) As regards the design of bus stops, under the current practice, the franchised bus companies will submit new proposed appearances for bus stops and their shelters to the Advisory Committee on the Appearance of Bridges and Associated Structures under the Highways Department for scrutiny. The Committee scrutinizes the appearances in the proposals mainly from the aesthetic, visual and greening points of view. When vetting franchised bus companies' applications for erecting bus stops at individual locations, TD will take into account the Committee's opinion on the appearances of the bus stops, while carefully considering such information as the locations and sizes of the proposed bus stops, and the numbers of light boxes at the proposed stops. In addition, TD will examine the potential impact of the proposed bus shelters on pedestrian flow, the sightline of other road users and the operation of nearby shops, and will seek the views of relevant departments.

The primary objective of adding shelters to bus stops is to provide passengers with a more comfortable waiting environment. The light box panel, on the other hand, is an extension of a bus shelter. The panel can be used for displaying bus service details or other information for waiting passengers' reference. In case a proposed bus stop is located in a relatively narrow area which is not suitable for a larger shelter or one with light box panels, or that a proposed bus stop design may cause obstruction to pedestrians, TD will request the franchised bus company concerned to change the design into more appropriate ones, such as a shorter and narrower shelter or one without light box panels, so as to adapt the bus stop to the specific environment of the pavement concerned.

Franchised bus companies intending to place advertisements on light box panels are required to file an application with TD and bear the costs of the installation and maintenance services concerned. According to the current regulatory arrangements for franchised bus companies, revenue generated from advertising at bus shelters
should be credited to the overall operating revenue of the companies. This will help relieve the pressure of fare increase.

As shown from the above, when TD processes applications for erecting bus stops from franchised bus companies, it will consider various factors so as to enable that the bus stop designs can cater to the needs of the public and the local community, pedestrian and vehicular flows, road safety, etc., as far as possible.

(3) The Government has provided subsidies to franchised bus companies for installing seats at about 2,600 covered bus stops, and funded the installation of real-time bus arrival information display panels at about 1,300 covered bus stops with electricity supply on a matching basis. It is expected that the installation works will be completed in phases in 2020.

The first phase of seat installation commenced in November last year. As at 25 June 2018, installation was completed at around 600 bus stops. As for the display panels, the first phase installation works commenced in end-March 2018. As at 25 June 2018, around 20 bus stops were installed with display panels. The overall first phase installation works for seats and display panels at bus stops are expected to be completed in 2018, while the remaining installation works will be implemented in two phases for scheduled completion in 2019 and 2020 respectively.

MR TONY TSE (in Cantonese): President, with the installation of real-time bus arrival information display panels at bus stops, waiting passengers there will be informed of the bus arrival time, but in order to obtain the information, they should be physically in bus stops. Since we are actively promoting smart city development in Hong Kong and striving to implement smart mobility initiatives, I wonder if the Government has any plan to set up a single information platform, so that Hong Kong people will be provided with comprehensive information on all public transport modes, thereby saving the time and the costs to be spent on travelling and picking the best route to reach their destination.
SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): I thank Mr Tony TSE for his supplementary question. The Government is now working on a new application programme to consolidate the real-time information provided by all public transport operators. Passengers may obtain real-time information through this application programme and plan for their travel arrangements, including picking the most appropriate routes according to the bus arrival time. This is the one-stop service we are planning to provide.

However, I have to emphasize that the information involved will mostly be provided by a third party, and such information should be regarded as the private property owned by various public transport operators. In this connection, we will consolidate and disseminate the information through the application programme for greater convenience of the general public.

MR CHAN KIN-POR (in Cantonese): As a number of railway lines will be commissioned in the future, it is anticipated that there will be changes in the frequency or mode of using bus services by the commuting public. I therefore would like to ask the Government: Given that the Transport Planning and Design Manual has been in use for many years, whether a review of the Manual will be undertaken accordingly to revise the principles laid down therein, so as to reflect more fully the functions of road-based transport modes?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): I thank Mr CHAN Kin-por for his supplementary question. The Transport Planning and Design Manual mentioned just now was introduced in the 1980s, but with the change of times, we have been updating the Manual on an ongoing basis, and it was last amended in February this year.

MR YIU SI-WING (in Cantonese): The Secretary pointed out in part (3) of the main reply that the installation works of real-time bus arrival information display panels at about 1 300 covered bus stops with electricity supply is expected to be completed by 2020, but I think there is still room for improvement in this respect. Moreover, it is also pointed out in the main reply that seats will be installed at a total of about 2 600 covered bus stops, meaning that it may also be possible to install real-time bus arrival information display panels at such covered bus stops.
Secretary, apart from these 1 300 bus stops, do the authorities have any plan to further increase the number of bus stops to be installed with such facilities? If there is such a plan, how many more bus stops will be provided with these facilities; and is there a timetable for the installation works?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): I thank Mr YIU Si-wing for his supplementary question. As for subsidies provided for installing the said facilities, there is indeed a plan to install seats at about 2 600 covered bus stops, but due to geographical constraints, it may not be appropriate to install a light box panel at some of these bus stops. There will be no electricity supply at bus stops with no light box panel, and it may then not be appropriate to install an electronic information display panel there.

Hence, in this connection, we have to take into account the actual circumstances, and strike a balance between the provision of information and the practical feasibility as far as possible. As for newly-erected bus stops, it is stipulated in the franchise agreements that bus companies which have been granted the franchise should be responsible for installing seats at newly-erected covered bus stops, and providing information display panels at their own expense according to actual needs.

MR CHAN CHUN-YING (in Cantonese): President, when replying to the supplementary question raised by a Member just now, the Secretary said that the Government was consolidating transport information in one single application programme, but to my understanding, the Secretary was actually referring to such mobile applications as "Hong Kong eTransport", "Hong Kong eRouting" and "eTraffic News" launched by the Transport Department to provide information on public transport routes and driving routes, as well as news about traffic congestion or accidents. However, what we are talking about is the information provided by bus companies, because they have each launched their own mobile application to facilitate passengers to choose the fastest and the most suitable transport mode and driving route, but most of these mobile applications are not interconnected and mutually accessible, and passengers are provided with the information of one bus company only.

Even though two different bus companies are operating the same bus route, it may also not be possible for passengers to obtain the information of this
company from the mobile application launched by another company. In order to bring convenience to the public, will the Government render assistance to bus companies so that they can coordinate their efforts and consolidate their information in a one-stop information platform; or require bus companies to open up their information to service providers from a third party for the development of a suitable application programme; or even set up a similar information platform on its own?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): I thank Mr CHAN Chun-ying for his views and supplementary question. Unlike other places, bus services in Hong Kong are operated by private companies, and unlike bus companies in other places, bus companies in Hong Kong are not public corporations and receive no public subsidy. Therefore, information of bus companies should be regarded as personal assets of a third party, and these companies' intellectual property rights should be protected. Under the existing practice, the Government seeks to bring convenience to passengers by consolidating the information provided by different bus companies in a single application programme, so that passengers may obtain the real-time bus arrival information from this mobile application. This is after all a better way out when compared with making pre-trip planning themselves by collecting information disseminated through several different mobile applications launched by different bus companies.

Apart from providing public transport information, the mobile application launched by the Government can also facilitate members of the public to choose their own walking routes and afford them easier mobility. In this connection, we will continue to encourage bus companies to open up more information, and keep up our efforts while giving due regard to the requirements of protecting private property and intellectual property rights.

DR CHENG CHUNG-TAI (in Cantonese): It is a good idea for the Government to provide subsidies to bus companies for installing seats at bus stops, but this may achieve the opposite results if the work is done in a slipshod and absent-minded manner. For example, seats newly installed at a bus stop located on Wo Yi Hop Road in Kwai Chung are not only placed in the middle of the line for passengers to queue up but also installed with their back facing the carriageway. In other words, passengers waiting for buses on these seats
cannot see the arriving buses, and as they are facing the carriageway with their back, they will have no way to escape when accidents occur and will thus be in danger.

I would therefore like to ask: Can the Bureau do the job with due care and review afresh the situation of bus stops to be or having been installed with seats, and make arrangements for the installation of seats in a professional manner?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): I thank Dr CHENG Chung-tai for his views. We are aware of the case mentioned, and have to emphasize that franchised bus companies are responsible for the design of seats, while the Transport Department ("TD") is responsible for vetting and approving the design. TD will examine with franchised bus companies and the government departments concerned to ensure that planned works to install seats at bus stops have met various requirements, which include the provision of a bus shelter at the bus stop concerned, seats should be installed at the columns of the bus shelter, and there should be a passageway with a width of at least 1.5 m on the pavement after the installation of seats. Bus companies should go ahead with the installation works only after they have made sure that the above requirements have been met and an approval has been obtained from TD.

TD will also conduct site inspections before disbursing subsidies to bus companies to ensure that seats have been properly installed, thereby making sure that the actual expenses for the installation of seats at bus stops are finalized after the completion of installation works. TD will continue to provide District Councils with information on the provision of subsidies in this respect and report on the latest position. As for the individual case mentioned just now, we have taken note of the situation and asked the relevant bus company to make improvement in its measures to provide passengers with a better waiting environment, such as adjusting the position and increasing the space for passengers to queue up. Extra care will also be taken in the future in approving design of seats, so as to avoid the recurrence of similar incidents.

MR MICHAEL TIEN (in Cantonese): Secretary, your main reply has mentioned nothing about the matter I am going to raise in my supplementary question, and I therefore hope that you would give me a direct reply.
President, I have made a bus trip with my three-year-old granddaughter recently, so as to let her experience what a bus ride is about. It was a hot day with a high temperature of 34 °C and we were waiting at Star Ferry Bus Terminus in Tsim Sha Tsui for a bus of Route 8A to Whampoa. Although the bus stop has already been equipped with a real-time bus arrival information display panel, I as an elderly person still found it extremely hot and nearly fainted there. In April this year, I proposed the introduction of intelligent bus stop on a trial basis at a meeting of the Traffic and Transport Committee of the Tsuen Wan District Council. Secretary, this is a gift to you from me.

Passengers will be provided with various kinds of real-time information at an intelligent bus stop, which is also equipped with a Wi-Fi hotspot, solar panels and most important of all, an air conditioning and purifying system. This system can purify, filter and reduce up to 90% of harmful substances in the air, and adjust the temperature at the bus stop. It has no window and no door, and purified air will be delivered as conditioned air through spray nozzles to adjust the temperature at the bus stop downward to 24 °C the lowest. As for the electricity supply, as everything will be powered by solar energy, there will be no need for the Government to pay electricity charges.

The Government is now planning to provide subsidies to bus companies for installing seats and information display panels at 2 600 covered bus stops, but these facilities have in fact become outdated. When they are already widely used in many places all over the world, we are just planning to install them at our bus stops now. According to the Government, the installation works will be completed in 2020, but I would like to ask …

PRESIDENT (in Cantonese): Mr Michael TIEN, please raise your supplementary question directly.

MR MICHAEL TIEN (in Cantonese): I would like to ask the Government while it is planning to complete the basic installation works for seats in 2020, whether it can choose one or two trial spots for trying out this intelligent bus stop proposed by me? Singapore is now working on the provision of this intelligent facility, and I am unconvinced of the fact that Singapore has taken the lead to introduce nearly all intelligent facilities, because the financial surplus recorded by the Government is after all far more than that recorded in Singapore …
MR MICHAEL TIEN (in Cantonese): My question is: Whether the Government can choose a trial spot in Hong Kong for trying out this facility proposed by me before the completion of the installation works for seats in 2020? Secretary, you can see how comfortable the environment is at this intelligent bus stop, and although you seldom travel by bus, this is indeed an option worth trying out.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): I thank Mr Michael TIEN for his supplementary question. I always travel by bus, because bus is a very convenient mode of transport in the district where I live, and I also consider it very comfortable when taking a bus ride.

We are also aware of the all-weather mode of bus waiting facility mentioned by Mr Michael TIEN just now, and we thank him very much for putting forward this proposal. We will consider how we can identify a suitable trial spot for the purpose, but I have to emphasize that a major difference between Hong Kong and other places is that roads in Hong Kong are relatively narrower, and in particular, there are many geographical constraints in our pavements in Hong Kong. As I have said in the main reply, we are faced with many challenges even in the erection of bus stops, including the road constraints, the need to take pedestrian flow on pavements into consideration, road safety, and whether vehicular access to nearby buildings will be obstructed.

Therefore, in this connection, we have to examine the issue carefully, but consideration will definitely be given to these most updated options. The objective of updating the Transport Planning and Design Manual on an ongoing basis is to provide passengers with a more comfortable environment, and we will definitely consider this proposal.

PRESIDENT (in Cantonese): Fourth question.
Provision of schools for the new public rental housing developments on Anderson Road

4. **MR IP KIN-YUEN** (in Cantonese): President, located in the Anderson Road Development Area ("Development Area"), On Tat Estate, the intake of which was completed in 2016, and On Tai Estate, the intake of which will be completed within this year, can accommodate a total of 50,000 residents. While the authorities have planned to provide four kindergartens, three primary schools and one secondary school within the Development Area, so far only one half-day kindergarten has been completed and commissioned. This has resulted in quite a number of newly moved-in residents scrambling, for several months, for places in nearby schools for their children. In this connection, will the Government inform this Council:

(1) of the authorities’ projection on the population of children in the aforesaid estates who are of ages for attending kindergartens and primary and secondary schools; the criteria adopted for planning the number of kindergartens and primary and secondary schools within the Development Area; the original and latest schedules for the commissioning of those school premises, and the number of places to be offered to new students at each of the levels;

(2) of the specific measures to be put in place to assist the students concerned in obtaining school places pursuant to the "principle of vicinity"; the number of applications made by residents in the Development Area for change of schools for their children and the outcome of them; and

(3) of the reasons why the construction progress of the school premises within the Development Area is lagging behind; whether it will review the relevant arrangements and expedite the progress of the works; if so, of the details; if not, the reasons for that?

**SECRETARY FOR EDUCATION** (in Cantonese): President, under the prevailing mechanism, the Planning Department will reserve sites for kindergarten ("KG") and school development when preparing town plans and planning large-scale residential developments having regard to the planned population intake and on the basis of the needs for community services, in
accordance with the guidelines set out in the Hong Kong Planning Standards and Guidelines. In the process, the Education Bureau will be consulted.

When there are KG premises in public housing estates available for use, the Education Bureau will take into account the supply and demand of KG places of the areas concerned and other relevant factors, and launch school allocation exercises ("SAEs") as appropriate upon receipt of request from the Housing Department. Relevant factors include the demand and supply of KG places in the district and the "Tertiary Planning Units" ("TPUs") concerned, school-age children population projections, reprovisioning needs of existing KGs, and provision of Government-owned quality KG premises to increase the number of KGs that need not charge school fees to defray rental expenses. For the four six-classroom estate KG premises at the Anderson Road Development Area, two are in On Tat Estate. One of them has already been in operation and the other one will commence operation in the 2018-2019 school year. The remaining two premises are in On Tai Estate. According to information available to the Education Bureau, the total KG places available in TPU in which On Tai Estate is located and its neighbouring TPU are sufficient in meeting the demand of the KG student population. Nevertheless, having considered the above mentioned factors on provision of premises, we would launch the relevant SAE shortly.

Insofar as planning of public sector primary and secondary school building projects is concerned, land is a scarce resource and construction of new secondary and primary school premises involve immense resources. We have to consider with prudence if addition of a new operating school would be commensurate with the long-term sustainable development of the district concerned so as to avoid negative impacts on the steady development of the school sector as a whole. As far as reserved school sites at a public housing development are concerned, the Education Bureau has to consider factors including the planned development of the area concerned, the school-age population projections which are compiled based on the population projections updated regularly by the Census and Statistics Department and the projection of population distribution released by the Planning Department, the actual number of existing students and school places available at various levels, the prevailing education policies, other factors which may affect the supply and demand of school places, etc., in order to decide if a premises should be used for operating a new school or reprovisioning an existing school, and when to kick-start the relevant school building programme. Furthermore, a new school building project, from planning to completion,
involves various stages. Variations and uncertainties may come into play during the process.

The Education Bureau has reserved four 30-classroom school sites at the Anderson Road Development Area, including three for primary school use and one for secondary school use. The building works for one of the primary school premises are expected to complete by December 2018. The secondary school building project is undergoing the detailed design stage, and we will seek funding approval for it as soon as practicable. Regarding the remaining two reserved primary school sites, we have launched an SAE in end-2017 to allocate one of the sites for reprovisioning purpose. The allocation result will likely be announced by the end of this month. We have also commenced the preliminary preparatory works for the project at the other primary school site, and we plan to launch SAE in 2019.

The Education Bureau has the responsibility to provide sufficient public sector school places for all school-age students. At present, the provision of public sector secondary school places is planned on a territory-wide basis. Under the Secondary School Places Allocation mechanism, netting of school places from neighbouring areas would be arranged as and when necessary to ensure a stable supply of school places in each district and to provide parents with more choices. As far as the Kwun Tong district is concerned, there are still a considerable number of secondary school places available at present.

The provision of public sector primary school places is planned on a district basis. Under the Primary One Admission ("POA") System, allocation of Primary One ("P1") places is school net-based. Under each POA cycle, the supply and demand of P1 places in individual districts/school nets are subject to changes due to various factors, e.g. whether parents would choose to apply for public sector schools, the number of newly arrived children, the timing of new housing estates intake (including the school-age population concerned and parents' willingness to change schools), leading to possible year-on-year changes. In accordance with the consensus reached with the sector, the Education Bureau has been adopting flexible measures to increase the provision of places to meet the projected transient demand for school places so as to minimize the impacts on schools when the demand subsides. Such measures include borrowing school places from neighbouring school nets, using vacant classrooms to operate additional classes, operating time-limited schools in vacant school premises, temporarily allocating more students to each P1 class, etc.
On Tai Estate and On Tat Estate are situated in School Net 46 and School Net 48 respectively in the Kwun Tong district. Over the past few years, school places were borrowed from School Net 46 to School Net 48 in order to provide enough school places and choices in accordance with the aforementioned established arrangements. Under such arrangements, both school nets are not required to borrow school places from other districts.

With the gradual intake of the public housing estates in the Anderson Road Development Area, the Education Bureau has distributed through various channels information leaflets about schools in the Kwun Tong district and the procedures about transfer of school to residents who are going to move into the district for reference. We have also been discussing with the schools concerned to make good use of their vacant school places to cater for the needs of students newly moved into the district. For parents who wish to arrange transfer of school for their children, they may either approach the Education Bureau or contact their preferred schools direct.

In POA 2017, there were about 40 and 70 new applications for admission to P1, including requests for change of school net due to change in residential address and late applications from new arrivals, from the residents in School Net 46 (including On Tai Estate) and School Net 48 (including On Tat Estate) respectively. All the children concerned have been allocated public sector P1 places in the district. As regards POA 2018, the Education Bureau has received 60 and 40 such new applications from the residents in School Net 46 and School Net 48 respectively during the period between the school choice-making for central allocation in February and June 2018. All the applicant children concerned have also been allocated public sector P1 places in the district. There are still surplus public sector P1 places in Kwun Tong. The Education Bureau would keep in view the situation and provide timely assistance to parents as needed.

Regarding applications for transfer to schools in the Kwun Tong district, the Education Bureau has arranged 160 primary students newly moved to On Tai Estate or On Tat Estate to change to schools in the district in the 2017-2018 school year. As at end June this year, the Education Bureau has received a total of about 200 applications from students residing in On Tat Estate or On Tai Estate applying for transfer to Primary Two ("P2") to Primary Six ("P6") classes of the schools in the Kwun Tong district in the 2018-2019 school year. As the
situation in respect of school places available and vacant classrooms has only become clearer by early July, the Education Bureau is working with the schools concerned on the additional P2 to P6 classes to be operated and has started to inform parents of the school placement arrangements of individual levels for their children. All the students could be referred to schools in the district for admission. As regards the transfer to KGs and secondary schools, in the current school year the Education Bureau has received only a few cases seeking placement assistance for the 2018-2019 school year. All these cases have been handled in accordance with our prevailing practice and applicants have been provided with information on the vacancies of KGs and secondary schools in the district. The Education Bureau will provide referral support if needed.

In sum, the Education Bureau has to take into account various factors before initiating a school building project. Hence, the commencement date of a new estate school may not necessarily tie in with the population intake schedule of the new public housing estate concerned. We will continue to provide necessary assistance to parents who need to seek transfer of school for their children as a result of moving home.

MR IP KIN-YUEN (in Cantonese): President, in the main question I specifically ask the Secretary the number of school-age children in On Tai Estate and On Tat Estate, but the Secretary is unwilling to answer the question. Why is the Secretary unwilling to answer such a simple question? As far as I know, the estates have a 50,000 population intake, and 10,000 residents are school-age children. Is it because the Secretary does not want to tell Members how serious the problem is, so he does not mention the number? All residents have moved into the estates. The authorities have reserved eight school premises for the 10,000 students, but only one KG is completed and commissioned, and one secondary school premise is scheduled to be completed in 2018, but the school site is still a piece of vacant land. Why do the authorities have to leave the site idle and waste the resources? A parent told me that he …

PRESIDENT (in Cantonese): Mr IP Kin-yuen, please put your supplementary question directly.
MR IP KIN-YUEN (in Cantonese): My supplementary question is very simple. A parent told me his daughter would study P1 this year, and by the time the primary school in the district is completed, his daughter would probably have almost completed her primary school study. Has the Education Bureau planned the school premise construction from a humanistic point of view so as not to turn students, parents and schools into the victims of its planning failure? Why can't the construction of school premises tie in with the construction of housing estates, or be at least closer to the commissioning of housing estates?

SECRETARY FOR EDUCATION (in Cantonese): President, actually I have already clearly explained this issue in the main reply. I already made a longer than usual main reply today to this oral question of the Legislative Council.

This issue involves planning, construction, allocation of school places, and how the Education Bureau assists parents or students in finding school places. A simple answer to Mr IP's supplementary question is that at present, there are sufficient school places in Kwun Tong district for KG, primary and secondary students newly moved into On Tai Estate and On Tat Estate. One primary school premise is under construction, one secondary school is scheduled to be built and a SAE will be launched for one primary school site. All of these school premises will be located in the vicinity of On Tai Estate and On Tat Estate. They will be used for reprovisioning purposes. In other words, these few school premises will not provide any new school places, but will be used by existing schools in Kwun Tong district with poor school facilities. Hence, students scrambling for school places is actually not common in the case of On Tat Estate and On Tai Estate.

But it may certainly be a little difficult for parents to find a school they prefer or a school very near their residence. However, using our long-standing planning principle, that is, providing secondary school places on a territory-wide basis and primary school places on a district basis, we have been able to provide school places for students.

MR JEREMY TAM (in Cantonese): Secretary, this matter is indeed devastating. There are many people residing in On Tat Estate and On Tai Estate. The intake of On Tat Estate is completed and the intake of four blocks of On Tai Estate is also completed, which is about one third of the residents. We
cannot say that the Education Bureau has no planning. It has planned four KGs and four primary and secondary schools for the Development Area, but regrettably only one KG is commissioned. You mentioned just now that the school premises would be used for school reprovisioning. But the Education Bureau adopts the "principle of vicinity". Anderson Road is located on a hill slope. Students need to travel by vehicles to go to and from Kwan Tong. The Education Bureau should not encourage parents to ask their children to take a long vehicular journey to school.

My supplementary question is simple. The Education Bureau is not without planning. But is it due to some administrative problems of the Bureau that have caused the delayed commissioning of these schools and some of them even still under construction? What caused the delay? Or, is it true that the policy of the Education Bureau is to let all the residents move in first and then address their requests for help slowly on their own initiative? Which is the policy of the Bureau? Secretary, please explain yourself.

SECRETARY FOR EDUCATION (in Cantonese): President, as far as the planning procedure is concerned, I already explained it in the main reply just now. Perhaps, let me explain it again in greater detail. When we planned for the two housing estates, we reserved land based on their population projections. As to when the construction works should start and whether the completed school premises should be used for reprovisioning existing schools or for new schools, we need to decide nearer the time because the population may change.

Any premature decision on using the school premises for reprovisioning purposes may result in inadequate school places to meet the demand in Kwan Tong district if there is any major changes in the population size or number of students in these few years. If the population does change, we should not use the school premises for reprovisioning purposes but use them for new schools. Hence, our major principle is to be school place-oriented.

As I said earlier, so far, Kwan Tong district has adequate school places for students residing in On Tat Estate and On Tai district. That is why when we do the planning, we do not take the housing estates as a unit, but the district as a unit. In principle, a primary school belongs to a certain school net, and school places can be borrowed between school nets. Hence, as far as Kwan Tong district is concerned, we take it as a unit to consider whether there is sufficient primary
school places for students in the district. If we take a housing estate as a unit, like what Mr TAM said, problems may arise if school premises are not constructed in time. But if we take a school net or a district as a unit, there is actually sufficient school places for the students in the district.

PRESIDENT (in Cantonese): Mr Tony TSE, please put your supplementary question.

(Mr Jeremy TAM stood up)

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

MR JEREMY TAM (in Cantonese): I specifically asked just now whether the present situation is caused by a planning problem or their delay. Does the Secretary mean that the Bureau has already made a planning and it does not intend to make any changes?

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

SECRETARY FOR EDUCATION (in Cantonese): We have the responsibility to find school places for students. We can find sufficient school places for KG, primary and secondary school students in Kwun Tong district.

MR TONY TSE (in Cantonese): It is certainly good to have planning, but it is equally important to timely provide facilities. The Government announced earlier the planning of the sites in the Anderson Road Development Area, so as to turn 90% of the housing in the area into public housing by converting some private residential housing into public rental housing. In this connection, Secretary, I know you focus on education, but have you ever considered whether this transformation will lead to any change in the demand on schools, and
whether the Education Bureau has discussed with the Development Bureau on the provision of other facilities, including child care and elderly care facilities?

PRESIDENT (in Cantonese): Part of Mr TSE's supplementary question should not be answered by the Secretary for Education. Secretary, please answer the part of the question you can answer.

SECRETARY FOR EDUCATION (in Cantonese): President, yes, I can only answer the part of the question related to education. We will strive to inform the Planning Department of any planning change that affects the population or the number of school-age children. When the information is updated, the compilation and projection on the school-age children population will also be updated. We will plan for the future land use or the use of school premises in the vicinity of the district or the housing estates based on the latest information. We will make timely changes.

MR WILSON OR (in Cantonese): President, the 16 000 housing units of the 22 blocks of public rental housing estates in the Anderson Road Development Area have housed almost 50 000 people. This has not taken into account the new housing policy just announced by the Chief Executive, which will shoot up the population.

The intake of On Tat Estate was completed in 2016, while the intake of On Tai Estate is still in progress. However, the school premises (including four KGs, three primary schools and one secondary school) in the Development Area still remain at the "construction, allocation and funding" stage. This is very unsatisfactory and once again proves that the Administration is too detached from reality.

Can the Secretary identify with the feeling of the newly move-in residents who have to scramble for a school place in an unfamiliar environment? Moreover, can the Secretary openly commit on expediting the construction in the upcoming development areas, apart from streamlining their preliminary planning, so as to avoid repeating the example of the Anderson Road Development Area?
SECRETARY FOR EDUCATION (in Cantonese): President, I spoke at length about the planning of the Anderson Road Development Area just now. On the whole, the planning of each area is different. Take the new housing development at Queen's Hill as an example. Seeing the need to provide schools in the area, we have allocated two school premises and have now proceeded to their design work. This is how we tie in with a development in terms of planning.

As to how we tie in with the planning of the Anderson Road Development Area, as I just explained, since there are adequate school places to meet the need of the student population in Kwun Tong district, our planning is to use the completed school premises for reprovisioning purposes. But certainly, as I also said just now, I am afraid that for the time being, the residents of the two estates may not be able to find schools that are closest to their residence. That said, they can find school places within Kwun Tong district to study.

MR SHIU KA-CHUN (in Cantonese): President, the Secretary just said that he managed to find many school places. But some schools have relayed to me that they have been ordered by the Education Bureau to expand the classes first from 25 students to 30 students, and then from 30 students to 33 students each class. Has the Government ever thought about the fact that this unlimited adding of students to each class will undermine students' learning and the education quality? Is it true that some classrooms do not even have space to put chairs?

SECRETARY FOR EDUCATION (in Cantonese): President, the case Mr SHIUU mentioned may not be related to the Anderson Road Development Area. In the past few years, due to annual population changes, we had to adopt short-term measures since we noticed that the changes were transient. Take Kwun Tong district as an example. We may make use of vacant classrooms in schools to provide school places. We have two time-limited schools that are operating in vacant school premises, together with the measure of increasing the student-classroom ratio. These are measures to address short-term increases in population. These are not long-term measures, since we have done our population planning and we know these are short-term changes that can be addressed by short-term measures.

(Mr SHIU Ka-chun stood up)
PRESIDENT (in Cantonese): Mr SHIU Ka-chun, which part of your supplementary question has not been answered?

MR SHIU KA-CHUN (in Cantonese): President, I asked the Secretary whether this has happened in On Tat Estate and On Tai Estate.

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

SECRETARY FOR EDUCATION (in Cantonese): President, as I just said, we did increase the student-classroom ratio in the past few years, so this is not directly related to the intake of On Tai Estate or On Tat Estate.

PRESIDENT (in Cantonese): Fifth question.

Handling an incident of suspected drug contamination by the Department of Health

5. DR HELENA WONG (in Cantonese): On the 21st of last month, the Department of Health ("DH") received a report from the Queen Mary Hospital that "Enzyplex", a commonly used drug for treatment of digestive disorders, was suspected of having been contaminated by mould. On the following day, the supplier of that drug requested all its clients to suspend the supply and sale of the drug to patients or customers, and the Hospital Authority also immediately ceased dispensing the drug in public hospitals. On the 26th of last month, DH endorsed the supplier's recall of all batches of the drug from the market due to a quality issue, and called on members of the public to stop taking the drug. In this connection, will the Government inform this Council:

(1) since when the clinics under DH have ceased dispensing the drug concerned;

(2) of the reasons why not until five days after the receipt of the report did DH call on members of the public to stop taking the drug; whether DH has reviewed if such a response was too slow; if DH has
reviewed and the outcome is in the affirmative, of the improvement measures to be put in place; and

(3) whether it will establish a system under which sampling checks will be conducted on imported pharmaceutical products at import, wholesale and retail levels, in order to better protect public health; if so, of the details; if not, the reasons for that?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, in consultation with the Department of Health ("DH"), my reply to the three parts of the question is as follows:

(1) and (2)

In accordance with the Pharmacy and Poisons Regulations (Cap. 138A) and the Code of Practice for Holder of Wholesale Dealer Licence, DH has to take into account various factors in exercise of the powers (including the order to recall products) vested in the department by the legislation and licensing conditions, or before calling on the public to stop taking a registered pharmaceutical product. In general, DH is required to make a preliminary assessment as to whether the incident poses a significant public health risk, and may order suppliers to recall the product or call on the public to stop taking the product after obtaining the analysis results.

As regards the subject incident, DH received a report from the Queen Mary Hospital ("QMH") on 21 June 2018 that a pharmaceutical product named Enzyplex was suspected of having been contaminated by Monascus. The DH's Drug Office immediately started an investigation and collected a total of 13 samples from the local suppliers, QMH and the dispensaries of DH clinics for analysis. These samples were taken from 10 different batches of Enzyplex, including two batches involved in the report made by QMH.
In the afternoon on the same day, the Drug Office delivered all the samples to the laboratory of the Centre for Health Protection for analysis. An analysis was conducted in accordance with the requirements specified by pharmacopoeias\(^{(1)}\) to ascertain whether the product had exceeded the pharmacopoeial standards for the total mould and yeast count and the total bacterial count of non-sterile oral products. According to the pharmacopoeial methods and requirements, an analysis of the total bacterial count takes five full days while that of the total mould and yeast count needs seven full days.

On the same day (i.e. 21 June), DH made the incident public and instructed the local supplier to ask the Indonesian manufacturer of the product to conduct an investigation.

On 22 June, the supplier submitted to DH the results of a preliminary assessment of the drug conducted by the Indonesian manufacturer, which stated that the raw materials and the production environment met the pharmacopoeial standards or its in-house specifications. However, as a precaution, the supplier asked its clients on the same day to stop supplying the drug to the public pending the completion of the DH's investigation. DH clinics and the Hospital Authority ("HA") also stopped dispensing the drug with immediate effect.

The analysis of the bacterial content was completed on the afternoon of 26 June as scheduled. The analysis results showed that all the samples complied with the pharmacopoeial standards. However, as the bacterial content was found to have exceeded the in-house specifications set by the manufacturer, the supplier recalled the relevant batches of the drug on their own initiative. DH announced the update on the same day and asked the public to stop taking the drug. DH clinics proactively contacted the patients concerned and called on them to stop taking the drug. DH also asked the

\(^{(1)}\) In respect of the microbiological standards for non-sterile pharmaceutical products, the mainstream pharmacopoeias worldwide (e.g. European Pharmacopoeia, US Pharmacopoeia and Chinese Pharmacopoeia) have established the same standards, i.e. the total mould and yeast count and the total bacterial count of non-sterile oral solid pharmaceutical products should not exceed 200 cfu/g and 2 000 cfu/g respectively.
manufacturer to conduct a further investigation based on the latest analysis results.

The analysis of the total mould and yeast content was completed on the afternoon of 28 June as scheduled. The analysis results showed that all the samples complied with both the pharmacopoeial requirements and the in-house specifications set by the manufacturer. DH also announced the analysis results on the same day.

In sum, DH conducted an investigation of the product in accordance with the legal requirements and made public the results timely. The 13 samples collected for the investigation complied with the pharmacopoeial requirements on the total mould and yeast count and the total bacterial count of non-sterile oral products.

(3) Under the Pharmacy and Poisons Ordinance (Cap. 138), pharmaceutical products must satisfy the criteria of safety, efficacy and quality, and must be registered with the Pharmacy and Poisons Board before they can be supplied in Hong Kong. For manufacturers, the most important and effective way to ensure the quality and safety of their products is to strictly comply with the Good Manufacturing Practices ("GMP") for medicines. As regards the pharmaceutical products registered in Hong Kong, be they locally produced or imported, their manufacturers must meet GMP requirements of the Pharmaceutical Inspection Co-operation Scheme.

In addition, DH has an established mechanism where samples of pharmaceutical products (including locally produced and imported products) are collected from suppliers and the market for regular analysis according to risk assessment. Items for analysis include the content of the active ingredients of a product and other requirements of the pharmacopoeia (e.g. testing for microbiological quality and dissolution test for tablets, and sterility test for sterile preparations) on different dose forms. When a product is found to be incompliant with the relevant specifications or requirements, DH will conduct an investigation immediately and, where necessary, require the supplier to recall the products and make a public
announcement. The above sampling mechanism and the regulatory measures for pharmaceutical products have been working effectively over the years.

**DR HELENA WONG** (in Cantonese): President, my concern is quality safety of imported pharmaceutical products. Although the Secretary says that the Bureau's regulatory measures for pharmaceutical products have been working effectively, I obviously feel that the so-called effective measures are actually slipshod measures with many loopholes. In my main question, I ask the Bureau whether these imported pharmaceutical products have been tested, and the answer is in the negative. In the world, sampling checks and tests will be conducted on imported pharmaceutical products in a total of 34 countries in the world, including China, a large number of member countries of the European Union, Canada, South Korean and Switzerland. Of course, they will not test each and every pill, and the products from reputable drug manufacturers of certain regions will be exempted from sampling checks. However, under the current practice of Hong Kong, tests will neither be conducted on imported pharmaceutical products at import level nor on the drugs at registration by the Bureau. The only measure in place is conducting sampling checks by DH when the products have already entered the market. And an issue has occurred finally. This kind of gastrointestinal drug was suspected of having been contaminated by mould …

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

**DR HELENA WONG** (in Cantonese): … and an antihypertensive drug was also found to have carcinogenic substances. May I ask the Secretary not to be so arrogant and conceited, and think that a system for drug testing at import level is unnecessary? Will the Bureau review this system which has been working effectively and introduce a sampling check system on imported pharmaceutical products?
SECRETARY FOR FOOD AND HEALTH (in Cantonese): I thank Dr Helena WONG for raising her supplementary question. President, in fact, the usual practice of DH in regard to imported pharmaceutical products is very much in line with the international practice on drug supervision. DH does not conduct sampling checks on these products at import level because this will greatly slow down the import of these products into Hong Kong. DH must strike a balance on this front.

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

Concerning international strategy on drug supervision, it actually highlights the utmost importance of ensuring an effective quality assurance mechanism on the part of manufacturers. Therefore, we will require manufacturers to strictly comply with GMP. Under GMP, drug quality cannot only rely on testing as the only way for quality assurance, but has to rely on the entire quality assurance system, which includes personnel training, regulations on the production workshops and production equipment, requirements on the production of wrapping materials, requirements on verification of production procedures, certification of inspections and document records, as well as verification and follow-up work after production by contractors. With these stringent requirements and our existing sampling mechanism in the market, we think the related mechanism and measures have been working effectively. Of course, DH will keep an eye on the development of global trend in drug supervision, and will follow the trend and draw reference from these practices.

DEPUTY PRESIDENT (in Cantonese): Prof Joseph LEE, please raise your supplementary question.

(Dr Helena WONG stood up)

DEPUTY PRESIDENT (in Cantonese): Dr Helena WONG, which part of your supplementary question has not been answered?
DR HELENA WONG (in Cantonese): *I asked the Secretary why sampling checks were not conducted on the products at import level, but the Secretary did not answer why they were not conducted.*

DEPUTY PRESIDENT (in Cantonese): Dr WONG, you have already pointed out the part of your supplementary question not answered by the Secretary. Please be seated. Secretary, do you have anything to add?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): Deputy President, as I have already highlighted earlier, first, DH's drug supervision system is more or less in line with international practices, and second, sampling checks at import level will greatly slow down the import of pharmaceutical products into Hong Kong. However …

(Dr Helena WONG stood up and spoke)

DEPUTY PRESIDENT (in Cantonese): Dr Helena WONG, please wait for a moment. Let the Secretary reply first.

DR HELENA WONG (in Cantonese): *It is because what the Secretary said is wrong.*

DEPUTY PRESIDENT (in Cantonese): Dr Helena WONG, it is the time for the Secretary to reply. You have already raised your supplementary question. Please be seated. Secretary, please continue with your reply.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): All right, thank you, Deputy President. I just wanted to reiterate that first, DH's drug supervision system is broadly in line with international practices, and second, sampling checks are not conducted at import level because this will greatly slow down the import of pharmaceutical products into Hong Kong.

However, in our view, the most important task is to ensure the overall quality of pharmaceutical products, instead of merely conducting sampling
checks at import level. The manufacturers' quality assurance system of pharmaceutical products is based on the specifications of GMP, including regulations on personnel training, inspections, verification and follow-up work after production. We have stringent requirements and supervision of the entire system and we think this is the most important thing. Besides, we will conduct sampling checks on the products after they have entered the market. When a product is found to be problematic, it will be recalled and a public announcement will be made. We think this practice has been working effectively, but DH will surely continue to review the situation in accordance with the different practices of the world and the latest trend.

PROF JOSEPH LEE (in Cantonese): Deputy President, Dr Helena WONG did not follow up her question. But after reading the main reply, I am a bit baffled. The drug in concern contains bacteria, mould and yeast. But I can see from the Government's reply that the analysis conducted by the authorities showed that the bacterial, mould and yeast content was fine. There is a question. According to the reply, as the bacterial content was found to have exceeded the in-house specifications set by the manufacturer, the supplier recalled the relevant batches of the drug. I am really a bit baffled. May I ask the Secretary whether there are two standards for analysis? Is it actually safe to take this drug? According to the Government, it is fine if the bacterial, mould and yeast content complies with the pharmacopoeial standards. But the manufacturer says that the product is problematic in respect of its in-house specifications and thus it has to be recalled. Anyway, can this product be taken?

I am at a loss and thus have to ask whether there are two standards. On what standard did the authorities base when asking to recall the product? If the manufacturer had said that its in-house specifications were higher and it was unnecessary to recall the product, would the authorities have requested to recall the product just the same? In regard to recalling a product, does the Administration have any undertaking about making an announcement not later than a period of time after being aware of the situation and doubtful about a product, asking the public not to take the product concerned and that the product will be recalled? Deputy President, these are the series of questions that baffled me. I still have not returned the product that I have already got. But is it still safe to take it?
SECRETARY FOR FOOD AND HEALTH (in Cantonese): Deputy President, I thank Prof Joseph LEE for raising his supplementary question. In fact, the manufacturer has set a higher standard. After the analysis has been conducted by the manufacturer, it decided to recall the product as a precautionary measure. The manufacturer felt that it was necessary to do so.

Of course, from the perspective of DH, firstly, it will continue to investigate into the matter; and secondly, the manufacturer must conduct an investigation and submit a report to DH. Before completion of the manufacturer's investigation, the supply of the product will be temporarily suspended in Hong Kong. DH will also study the investigation report of the manufacturer before considering whether the product will be allowed to be imported again. Before resuming the sale of the product, DH will conduct sampling checks to make sure that it is up to standard. Under the regulatory mechanism, this is the usual practice of DH concerning pharmaceutical products in the market.

DEPUTY PRESIDENT (in Cantonese): Dr KWOK Ka-ki, please raise your supplementary question.

(Prof Joseph LEE stood up)

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

PROF JOSEPH LEE (in Cantonese): The Secretary has given a very detailed reply, but she has not answered my supplementary question. My supplementary question is very straightforward. No matter the Administration has double standards or not, will the Administration undertake that it will announce to recall the product after an average of how many days upon its awareness of the problem?

DEPUTY PRESIDENT (in Cantonese): Secretary, do you have anything to add?
SECRETARY FOR FOOD AND HEALTH (in Cantonese): Deputy President, in case there is any incident, generally speaking, DH will immediately make an announcement after verification and obtaining substantial information. In regard to this matter, as I said earlier, before completion of the manufacturer's investigation, the supply of the product will be temporarily suspended in Hong Kong.

DR KWOK KA-KI (in Cantonese): Deputy President, people in this profession all know that Enzyplex, which may have the function of improving digestion, is not a drug necessary for treatment. But the most regrettable or outrageous situation is that after QMH made a report on 21 June, it was not until 26 June, i.e. five days later, that DH called upon the public not to take that drug. During these five days, many people in Hong Kong were also at a loss, not knowing what to do. The Secretary just said that it has already requested to suspend the sale of the drug. But many patients have already got the drug at home, either provided by government hospitals or purchased themselves. There was actually a simple way out. Before there was a final analysis result on this non-primary or non-essential drug, why did the many doctors and nurses in DH and Food and Health Bureau not say to the patients that under the circumstances, it would be better not to continue taking that drug? Is the Government sick or not?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): Deputy President, first of all, on 21 June when DH made an announcement of the incident, it already asked the manufacturer to conduct an investigation. On 22 June, the clinics under DH as well as HA already stop dispensing the drugs immediately. Therefore, under the circumstances, upon completion of the bacterial analysis, DH already immediately informed the affected patients of the situation and asked them to stop taking that drug. If the patients of DH or HA are taking that product and have any queries, advice will be given by the health care personnel.

(Dr KWOK Ka-ki stood up)

DEPUTY PRESIDENT (in Cantonese): Dr KWOK Ka-ki, the Secretary has already answered your supplementary question.
DR KWOK KA-KI (in Cantonese): She has not given me an answer. My supplementary question is very clear.

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

DR KWOK KA-KI (in Cantonese): This is a very simple question. From 21 to 25 June, many professional officials in the Department or the Bureau …

DEPUTY PRESIDENT (in Cantonese): Please quickly point out the part of your supplementary question which has not been answered.

DR KWOK KA-KI (in Cantonese): She has not answered. Why could the Government not do such a simple thing of asking patients not to take that drug? Is the Government sick or not brave enough to say this, or does it think that it should not give this advice?

DEPUTY PRESIDENT (in Cantonese): You have already pointed out the part of your question that has not been answered. But as the Secretary just pointed out, the Government has informed the patients not to take the product.

DR KWOK KA-KI (in Cantonese): Deputy President, she has not given an answer. She just waited until 26 June …

DEPUTY PRESIDENT (in Cantonese): Secretary, please clarify.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): Deputy President, it is all clearly written in DH's press release on 22 June.

MR AU NOK-HIN (in Cantonese): Deputy President, my supplementary question is very simple. When even the drug manufacturer also thinks that the drug is problematic, it is unreasonable for the Government to tell the public that
there is no problem with the drug, as indicated in the Government analysis result, and that the public can disregard the view of the manufacturer who is the only one that thinks that the drug is problematic. In my view, should the Government consider raising the standard to be on par with the standard set by the drug manufacturer? Can the Secretary make a response?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): Deputy President, I thank Mr AU for raising this supplementary question. In fact, in the press release on 22 June, DH already highlighted that as a precaution, the supplier decided to recall the product in addition to setting up a hotline to answer public enquiries. DH has never received any report about anyone having adverse drug reactions due to taking that product. DH also appeals to the public that when they have any queries, they can consult health care personnel for their advice.

DEPUTY PRESIDENT (in Cantonese): Last oral question.

Parking arrangements at the Hong Kong Port of the Hong Kong-Zhuhai-Macao Bridge

6. MR HOLDEN CHOW (in Cantonese): Regarding the parking arrangements at the Hong Kong Port ("HK Port") of the Hong Kong-Zhuhai-Macao Bridge upon the latter's commissioning, will the Government inform this Council:

(1) among the 661 private car parking spaces at HK Port, of the number of those which will be made available for online booking, and the relevant parking fees and the maximum parking time allowed;

(2) of the number of vehicles which may be parked temporarily at the waiting area of HK Port; how the authorities will handle prolonged occupation of the waiting area by vehicles, and whether the authorities will issue warnings and fixed penalty tickets to the drivers concerned and tow away the vehicles concerned; and

(3) of the measures formulated by the authorities to deal with the situation in which a large number of vehicles need to make use of the waiting area to pick up and drop off passengers during peak travel
seasons, in order to avoid the occurrence of serious traffic blockages?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Deputy President, the Hong Kong-Zhuhai-Macao Bridge ("HZMB") is the first cross-boundary land transport infrastructure project linking Hong Kong, Zhuhai and Macao. In the course of planning the transport facilities at the Hong Kong Port, the Government expected and encouraged the majority of the travellers to use public transport, including franchised bus, green minibus, taxi and non-franchised bus, and then take cross-boundary shuttle bus at the Hong Kong Port to travel to Zhuhai and Macao via HZMB. Upon the commissioning of HZMB, the Transport Department ("TD") will strengthen public transport feeder service by introducing three new franchised bus routes and one green minibus route.

Besides, there are five public car parks at the Hong Kong Port, providing a total of 661 parking spaces for private cars, 25 parking spaces for motorcycles, 12 parking spaces for the disabled, 14 parking spaces for light goods vehicles and 21 parking spaces for out-of-service taxis.

The Civil Engineering and Development Department and the Planning Department are conducting a feasibility study for topside development at the artificial island where the Hong Kong Port is located to explore how to optimize the land on the island for topside and underground development for commercial and other economic uses. The Government will study the provision of parking spaces at the topside development to further meet the parking demand of Hong Kong residents and inbound visitors.

My reply to Mr Holden CHOW's question is as follows:

(1) Half of the various types of parking spaces in the public car parks at the Hong Kong Port will be available for booking. The operator of the car park will introduce an online booking system for motorists to make bookings before parking.

To encourage booking of parking spaces by motorists, the parking fees of private cars will be HK$20 per hour and HK$160 per day, which are concessionary rates as compared with those of non-reserved parking spaces. Parking of vehicles in excess of the
time reserved will be subjected to an hourly fee at HK$40, which is a double of the fee of a reserved parking space. The length of each parking booking is subject to a minimum of two hours and a maximum of three days.

A progressive scale of hourly parking fees will be adopted for non-reserved parking spaces to increase the turnover rate, thereby making the parking spaces available to more motorists. The fees for non-reserved parking spaces for private cars will be HK$20 per hour for the first two hours, HK$30 for the third hour and HK$40 per hour starting from the fourth hour. Parking at non-reserved parking spaces is available only on an hourly basis but not on a daily basis, and will cost HK$910 for the first 24 hours of occupation.

(2) At the area adjacent to the Passenger Clearance Building of the Hong Kong Port, there are 24 pick-up and drop-off spaces for franchised buses, 124 pick-up and drop-off spaces for coaches (including cross-boundary coaches, cross-boundary shuttle buses and domestic non-franchised buses), 6 pick-up and drop-off spaces for green minibuses, 20 pick-up spaces for taxis and 20 drop-off spaces for taxis and private cars.

Moreover, with reference to the car park arrangements for private cars at the Hong Kong airport, private cars bound for the Hong Kong Port can pick up passengers at Public Car Park No. 1 close to the Passenger Clearance Building. Apart from parking spaces for private cars, there will also be pick-up and drop-off spaces for use by private cars in Public Car Park No. 1. Vehicles can stay for free for not more than 30 minutes for any continuous period of three hours in the car park. The parking fee beyond the 30-minute period will be the same as the fee for parking without reservation.

The drop-off area for taxis and private cars outside the Passenger Clearance Building has been designated as restricted zone, permitting the setting down of passengers only. Should any vehicles stay or pick up passengers in the area, the Police could take enforcement action, such as giving warning or issuing fixed penalty tickets. The vehicles concerned may be towed away if severe obstruction is caused.
(3) TD, the contractor of the Hong Kong Port and the public car parks will closely monitor the utilization of drop-off and pick-up areas, public car parks and nearby roads. To facilitate orderly use of drop-off and pick-up facilities by non-franchised buses, TD has put in place a booking system for non-franchised buses picking up travellers at the Hong Kong Port. Additionally, there will be a taxi queuing area outside the Passenger Clearance Building to accommodate a maximum of around 220 taxis to ensure that no traffic obstruction will be caused by taxis waiting for passengers.

Subject to the traffic condition at the Hong Kong Port, the Emergency Transport Co-ordination Centre of TD will adopt appropriate traffic management measures in coordination with the Police for on-the-spot traffic control and diversion to ensure smooth traffic flow. TD will also liaise with public transport operators for appropriate adjustments to service frequencies to improve the traffic condition. Meanwhile, the Government and the MTR Corporation Limited are exploring the possibility of increasing the number of train frequencies of Tung Chung Line.

In addition, the TD's "Hong Kong eRouting" website and mobile application will provide the public with real-time traffic information at the Hong Kong Port and the availability of parking spaces at the public car parks there. This will help alert drivers and travellers as promptly as possible for early journey planning, such as switching to public transport for travelling to the Hong Kong Port. In case the private car parking spaces are almost fully occupied, TD will disseminate such information through message signs on major roads in various districts. The Government will also make continuous publicity efforts to encourage travellers to use public transport for access to the Hong Kong Port.

MR HOLDEN CHOW (in Cantonese): Deputy President, 661 parking spaces are actually not enough. We are concerned that if local people driving their local private cars cannot find any parking spaces at the Hong Kong Port, they must go to Tung Chung instead and look for parking spaces there. This may cause serious traffic congestion in Tung Chung. The main reply says that the topside of the artificial island where the Hong Kong Port is located will be reserved for providing additional parking spaces. I hope that the Secretary can implement this arrangement and will not turn a blind eye to this.
Deputy President, my supplementary question is this. Part (1) of the main reply points out that a time limit will be set for non-reserved parking spaces. How long is the time limit actually? How long is it in terms of number of hours? It is important to set a time limit because the lack of a time limit will lead to prolonged occupation of parking spaces, meaning that some may deliberately park their cars there for a whole week and do not drive them away. As a result, it will be impossible to achieve any turnover of parking spaces. I wish to clarify how long the time limit on non-reserved parking spaces is in terms of number of hours.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Many thanks to Mr Holden CHOW for his supplementary question. First, I wish to say that the Government is now conducting a study on topside development. As I mentioned in my main reply earlier on, we will explore parking space arrangements at the topside development and the uses of the underground space. We are conducting a study in this respect.

We admit that 661 parking spaces may be a relatively small number. But as we have told Honourable Members on various occasions, our direction is to encourage visitors to travel to HZMB's Hong Kong Port by public transport. In response to Mr Holden CHOW's earlier supplementary question, I wish to point out that a time limit of three days will be imposed on reserved parking spaces. While no time limit will be set for non-reserved parking spaces, their parking fees are computed on an hourly basis. As I mentioned just now, the parking fee for the first 24 hours is HK$910. Even though we will not set a time limit for those parking spaces, users must bear a higher parking fee. We believe the relevant parking fee can effectively achieve a proper turnover of parking spaces and facilitate visitors' use.

MR YIU SI-WING (in Cantonese): Deputy President, part (2) of the Secretary's main reply says that the authorities will provide 124 pick-up and drop-off spaces for coaches, including those for domestic non-franchised buses. As far as I know, merely eight pick-up and drop-off spaces will be provided in the area for non-franchised buses on outbound trips (meaning those dropping off passengers). Likewise, only eight pick-up and drop-off spaces will be provided for those on return trips (meaning those picking up passengers). This is utterly unable to meet the trade's needs, especially because coaches must very often wait for passengers when offering pick-up services. Under this circumstance, the ninth
coach or those which follow must wait in line. But we are very concerned about how long they will have to wait. If coaches are not allowed to wait in line, they will have to move around and queue up only after the preceding eight coaches have left. This will cause traffic congestion in the area.

Have the authorities conducted any test to see whether any chaos will arise when large numbers of coaches move around in the area? If the authorities have not done so, how will the authorities resolve such possible problems after the commissioning of HZMB in the future?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Many thanks to Mr YIU Si-wing for his supplementary question. After communicating with the trade, we have significantly increased the number of pick-up time slots from 100 to 300 per day. In our estimation, as no reservation is required for dropping off passengers, the Honourable Member needs not worry that dropping off passengers may cause any waiting problem or traffic congestion.

In contrast, as we understand that it may take a longer time to pick up passengers, we will implement a reservation system as a means of striking a balance between the trade's demand for picking up passengers and the need for traffic control. We understand that large numbers of non-franchised buses waiting to pick up passengers may cause traffic congestion or hinder traffic management at the Hong Kong Port. Therefore, a reservation system can precisely meet these two needs.

(Mr YIU Si-wing stood up)

DEPUTY PRESIDENT (in Cantonese): Mr YIU Si-wing, which part of your supplementary question has not been answered?

MR YIU SI-WING (in Cantonese): Just now, I asked the Secretary if any test had been conducted to see whether chaos would arise if large numbers of coaches moved around in the area. But he merely talked about a reservation system in his reply, without pointing out if any test had been conducted.
DEPUTY PRESIDENT (in Cantonese): Mr YIU, you have clearly pointed out the part on which you seek the Secretary's reply. Secretary, Mr YIU asked if any test had been conducted. Can you give a direct reply?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Many thanks to Mr YIU for his follow-up question. TD has arranged a visit to the Hong Kong Port for trade practitioners, and it will also conduct a field test. We will continue to pay heed to the trade's views on the current arrangements and dovetail closely with its development.

MR PAUL TSE (in Cantonese): Deputy President, on the one hand, we hope to achieve value for money for HZMB and increase traffic flow instead of seeing it degenerate into a "white elephant" project. But on the other hand, due to Hong Kong's environmental constraints, and having seen the particular case of Macao, we do not want to see too many vehicles enter the area concerned.

Hong Kong will issue 10 000 permits to dual-plate private cars which are allowed to travel to and from the Mainland via HZMB, and such permits will be issued in three phases: Five thousand permits will be issued in the first phase; 3 000 permits will be issued three months after the commissioning of HZMB; and the remaining 2 000 permits will be issued after the Chek Lap Kok passageway in Tung Chung commissions service. This is my understanding. But apart from the 1 000 quotas for inbound Mainland vehicles, there are also thousands of quotas for vehicles passing through various boundary crossings. The relevant vehicles may travel to Hong Kong via HZMB by that time.

Mr Holden CHOW's main question says that merely 661 parking spaces will be provided at the Hong Kong Port. Has the Government ever considered that this number of parking spaces is far from enough to meet the demand? The Government must either forbid dual-plate private cars to park there, or encourage inbound Mainland vehicles to park at the relevant parking spaces instead of going directly to Hong Kong. Under this circumstance, how should the authorities properly handle this difficulty in its assessment?
SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Many thanks to Mr Paul TSE for his supplementary question. The 661 parking spaces at the Hong Kong Port will be used for the parking of Hong Kong vehicles before departure. Afterwards, car owners must interchange for shuttle buses at the Hong Kong Port for departure. There will not be any parking spaces for inbound vehicles under the existing arrangements. In other words, vehicles from Macao or Zhuhai are forbidden to park at the Hong Kong Port. The 661 parking spaces are intended for the parking of local vehicles. Then, car owners must interchange for shuttle buses in order to go to Macao or Zhuhai.

MR STEVEN HO (in Cantonese): Deputy President, the current shortage of parking spaces in Hong Kong communities is already proof that controlling the number of parking spaces as a means of containing the use of private cars is not feasible. As also mentioned by the Secretary just now, only around 600 parking spaces will be provided, and it is a relatively small number. And, the Secretary has also told Members in his main reply that the authorities will study the possibility of topside development as a means of increasing the number of parking spaces. This shows that the Secretary has also admitted somewhat indirectly that the Government's initial planning already errs in its inadequate provision of parking spaces.

Will the SAR Government review the number of parking spaces in various infrastructure facilities in Hong Kong having regard to this incident and its mistake, so as to improve Hong Kong's social environment, including rectifying the shortage of parking spaces in places such as Yuen Long and Kowloon?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Many thanks to Mr Steven HO for his supplementary question. The transportation strategy adopted by the Hong Kong Government is public transport-oriented. The Government encourages the public to use public transport as the means of travel.

As I said in my main reply, speaking of the facilities at HZMB's Hong Kong Port, the Government's initial design was to encourage visitors to use public transport as the means of transport, so design-wise, the number of parking spaces at the Hong Kong Port is relatively small. We also admit that the number of parking spaces on the Hong Kong side is smaller than those on the Zhuhai and
Macao sides. Precisely for this reason, we hope the study can explore how the topside or underground space can be used effectively for other development uses. I will also give thoughts to this.

MR HOLDEN CHOW (in Cantonese): Deputy President, I must express discontent about one point. The Secretary's earlier reply points out that no time limit will be set for non-reserved parking spaces. Without any time limit, parking spaces will be occupied for prolonged periods, just as I mentioned earlier. As long as a car owner pays a daily fee of $910, he may park his car there for his whole life. In my view, this is inconceivable. The Secretary likewise asserted that the relevant arrangement was originally intended to achieve turnover of parking spaces. But a car owner may actually park his car in a non-reserved parking space indefinitely as long as he pays a daily fee of merely $910. I do not approve of this arrangement. Deputy President, may I ask the Secretary to tell me if he will review his reply?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Many thanks to Mr Holden CHOW for his supplementary question. As I pointed out clearly in my earlier reply, imposing a fee on non-reserved parking spaces is a disincentive to drivers who want to park their cars for prolonged periods. According to the fee standard, the fee for the first hour is $20, so is the second hour; the fee for the third hour is $30; and the fee for the fourth hour and thereafter is $40 per hour, and it will increase on a progressive scale. If a driver parks his car, say, for three consecutive days, he will have to pay $2,730. This sum and the fee for a reserved parking space differ by some $2,000. We believe that pricing is an effective mechanism for preventing users of non-reserved parking spaces from occupying such parking spaces for prolonged periods. If he needs to park his car for quite some time, why doesn't he make a reservation beforehand?

Speaking of reserved parking spaces, a driver may conduct the reservation procedure several days before arriving at the Hong Kong Port. He may actually resolve his parking need through reservation. Perhaps from time to time, or for some special reasons, some may be willing to pay the higher fee. This is their personal choice. But we believe that a high hourly fee is already effective in ensuring the turnover of parking spaces and striking an appropriate balance between the need of car park users and the need for traffic control.
MR GARY FAN (in Cantonese): Deputy President, the main reply points out that the online reservation system is used for the parking of private cars, and it is also applicable to non-franchised buses. Last week, this Council discussed a motion on smart city. When I read the relevant contents yesterday, I also wondered why it only mentioned the reservation system without saying anything about real-time traffic information. Actually, it will be even better if information technology can be applied. The Secretary mentions this in his main reply today. But I wish to ask him a specific question. Will the provision of real-time traffic information be confined to public car parks and non-franchised buses? Will real-time information be provided to visitors and passengers at the pick-up and drop-off spaces for franchised minibuses and the taxi queuing area, so that they may have a easier grasp of time or save some time with the better use of information technology?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Thanks to Mr Gary FAN for his supplementary question. Speaking of real-time traffic information, I wish to say that we hope to provide drivers, in particular, with more information, so that they can have greater room and more options for trip planning. We understand that drivers may use major roads when going to the airport island or the Hong Kong Port. The lack of real-time information may cause inconvenience to their trips. Will the local district be affected especially when a driver arrives at the Hong Kong Port only to find that the car parks are full? Besides, this will likewise cause inconvenience to drivers' trips. We understand that.

My main reply exactly says that we will display the relevant information on message signs on major roads. And, before starting their trips, drivers may learn the prevailing traffic conditions through our mobile phone applications and in turn make better transport planning. For example, they may choose to drive their own cars or use public transport. In this regard, our applications will provide real-time information. An adequate number of display panels will also be installed at the Hong Kong Port to provide visitors with various kinds of traffic information, so as to facilitate the planning of their itineraries and make their journeys more comfortable.

WRITTEN ANSWERS TO QUESTIONS

Electronic customs clearance system

7. MR AU NOK-HIN (in Chinese): President, Reuters reported on 6 June this year that the Chinese enterprise Tencent had been discussing with the Mainland authorities issues relating to the establishment of an electronic customs clearance system. The system uses biometric data to create an "e-Card" system and uses WeChat and virtual documents stored in mobile phones to replace traditional travel documents (including Hong Kong Identity Cards and Home Visit Permits) for Mainland and Hong Kong residents commuting between the two places to go through customs clearance procedure. It was reported that the Chief Executive had watched a demonstration of the "Scan-WeChat-to-cross-border". It is learnt that quite a number of Mainland academics have said that streamlined customs clearance arrangements may bring convenience to the cross-boundary activities of residents in the various cities of the Guangdong-Hong Kong-Macao Bay Area ("the Bay Area"), and given the significant problems arising from the differences in the customs clearance systems, "separate location of boundary control for different places" is not a desirable option. In this connection, will the Government inform this Council:

(1) whether any government department discussed with Tencent or the Mainland authorities the aforesaid electronic customs clearance system in the past five years; if so, of the name(s) of such government department(s) and the progress of the relevant work;

(2) as the Finance Committee of this Council approved in May this year the allocation of funding for the Government to set up an electronic identity ("eID") system which allows members of the public to access public and commercial e-services with a single digital identity and authentication, whether the Government has plans to incorporate electronic customs clearance function into the eID system so that Hong Kong residents may use their smart phones to go through customs clearance procedure;

(3) whether it has assessed if, upon the implementation of the aforesaid electronic clearance system, the storage of biometric data (e.g. the captured data on fingerprints, iris and facial information) of Hong Kong residents in the computer systems of the Mainland immigration
departments will give rise to the risk of privacy leakage, and the facial recognition system of the Mainland will access such data for the purpose of monitoring the whereabouts of Hong Kong residents on the Mainland;

(4) as the Government has indicated that it will strengthen the "mutual access" to the financial services of Hong Kong and the cities in the Bay Area, whether the relevant arrangements cover customs clearance and taxation matters; if so, whether the Government has assessed if those arrangements may give rise to issues relating to "the identity of Hong Kong residents" and "integration of Shenzhen and Hong Kong", and whether the Government will conduct public consultation on those arrangements; and

(5) whether it has made reference to the technologies and relevant experience of the governments of other places in using virtual documents in mobile phones for customs clearance; if so, of the details?

SECRETARY FOR SECURITY (in Chinese): President, the Hong Kong Special Administrative Region ("HKSAR") Government has not communicated or discussed with any organization or Mainland government department regarding the proposal of performing immigration clearance with smartphone applications as mentioned in the question. We noted that the State Immigration Administration of the Mainland made an announcement on 12 June 2018 regarding the report that the company mentioned in the question and the relevant Mainland government departments had studied the use of smartphone applications to replace traditional travel documents (including Hong Kong Identity Cards, Home Visit Permits and Exit-Entry Permit for Travelling to and from Hong Kong and Macau) for immigration clearance. The announcement clarified that the contents of the report concerned are untrue. The Mainland authorities have not communicated or cooperated with the company on the matter. Mainland residents are required to apply for and hold a lawful and valid Exit-Entry Permit and endorsement for travelling to and from Hong Kong.

Having consulted the Innovation and Technology Bureau, the Office of the Government Chief Information Officer ("OGCIO"), the Constitutional and
Mainland Affairs Bureau and the Financial Services and the Treasury Bureau, our reply is as follows:

(1), (3) and (5)

The Immigration Department ("ImmD") has all along adopted various measures and made good use of technology to improve the clearance procedures and enhance the handling capacity as well as operational efficiency of control points. In recent years, measures taken by ImmD include:

- In March and December 2013, ImmD has introduced "Non-stamping immigration clearance service" for visitors and Hong Kong non-permanent residents respectively. Under the arrangement, stamping on travel documents during arrival clearance was replaced by the issue of a landing slip bearing the conditions and limit of stay of the holder. Upon departure, no landing slip or stamping would be given, which shortens the immigration clearance time.

- In December 2013, ImmD launched the "Hong Kong Immigration Mobile Application" for Hong Kong residents and visitors to obtain information on the estimated passenger waiting time at major land boundary control points and other information. The information serves as a reference for Hong Kong residents and visitors so that they may choose a less congested land boundary control point or travel at less busy hours.

- Starting from early 2016, ImmD has commenced the implementation of the "New Immigration Control System" by phases. It comprises upgrading and integration of the hardware and software of various control point systems, upgrading all existing e-Channels at control points to multi-purpose e-Channels and the installation of 158 additional multi-purpose e-Channels, bringing the total number of multi-purpose e-Channels at all control points to 595. It enables frontline staff at control points to deploy e-Channels more flexibly based on passenger flow to expedite
immigration clearance of Hong Kong residents and visitors and alleviates the work pressure of the traditional counter officers.

- In October 2017, ImmD has also launched self-service departure for visitors ("Smart Departure"). Visitors who hold valid electronic travel documents compliant with stipulated requirements may perform self-service departure clearance, through face recognition technology for identity verification, without prior enrolment. It provides a more convenient immigration service for visitors, while enhancing the effectiveness of immigration control.

When considering and launching any measures involving changes of existing clearance mode and enhancing handling capacity of control points, the Government must take into account issues concerning the law, technology, actual benefits, etc., as well as factors such as whether the privacy of residents and passengers (including the biometric data) can be protected under the measures concerned. At present, the HKSAR Government has no plan to conduct any research on the performance of immigration clearance through smartphone applications as mentioned in the question.

(2) According to OGCIO, eID could functionally be regarded as a common key for digital identity authentication. It will enable members of the public to access various government and commercial e-services in a simple, convenient and secure manner. It can be used for logging on online accounts of the Government and public/private organizations. eID will mainly be deployed for identity authentication in online transactions. At this stage, there is no study on using eID as an identity authentication technology for immigration clearance.

(4) One of the HKSAR Government's key focuses in taking forward the development of the Guangdong-Hong Kong-Macao Bay Area is, through policy innovation and breakthrough, to enhance the interconnectivity of Bay Area cities and foster the flow of people, goods, capital and information between Hong Kong and other cities in the Bay Area. In light of the opportunities arising from the Bay
Area development, the HKSAR Government will strive for the provision of more measures that would increase the level of convenience for Hong Kong people working, starting businesses and doing business in the Bay Area, including discussion with relevant Mainland authorities on tax arrangements for Hong Kong people working in the Mainland. On promoting mutual access of financial services between the two places, we will seek to expand the cross-border use and business scope of RMB in the region, and develop additional financing channels and cross-boundary financial services to tie in with the growth of enterprises in the Bay Area.

Remuneration of employees under various admission schemes

8. MR ALVIN YEUNG (in Chinese): President, some employers have relayed to me that the applications they made in recent years for employing foreign nationals to come to work in Hong Kong under the General Employment Policy ("GEP") have been rejected. Such employers wondered if the reason for their applications being rejected was that the salaries offered to the prospective employees were too low. In this connection, will the Government inform this Council:

1) of the (i) range and (ii) median value, of the monthly salaries offered by employers to persons who were admitted to work in Hong Kong under the Admission Scheme for Mainland Talents and Professionals in each of the past five years;

2) of the (i) range and (ii) median value, of the monthly salaries offered by employers to persons who were admitted to work in Hong Kong under the Immigration Arrangement for Non-local Graduates in each of the past five years (with a breakdown by Mainland graduates and non-Mainland graduates);

3) of the (i) range and (ii) median value, of the monthly salaries offered by prospective employers to persons who applied to work in Hong Kong under GEP in each of the past five years (with a breakdown by whether the applications were approved);
(4) **among the applications made under GEP in the past five years, of the number of applications rejected by the authorities on the grounds that the monthly salaries offered to the prospective employees were too low; and**

(5) **of the five most common reasons for applications made under GEP being rejected in the past five years, and the number of cases in relation to each reason?**

SECRETARY FOR SECURITY (in Chinese): President, at present, the Immigration Department ("ImmD") implements the General Employment Policy ("GEP") and Admission Scheme for Mainland Talents and Professionals ("ASMTP") for non-local professionals who wish to work in Hong Kong. GEP is for admitting overseas, Taiwan and Macao professionals and ASMTP for Mainland professionals. The objectives of the two entry arrangements are to allow local employers to recruit professionals not readily available in Hong Kong to meet their manpower needs. Professionals seeking to work in Hong Kong have to meet three main criteria:

(i) having a good education background, normally a first degree in the relevant field;

(ii) having a confirmed offer of employment and being employed in a job relevant to their academic qualifications or work experience that local professionals cannot be recruited to take up; and

(iii) the remuneration package being broadly commensurate with and not inferior to the local prevailing market level.

Moreover, applicants who are/were non-local students and have obtained an undergraduate or higher qualification in a full-time and locally-accredited programme in Hong Kong ("non-local graduates") may apply to stay/return and work here under the Immigration Arrangements for Non-local Graduates ("IANG"). Non-local graduates who submit applications to ImmD within six months after the date of their graduation (i.e. the date shown on their graduation certificates) are classified as non-local fresh graduates. They are not required to secure an offer of employment upon application. They may be granted 12 months' stay on time limitation without other conditions of stay provided that
normal immigration requirements are met. On the other hand, non-local graduates who submit applications beyond six months of the date of their graduation are classified as returning non-local graduates. Non-local graduates who wish to return to work here are required to secure an offer of employment upon application. The applications will be considered so long as the job is at a level commonly taken up by degree holders and the remuneration package is at market level. They may be granted 12 months' stay on time limitation without other conditions of stay provided that normal immigration requirements are met. If they wish to apply for an extension of stay upon the expiry of their limit of stay, their applications will be considered as long as they have secured an offer of local employment which is at a level commonly taken up by degree holders and the remuneration package is at market level. For applicants who have established or joined in business in Hong Kong and are able to produce proof of their business, their applications will also be considered.

In assessing whether the remuneration package of an applicant is broadly commensurate with the prevailing market level, ImmD will take into account a series of relevant factors in a holistic manner, including his/her experience, length of service, prevailing market situation for the industry concerned, etc., while making reference to market information of various sources, as well as seeking advice from relevant professional bodies as necessary. In addition, where circumstances of individual cases warrant, ImmD shall request the employing company to provide evidence to show that the remuneration package offered is commensurate with an applicant's situation, such as his/her length of service and market situation for the industry concerned.

In response to Mr Alvin YEUNG's question, our reply is as follows:

(1) to (3)

ImmD does not maintain statistics on median salaries of the approved applicants of ASMTP, IANG and GEP. ImmD also does not maintain statistics on monthly remuneration and median salaries to be paid to the refused applicants of GEP.

The breakdown statistics on applicants approved for admission to Hong Kong under the above admission schemes by monthly remuneration in the past five years are tabulated as follows:
### ASMTTP

<table>
<thead>
<tr>
<th></th>
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<tr>
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<td>2 115</td>
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<td>511</td>
<td>844</td>
<td>946</td>
<td>1 227</td>
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<td>9 313</td>
<td>9 229</td>
<td>10 404</td>
<td>12 381</td>
<td>6 285</td>
</tr>
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</table>

### Applicants who are approved for extension of stay under IANG^#

<table>
<thead>
<tr>
<th>Monthly Remuneration</th>
<th>2015 (April to December)</th>
<th>2016</th>
<th>2017</th>
<th>2018 (January to June)</th>
</tr>
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<tr>
<td>Below $20,000</td>
<td>5 441</td>
<td>5 614</td>
<td>5 157</td>
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<td>$20,000 - $39,999</td>
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<td>4 345</td>
<td>1 488</td>
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<td>$40,000 - $79,999</td>
<td>528</td>
<td>767</td>
<td>926</td>
<td>440</td>
</tr>
<tr>
<td>$80,000 or above</td>
<td>100</td>
<td>202</td>
<td>325</td>
<td>143</td>
</tr>
<tr>
<td>Total</td>
<td>8 693</td>
<td>10 368</td>
<td>10 753</td>
<td>3 162</td>
</tr>
</tbody>
</table>

Notes:

^ ImmD does not maintain breakdown statistics on approved applicants of IANG by monthly remuneration. ImmD also does not maintain breakdown statistics by region of applicants.

# ImmD does not maintain breakdown statistics by monthly remuneration before April 2015.

### GEP

<table>
<thead>
<tr>
<th></th>
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<tbody>
<tr>
<td>Below $20,000</td>
<td>6 244</td>
<td>7 390</td>
<td>5 976</td>
<td>7 017</td>
<td>8 431</td>
<td>4 139</td>
</tr>
<tr>
<td>$20,000 - $39,999</td>
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<td>9 825</td>
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<td>$80,000 or above</td>
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<td>14 461</td>
<td>9 076</td>
<td>8 153</td>
<td>9 359</td>
<td>3 446</td>
</tr>
<tr>
<td>Total</td>
<td>28 380</td>
<td>31 676</td>
<td>34 403</td>
<td>35 997</td>
<td>39 952</td>
<td>20 314</td>
</tr>
</tbody>
</table>

Note:

# ImmD does not maintain the relevant breakdown statistics before 2014.
(4) and (5)

ImmD does not maintain breakdown statistics on the refusal reasons under GEP. The common reasons for refusal include:

(i) The employer is not able to demonstrate that the position cannot be readily taken up by local professional;

(ii) The remuneration package offered is not commensurate with the prevailing market level;

(iii) The applicant does not have adequate relevant academic qualifications or experience;

(iv) Doubtful operating or financial situation of the employing company; or

(v) Doubtful purpose of application.

Planning for retirement and health protection

9. MR SHIU KA-CHUN (in Chinese): President, last year, the Secretary for Labour and Welfare ("the Secretary") pointed out that in some two decades to come, there would be about one elderly person (i.e. a person aged 65 or above) in every three Hong Kong people, and that any retirement protection measure should have due regard to fiscal sustainability, in order not to impose a heavy burden on public finances and the next generation. Regarding the planning for retirement and health protection, will the Government inform this Council:

(1) of (i) the latest projected elderly population, (ii) the projected expenditure for the Elderly Health Care Voucher Scheme and (iii) the projected expenditure on public healthcare services, in each year from now to 2066;

(2) among the elderly persons, of the respective numbers and percentages of those receiving the Comprehensive Social Security Assistance, the Old Age Allowance, the Normal Old Age Living Allowance ("OALA") and the Higher OALA in each year from now
to 2066, as well as the respective percentages of such expenditures in public expenditure;

(3) as the Secretary indicated earlier that as far as OALA was concerned, public annuities would not be counted as assets but the monthly payouts received would be regarded as an income, whether the authorities have estimated (i) the number of elderly persons who will participate in the public annuity scheme each year from its launch to 2066 and (ii) the number of elderly persons who are ineligible for OALA owing to their receipt of monthly payouts from the public annuity scheme, as well as the amount of public expenditure saved as a result; if so, of the details; if not, the reasons for that; and

(4) as the Commission on Poverty pointed out in its consultation paper published in 2015 that elderly expenditure in 2064-2065 would be two to four times of that in 2014-2015, and the Working Group on Long-Term Fiscal Planning pointed out in its report published in 2014 that a structural deficit could strike in as early as 2021-2022 under the public service enhancement scenario, of the measures to be put in place by the Government to ensure that retirement and health protection is financially sustainable in the long run?

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, having consulted relevant bureaux and departments, my reply to Member's question is as follows:

(1) In respect of elderly population projection, with the availability of up-to-date benchmark population data from the 2016 Population By-census, the Census and Statistics Department released in 2017 the latest set of population projections covering the period from 2017 to 2066. The mid-year population projections of elderly persons aged 65 and above (excluding foreign domestic helpers) are at Annex.

In respect of the Elderly Health Care Voucher ("EHV") Scheme, according to information provided by the Food and Health Bureau, the EHV Scheme was launched on a pilot basis in 2009 to subsidize
elderly persons to use private primary health care services. The EHV Scheme became a recurrent programme in 2014. At present, each eligible elderly person aged 65 and above is provided with an annual voucher amount of $2,000. As at the end of June 2018, over 1.09 million elderly persons had made use of EHVs (around 87% of the eligible elderly population). Expenditure for the EHV Scheme has increased from $49 million in 2009-2010 to $1,697.5 million in 2017-2018. The estimated expenditure for 2018-2019 is around $3,156 million. As the population ages, even if the operational details of the EHV Scheme remain unchanged, it is expected that the expenditure involved will rise as the elderly population increases.

In respect of public health care services, the Hospital Authority ("HA") is the major provider. According to information provided by the Food and Health Bureau, the overall recurrent subvention to HA amounts to $61.5 billion in 2018-2019. Starting from this financial year, the Government will increase the recurrent funding for HA progressively on a triennium basis having regard to population growth and demographic changes. Under this triennium funding arrangement, the additional full-year recurrent provision will be $10.83 billion with effect from 2020-2021. In estimating the overall operating expenditure of HA and the funding required, the model adopted by the Government and HA is based on the population of Hong Kong, taking into account factors such as the overall demographic and age distribution, and the increase in service costs as a result of changes in the modes of service delivery with the introduction of new medical technology. In finalizing the subvention for HA, the Government will take into account a number of factors, including the population growth and ageing in Hong Kong, the demand for public health care services, the need for service enhancement and the Government's overall fiscal position. The Government will continue to liaise closely with HA in its overall consideration of the level of subvention to HA.

(2) In respect of expenditure on social security for elderly persons (including the Old Age Allowance and Old Age Living Allowance ("OALA")), according to information provided by the Office of the Government Economist, based on the aforementioned population projections and 2018 price levels and after taking into account the two OALA enhancement measures (i.e. relaxing the asset limits of
Normal OALA and implementing Higher OALA), it is crudely estimated that the average recurrent government expenditure on social security for elderly persons would be around $60.9 billion per annum during the 49-year period between 2018 and 2066.

It must be noted that the above estimation covers an extremely long period of time and hence the relevant figure is subject to significant limitations and uncertainties. In addition, the Government does not possess accurate information on assets owned by elderly persons (e.g. cash, bank deposits, values of shares and investment funds, etc.) and cannot estimate their eligibility for receiving social security. There will inevitably be a discrepancy between the above crude estimate and the eventual figure.

(3) According to information provided by the HKMC Annuity Limited, public response has been generally positive since the announcement of the HKMC Annuity Plan ("the Plan"). In addition, to dovetail with the Plan, while the Social Welfare Department will count the payout provided under the Plan as monthly income under OALA (including both Higher OALA and Normal OALA), the one-off lump-sum premium payment placed with the Plan will not be counted as asset, unless an recipient surrenders or partially surrenders an annuity scheme; and in such cases, the surrender value (if any) will be regarded as his/her asset under OALA.

Whether elderly persons participate in the Plan launched by the HKMC Annuity Limited is a matter of personal choice. At this stage, it is difficult to estimate the number of applicants for the Plan or the Plan's impact on the number of OALA beneficiaries.

(4) According to information provided by the Financial Services and the Treasury Bureau, based on the Medium Range Forecast conducted in the 2018-2019 Budget, the Government will have an overall surplus from 2018-2019 to 2022-2023. The fiscal position of the Government is healthy in the medium term. On the premise of ensuring the health of public finance, the Government will continue to adopt forward-looking and strategic financial management principles in optimizing the use of surplus to invest for Hong Kong and relieve our people's burdens.
Annex

Mid-year Population Projections of Elderly Persons Aged 65 and Above from 2017 to 2066 (Excluding Foreign Domestic Helpers)

<table>
<thead>
<tr>
<th>Year</th>
<th>Mid-year population projection</th>
<th>Year</th>
<th>Mid-year population projection</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017#</td>
<td>1 214 100</td>
<td>2042</td>
<td>2 540 100</td>
</tr>
<tr>
<td>2018</td>
<td>1 265 400</td>
<td>2043</td>
<td>2 553 600</td>
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<tr>
<td>2019</td>
<td>1 323 900</td>
<td>2044</td>
<td>2 567 500</td>
</tr>
<tr>
<td>2020</td>
<td>1 386 200</td>
<td>2045</td>
<td>2 580 700</td>
</tr>
<tr>
<td>2021</td>
<td>1 452 900</td>
<td>2046</td>
<td>2 593 900</td>
</tr>
<tr>
<td>2022</td>
<td>1 523 600</td>
<td>2047</td>
<td>2 605 300</td>
</tr>
<tr>
<td>2023</td>
<td>1 598 400</td>
<td>2048</td>
<td>2 618 000</td>
</tr>
<tr>
<td>2024</td>
<td>1 673 200</td>
<td>2049</td>
<td>2 626 500</td>
</tr>
<tr>
<td>2025</td>
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<td>2050</td>
<td>2 634 000</td>
</tr>
<tr>
<td>2026</td>
<td>1 823 400</td>
<td>2051</td>
<td>2 640 200</td>
</tr>
<tr>
<td>2027</td>
<td>1 890 800</td>
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<td>2 640 600</td>
</tr>
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<td>2 643 800</td>
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<tr>
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<td>2 042 300</td>
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<td>2 651 300</td>
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</tr>
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<td>2058</td>
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<td>2041</td>
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<td>2066</td>
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Note:

\# Actual figure
Programmes for training educational psychologists

10. **MR DENNIS KWOK** (in Chinese): President, it has been learnt that educational psychologists ("EPs") play a rather important role under the policy on integrated education. Their tasks include conducting psycho-educational assessments for children suspected to have special educational needs, as well as providing counselling services and accommodation arrangements for them. At present, the University of Hong Kong and the Hong Kong Polytechnic University take turn each year to run local master degree programmes for training EPs, which are funded by the University Grants Committee ("UGC"). Meanwhile, the Government announced in the 2016 Policy Address that it would enhance the School-based Educational Psychology Service by progressively improving the ratio of educational psychologist to school to 1:4 in respect of public sector primary and secondary schools which admit a large number of students with special educational needs. As a result, the demand for EPs will increase gradually. In this connection, will the Government inform this Council if it knows:

(1) (i) the number of places, (ii) the number of graduates, (iii) the unit cost and (iv) the amount of subsidy, in respect of UGC-funded educational psychology programmes in each of the past five years;

(2) the criteria adopted by UGC for vetting and approval of funding applications from tertiary institutions for (i) running new master degree programmes and (ii) increasing the number of places of those programmes, as well as the procedures concerned; and

(3) whether UGC has received funding applications from the two aforesaid institutions for increasing the number of funded places of their master degree programmes in educational psychology; if UGC has, of the details; whether UGC will invite and provide funding to other tertiary institutions to run similar programmes; if UGC will, of the details; if not, the reasons for that?

**SECRETARY FOR EDUCATION** (in Chinese): President, our reply to the question raised by Mr KWOK is as follows:

(1) The approved student intake and the number of graduates of the University Grants Committee ("UGC")-funded educational
psychology programmes for 2012-2013 to 2016-2017 academic years are tabulated as follows:

<table>
<thead>
<tr>
<th>Academic year</th>
<th>Approved student intake</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012-2013</td>
<td>25</td>
</tr>
<tr>
<td>2013-2014</td>
<td>15</td>
</tr>
<tr>
<td>2014-2015</td>
<td>25</td>
</tr>
<tr>
<td>2015-2016</td>
<td>15</td>
</tr>
<tr>
<td>2016-2017</td>
<td>25</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year of graduation</th>
<th>Number of graduates</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013</td>
<td>12</td>
</tr>
<tr>
<td>2014</td>
<td>26</td>
</tr>
<tr>
<td>2015</td>
<td>15</td>
</tr>
<tr>
<td>2016</td>
<td>19</td>
</tr>
<tr>
<td>2017</td>
<td>12</td>
</tr>
</tbody>
</table>

Note:

The above figures cover Master of Educational & Child Psychology programme offered by The Hong Kong Polytechnic University and Master of Social Sciences (Educational Psychology) programme offered by the University of Hong Kong.

Funding for individual UGC-funded programmes is subsumed under the block grant to universities without precise requirements by UGC as to how it should be spent. Universities may allocate funds internally to programmes of various disciplines at different levels as they see fit. UGC is therefore unable to identify or provide information about the actual subvention on specific programmes.

That said, UGC has derived the average student unit cost of UGC-funded Taught Postgraduate ("TPg") places, which are based on the actual costs incurred on UGC-funded expenditure items and reported by universities. The said average unit cost is not equivalent to the actual subvention or expenditure on specific TPg programmes. The average student unit costs of UGC-funded TPg places for the 2013-2014 to 2017-2018 academic years are as follows:
Average student unit cost

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$202,000</td>
<td>$215,000</td>
<td>$230,000</td>
<td>$232,000</td>
<td>Not yet available</td>
</tr>
</tbody>
</table>

Note:

The bulk of the student unit cost of a TPg place is subsidized by Government subvention with the remainder funded by income from tuition fees (i.e. $42,100 per student per year).

(2) and (3)

UGC and UGC-funded universities conduct a planning exercise and recurrent grant assessment on a triennial basis. Proposals of launching new UGC-funded programmes or making changes to the number of intake places of existing programmes are usually raised by the UGC-funded universities in the context of the triennial planning exercise.

The planning exercise for 2019-2020 to 2021-2022 triennium is currently underway. Pursuant to the Government's advice on manpower requirements, UGC-funded universities have submitted planning exercise proposals ("PEPs") to UGC. UGC Sub-Group on Planning Exercise met with individual universities in May 2018 to exchange views on PEP. Before making relevant recommendations to the Government, UGC will fully consider the needs of society and the government's advice on manpower requirements. Later this year, UGC will submit its recommendations on allocation of student places and the associated funding for the 2019-2020 to 2021-2022 triennium to the Government. The Government will announce the indicative student number targets of the 2019-2020 to 2021-2022 triennium as and when appropriate.

Regulating the trading of shark fin products

11. MR MARTIN LIAO (in Chinese): President, Hong Kong is the world's largest trading centre for shark fins. Food products of as many as 76 shark species are on sale in the local market, with nearly one-third of them belonging to endangered or vulnerable shark species. Although the quantity of imported
shark fin products declined by 50% in the past decade, the number of cases of seizure of controlled shark fin products by the Customs and Excise Department ("C&ED") surged by 4.5 times in the past four years. While there were a total of 23 such cases in the past four years, C&ED did not institute prosecution in respect of any of such cases on grounds of insufficient evidence. In this connection, will the Government inform this Council:

(1) in respect of the shark fin products involved in the aforesaid 23 cases, of their weights, species, places of origin, destinations and modes of import; the concrete evidence the lack of which has rendered the authorities unable to institute prosecutions in respect of those cases; how C&ED will step up evidence gathering efforts in future to enable instituting prosecutions;

(2) given that some unscrupulous merchants use misleading labels in consignments of shark fins (such as seafood, dried seafood products and fishery products), or mix the fins of endangered shark species with those of shark species that are not subject to control, of the number of training courses organized for their staff in the past three years by the law enforcement departments on the identification of shark species, and the number of staff members trained; and

(3) as the findings of a questionnaire survey conducted by a concern group on endangered shark species have revealed that with no resemblance between the names of the shark fins sold in the retail market and the official names of the controlled shark species, it is difficult for consumers to identify shark fins belonging to controlled shark species, whether the Government will step up publicity in order that consumers can tell, among the names of shark fins sold in the retail market and those used in shark fin dishes, the ones related to controlled shark species; whether, apart from stepping up publicity, the Government will consider putting in place a mechanism to assist consumers in identifying shark fins belonging to controlled shark species?

SECRETARY FOR THE ENVIRONMENT (in Chinese): President, replies to Mr Martin LIAO's enquiries are as follows:
The Customs and Excise Department ("C&ED") is responsible for combating illegal importation and exportation of controlled articles (including shark fins of species listed in Convention on International Trade in Endangered Species of Wild Fauna and Flora ("CITES")). The Agriculture, Fisheries and Conservation Department ("AFCD") has been working closely with C&ED, including provision of assistance to C&ED in species identification for suspected cases during the process of passenger and cargo clearance.

Between 2014 and 2017, C&ED made 23 seizures of illegal import of controlled shark fins from overseas. Details are at Annex. To successfully prosecute a person for violating the Protection of Endangered Species of Animals and Plants Ordinance (Cap. 586) ("the Ordinance"), the prosecution must provide sufficient evidence to prove that someone has imported or arranged to import the controlled species to Hong Kong. Despite the relevant documents collected in the above cases, such as bills of lading and waybills, contained the consignee's information, they do not sufficiently prove that the consignee knowingly import or arrange the import of the controlled specimens. Therefore, there may not be sufficient evidence to institute prosecution against the consignee shown on the relevant documents. Despite this, AFCD will forfeit the seized controlled shark fins in accordance with section 42 of the Ordinance to combat the relevant illegal act.

C&ED will continue to strengthen cooperation and intelligence exchange with AFCD and agencies outside territory. Frontline officers' knowledge in identification of shark species will also be strengthened to further enhance their ability in evidence collection.

AFCD has been organizing training courses on the identification of shark species from time to time for frontline officers of AFCD and C&ED to better prepare them for duties related to the implementation and control of scheduled shark species. In the past three years, AFCD organized a total of six classes for the identification of shark species. A total of 188 frontline officers of AFCD and C&ED received the training. AFCD will continue to work closely with C&ED to combat illegal import and export of endangered species.
Hong Kong has been strictly following the relevant provisions of CITES and the Ordinance. According to CITES, the export of Appendix II specimens, including shark fins of scheduled species, must be accompanied by a valid export permit issued by the exporting country. The export permit is issued only if the authorities of the exporting country ensure the export will not be detrimental to the survival of the species in the wild and has met the requirements for sustainable capture. CITES does not ban the trade in Appendix II species but regulates its international trade through a licensing system, thereby avoiding the threat of the species being over-exploited and threatening its survival. AFCD ensures that the shark fins purchased by the public are captured in a sustainable manner through the implementation of CITES.

On the other hand, the Government strives to raise public awareness on sustainable use and conservation of endangered species through various channels, including the Internet, advertisements, leaflets and posters, as well as conducting exhibitions and seminars. The relevant education and publicity programmes include the operation of the Endangered Species Resource Centre, distribution of video announcement through the media and the Internet, public exhibitions, and the distribution of leaflets to traders, tourists and the public. AFCD has also been in contact with relevant key stakeholders, including shipping and logistics companies, reminding them to observe the requirements of CITES. In addition, the Government has taken the lead in adopting conservation-conscious menus that conform to the concept of sustainable development, which include no shark fins, in official entertainment functions. Compared with the establishment of a mandatory system to distinguish different types of shark fins, we believe that implementing the above measures are more effective.

Annex

Details of controlled shark fins seizure cases

<table>
<thead>
<tr>
<th>Year</th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of cases</td>
<td>2</td>
<td>6</td>
<td>4</td>
<td>11</td>
</tr>
<tr>
<td>Year</td>
<td>2014</td>
<td>2015</td>
<td>2016</td>
<td>2017</td>
</tr>
<tr>
<td>------</td>
<td>---------------------------</td>
<td>---------------------------</td>
<td>---------------------------</td>
<td>---------------------------</td>
</tr>
<tr>
<td>Shark species and weight</td>
<td>Oceanic whitetip shark (980 kg), Hammerhead shark (6 kg)</td>
<td>Oceanic whitetip shark (283.45 kg), Hammerhead shark (215.377 kg), Whale Shark (12 kg)</td>
<td>Oceanic whitetip shark (0.25 kg), Hammerhead shark (1 035.41 kg)</td>
<td>Oceanic whitetip shark (1 263.09 kg), Hammerhead shark (1 382.7 kg)</td>
</tr>
<tr>
<td>Exporting place*</td>
<td>Columbia(1), South Africa(1)</td>
<td>Seychelles(1), Panama(1), Nicaragua(1), United Arab Emirates(1), Peru(1), Morocco(1)</td>
<td>Madagascar(1), Somalia(1), Panama(1), Unknown (1)</td>
<td>India(1), Egypt(1), Kenya(1), Peru(2), Senegal(1), Guatemala(2), Indonesia(1), Somalia(1), United Arab Emirates(1)</td>
</tr>
<tr>
<td>Destination</td>
<td>Hong Kong</td>
<td>Hong Kong</td>
<td>Hong Kong</td>
<td>Hong Kong</td>
</tr>
<tr>
<td>Mode of Transport*</td>
<td>Sea (2)</td>
<td>Air (4), Sea (2)</td>
<td>Air (2), Sea (2)</td>
<td>Air (1), Sea (10)</td>
</tr>
</tbody>
</table>

Note:

* Figure in bracket shows the number of cases involved

Development of the roads and transport systems within Kai Tak Development

12. **DR PRISCILLA LEUNG** (in Chinese): President, Kai Tak Development ("KTD") is a large-scale project encompassing the ex-airport site together with the adjoining three districts of Kowloon City, Wong Tai Sin and Kwun Tong, spanning a total planning area of over 320 hectares. KTD features a mix of community, housing, business, tourism and infrastructural uses. With the intake of the residential flats and the commissioning of the public facilities within KTD one after another, the traffic flow within the area has been increasing. Quite a number of Kai Tak residents and the operator of the Kai Tak Cruise Terminal have relayed to me recently the slow progress of the development of the roads
and transport systems connecting the facilities within the area (e.g. the Kai Tak Cruise Terminal and the forthcoming Hong Kong Children's Hospital). For example, the target completion date of the detailed feasibility study for the Environmentally Friendly Linkage System ("EFLS") for Kowloon East has been postponed from the original third quarter of 2017 to this year. In this connection, will the Government inform this Council:

(1) of the latest progress of the road development within KTD and the specific timetable;

(2) of the latest progress of EFLS and the relevant timetable;

(3) whether it will allocate additional manpower and resources to expedite the construction of the roads and transport systems within KTD; if so, of the details; and

(4) whether the Government will introduce environmentally friendly modes of transport (e.g. eco-buses or eco-minibuses) as a temporary transport measure before the commissioning of EFLS; if so, of the details; if not, the reasons for that?

SECRETARY FOR DEVELOPMENT (in Chinese): President, to tie in with the implementation of the Kai Tak Development ("KTD"), the Government has been taking forward the planning, design and construction of various public works and infrastructure projects in phases to cope with the new population intake and various developments in the district with a view to realizing the planning theme of transforming KTD into a heritage, green, sports and tourism hub. Besides, we are also conducting a detailed feasibility study ("DFS") for the Environmentally Friendly Linkage System ("EFLS") for Kowloon East to explore the feasibility of providing transport connection in KTD, Kowloon Bay and Kwun Tong areas.

Our responses to the four parts of the question are as follows:

(1) Infrastructure works for KTD are being implemented in stages according to their priorities to tie in with the development pace of the area. The progress of road developments concerning the KTD-associated infrastructure projects is set out below:
(A) Infrastructure projects (with major road works) completed include:

<table>
<thead>
<tr>
<th>Public Works Project Item number</th>
<th>Project Title</th>
<th>Major road works completed and commissioned</th>
</tr>
</thead>
<tbody>
<tr>
<td>739CL</td>
<td>KTD—stage 1 infrastructure works at north apron area of Kai Tak Airport</td>
<td>Shing Kai Road, Muk Hung Street and Muk On Street at the former north apron</td>
</tr>
<tr>
<td>741CL</td>
<td>KTD—stage 1 advance infrastructure works for developments at the southern part of the former runway</td>
<td>Shing Fung Road and Shing Cheong Road at the former runway and south apron respectively</td>
</tr>
<tr>
<td>746CL</td>
<td>KTD—stage 2 infrastructure works at north apron area of Kai Tak Airport</td>
<td>Muk On Street (extension) and Muk Ning Street at the former north apron</td>
</tr>
</tbody>
</table>

(B) Infrastructure projects (with major road works) now under construction include:

<table>
<thead>
<tr>
<th>Public Works Project Item number</th>
<th>Project Title</th>
<th>Anticipated Completion Date</th>
<th>Major road works under construction</th>
</tr>
</thead>
<tbody>
<tr>
<td>761CL</td>
<td>KTD—stages 3A and 4 infrastructure works at north apron area of Kai Tak Airport</td>
<td>2018 (stage 3A covering Concorde Road and vehicular underpass of Kai San Road across Prince Edward Road East at the former north apron was completed)</td>
<td>Road D2 at the former north apron</td>
</tr>
</tbody>
</table>
Apart from that, we separately consulted Legislative Council Panel on Transport, and Panel on Development in June this year on relevant infrastructure projects including Trunk Road T2 of Route 6, Road D3 (Metro Park Section) connecting the former north apron and runway, as well as Road L10 extending Shing Cheong Road and connecting with the Central Kowloon Route. We plan to seek support from the Public Works Subcommittee and funding approval from the Finance Committee in the next legislative session.

The remaining KTD's infrastructure works are under active planning and design to dovetail with the development pace and growth of traffic demand of the areas concerned.

(2) As diverse views had been received regarding the most suitable mode of green transport ("GT") for EFLS for Kowloon East and its alignment, additional time was taken to carry out DFS in two stages,
with the first stage assessing the various GT modes on an equal basis to identify the most suitable one. We have completed an interim public consultation under the first stage of DFS for EFLS for Kowloon East. We are now proceeding with the second stage study, which is to explore the EFLS scheme, including its network coverage, alignment and station locations, etc., and conduct associated technical assessments to ascertain its feasibility. The study is targeted for completion in 2018. The way forward for the EFLS project will be considered upon completion of DFS.

(3) The Government has set up the Kai Tak Office under the Civil Engineering and Development Department to lead, oversee and coordinate the implementation of KTD. We will keep in view the staff resources required and seek approval from the Legislative Council for additional resources if necessary for the completion of road works at various stages of KTD.

(4) With regard to public transport services, KTD is currently served by a total of eight franchised bus routes and two green minibus ("GMB") routes. A number of en-route bus and GMB routes in the area along Prince Edward Road East are also available to KTD residents who wish to reach different destinations. To tie in with the development pace and the public transport needs of KTD, the Transport Department ("TD") has proposed in its Bus Route Planning Programme 2017-2018 the introduction of three new franchised bus routes to strengthen the public transport links between KTD and other districts. The two bus routes running between Kai Tak (Muk Ning Street) and Tai Kok Tsui (Island Harbourview) and between Kai Tak Cruise Terminal and Kowloon Tong (Festival Walk) have commenced operation, while the bus route running between Kowloon City (Shing Tak Street) and Sai Wan Ho (Grand Promenade) (via KTD) is expected to be in operation in mid-2018. On railway services, the Shatin to Central Link is under construction. The Tai Wai to Hung Hom section (including the Kai Tak and Sung Wong Toi stations) is expected to be completed and commissioned in mid-2019. TD will continue to closely monitor the development progress of KTD, and adjust or strengthen different public transport services to meet public demand for transport services in the area.
Meanwhile, the Government has been encouraging public transport operators to introduce and deploy more advanced models of environmentally-friendly vehicles to operate public transport services. Furthermore, the Government is fully subsidizing the franchised bus companies to purchase 36 single-deck electric buses to conduct two-year trials on different routes to assess their operational performance under local conditions, among which four supercapacitor buses will be deployed to run on Route 5M (Kai Tak (Tak Long Estate)-Kowloon Bay Railway Station (Circular)) in KTD. According to the current progress, it is expected that the supercapacitor buses will be put into service in phases from the second half of 2018.

Statistics on New Territories small houses

13. **MS TANYA CHAN** (in Chinese): President, according to the New Territories small house policy, a New Territories male indigenous villager over 18 years old is entitled to one concessionary grant during his lifetime to build one small house ("small house concessionary right"). Lands zoned for "Village Type Development" ("V zone lands") are primarily reserved for development of small houses. In this connection, will the Government inform this Council:

(1) of the number of holders of unexercised small house concessionary right as at 30 June this year, and among them, (i) the number of those who had never lodged applications for building small houses and (ii) the number of those who were at the time residing abroad; the estimated number of those who might have the intention to lodge such applications in the coming decade; if such figures are not available, whether it will compile such statistics;

(2) of (i) the number of holders of unexercised small house concessionary right, and (ii) the respective numbers of applications for building small houses which were (a) received, (b) approved, (c) being processed and (d) rejected, by the Lands Department, in each of the past 10 years (set out in Table 1);
Table 1

<table>
<thead>
<tr>
<th>Year</th>
<th>(i)</th>
<th>(ii)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(a)</td>
<td>(b)</td>
</tr>
<tr>
<td>2008</td>
<td></td>
<td></td>
</tr>
<tr>
<td>...</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2017</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(3) of the respective numbers of small houses which were (i) under construction and (ii) completed, in each of the past 10 years (set out in Table 2);

Table 2

<table>
<thead>
<tr>
<th>Year</th>
<th>(i)</th>
<th>(ii)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td></td>
<td></td>
</tr>
<tr>
<td>...</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2017</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(4) (i) in respect of "V" zone lands, of (a) their total area, (b) the total area of those on which small houses had been built, and (c) the total area of those available for small house development, as well as (ii) the total area of sites zoned for other planning uses and on which small houses had been built, in each of the past 10 years (set out in Table 3); and

Table 3

<table>
<thead>
<tr>
<th>Year</th>
<th>(i)</th>
<th>(ii)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(a)</td>
<td>(b)</td>
</tr>
<tr>
<td>2008</td>
<td></td>
<td></td>
</tr>
<tr>
<td>...</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2017</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(5) of (i) the number of approved applications for premium assessment and (ii) the number of cases of transfer of titles, in respect of small houses in each of the past 10 years (set out in Table 4)?
SECRETARY FOR DEVELOPMENT (in Chinese): President, the Small House Policy ("the Policy") has been implemented since 1972. Under the Policy, in general, a male indigenous villager aged 18 years old or above who is descended through the male line from a resident in 1898 of a recognized village in the New Territories may apply to the authority once during his lifetime for permission to build for himself a small house on a suitable site within his own village.

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

(1) The Lands Department ("LandsD") does not have statistics on the number of indigenous villagers in the New Territories nor the number of those eligible for applying for small house grants.

The demand for small houses may change with factors such as the birth and growth of indigenous villagers, and whether or not an indigenous villager will apply for a small house grant depends on his own circumstances and wishes, while not all eligible indigenous villagers aged 18 years old or above will submit an application. Therefore, the Government does not project the number of small house applications in the next 10 years.

(2) As mentioned in part (1) above, LandsD does not have statistics on the number of indigenous villagers in the New Territories nor the number of those eligible for applying for small house grants.

A breakdown in the numbers of small house applications received, approved, rejected and being processed by LandsD in the past 10 years is set out below.
### Number of small house applications received, approved, rejected and being processed

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of small house applications received</th>
<th>Number of small house applications approved</th>
<th>Number of small house applications rejected</th>
<th>Number of small house applications being processed (as at year end)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>1 810</td>
<td>958</td>
<td>668</td>
<td>7 613</td>
</tr>
<tr>
<td>2009</td>
<td>1 769</td>
<td>1 290</td>
<td>780</td>
<td>7 304</td>
</tr>
<tr>
<td>2010</td>
<td>1 959</td>
<td>1 474</td>
<td>999</td>
<td>6 890</td>
</tr>
<tr>
<td>2011</td>
<td>2 374</td>
<td>1 041</td>
<td>1 042</td>
<td>6 895</td>
</tr>
<tr>
<td>2012</td>
<td>2 690</td>
<td>1 121</td>
<td>1 190</td>
<td>7 175</td>
</tr>
<tr>
<td>2013</td>
<td>2 566</td>
<td>1 011</td>
<td>980</td>
<td>7 176</td>
</tr>
<tr>
<td>2014</td>
<td>2 522</td>
<td>1 114</td>
<td>1 193</td>
<td>8 569</td>
</tr>
<tr>
<td>2015</td>
<td>2 547</td>
<td>989</td>
<td>1 263</td>
<td>8 800</td>
</tr>
<tr>
<td>2016</td>
<td>1 297</td>
<td>858</td>
<td>1 080</td>
<td>9 145</td>
</tr>
<tr>
<td>2017</td>
<td>1 129</td>
<td>818</td>
<td>1 061</td>
<td>8 548</td>
</tr>
<tr>
<td>Total</td>
<td>20 663</td>
<td>10 674</td>
<td>10 256</td>
<td>Not applicable</td>
</tr>
</tbody>
</table>

**Note:**

Due to the variations in time required for processing individual small house applications, the applications approved, rejected and being processed during the year may not correspond with the applications received during the year.

(3) LandsD does not have statistics on the number of small houses under construction each year.

The number of small houses completed with Certificates of Compliance ("CCs") issued by LandsD in the past 10 years is set out below.

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of small houses completed with CCs issued</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>920</td>
</tr>
<tr>
<td>2009</td>
<td>847</td>
</tr>
<tr>
<td>2010</td>
<td>973</td>
</tr>
<tr>
<td>2011</td>
<td>812</td>
</tr>
<tr>
<td>2012</td>
<td>1 089</td>
</tr>
<tr>
<td>2013</td>
<td>1 151</td>
</tr>
<tr>
<td>2014</td>
<td>1 066</td>
</tr>
<tr>
<td>2015</td>
<td>904</td>
</tr>
<tr>
<td>Year</td>
<td>Number of small houses completed with CCs issued</td>
</tr>
<tr>
<td>------</td>
<td>-----------------------------------------------</td>
</tr>
<tr>
<td>2016</td>
<td>814</td>
</tr>
<tr>
<td>2017</td>
<td>799</td>
</tr>
<tr>
<td>Total</td>
<td>9 375</td>
</tr>
</tbody>
</table>

(4) "Village Type Development" ("V") zones in existing statutory plans mainly reflect areas of recognized villages of indigenous villagers in the New Territories, and are for small house development by indigenous villagers. The purpose of setting up "V" zones is to concentrate village type developments therein for more orderly development. "V" zones are drawn up having regard to a series of planning factors, including the location of existing villages, the delineation of Village Environs, the local topography, the existing settlement pattern, site characteristics and the surrounding environment, environmental constraints, as well as the projections of demand for small houses of that area in the coming 10 years provided by relevant village representatives. As at 31 December of each of the past 10 years, the total land area of "V" zones is as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Total land area of &quot;V&quot; zones (hectares) (about)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>3 154</td>
</tr>
<tr>
<td>2009</td>
<td>3 155</td>
</tr>
<tr>
<td>2010</td>
<td>3 260</td>
</tr>
<tr>
<td>2011</td>
<td>3 286</td>
</tr>
<tr>
<td>2012</td>
<td>3 294</td>
</tr>
<tr>
<td>2013</td>
<td>3 321</td>
</tr>
<tr>
<td>2014</td>
<td>3 338</td>
</tr>
<tr>
<td>2015</td>
<td>3 338</td>
</tr>
<tr>
<td>2016</td>
<td>3 368</td>
</tr>
<tr>
<td>2017</td>
<td>3 377</td>
</tr>
</tbody>
</table>

Increase in the land zoned "V" mainly reflects existing villages previously not yet covered by any statutory plans.

Land under "V" zones on statutory plans is scattered across the territory and covers existing and recognized villages in the New Territories. Many small houses are built on land under private
ownership, and the size of individual pieces of private land varies. In addition, whether the development of small house may indeed proceed on a particular site within the "V" zone would depend on the fulfilment of engineering and other conditions as required. As such, the Government does not have readily available information on the total area of land available for small house developments in these "V" zones.

Under the existing policy, each small house can have a roofed-over area of not exceeding 65.03 sq m. However, the area of land granted for a small house is subject to such constraints as the topography, condition and area of the small house site under application. As such, the area of land granted for individual small house development may vary from case to case. LandsD has no readily available statistics on the area of land on which small houses had been built (regardless of the zoning of land for various planning uses).

(5) In accordance with the existing policy, alienation of small houses before the issue of CCs is generally prohibited. If, after approval of his application and completion of a small house, a small house applicant intends to transfer ownership of his small house, he is required under the applicable alienation restriction to make an application to LandsD. If the application is approved, he is required to pay the necessary land premium. The number of approved cases for removal of alienation restriction by LandsD in the past 10 years is set out below.

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of approved cases for removal of restriction on alienation</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>494</td>
</tr>
<tr>
<td>2009</td>
<td>474</td>
</tr>
<tr>
<td>2010</td>
<td>454</td>
</tr>
<tr>
<td>2011</td>
<td>493</td>
</tr>
<tr>
<td>2012</td>
<td>404</td>
</tr>
<tr>
<td>2013</td>
<td>485</td>
</tr>
<tr>
<td>2014</td>
<td>577</td>
</tr>
<tr>
<td>2015</td>
<td>462</td>
</tr>
<tr>
<td>2016</td>
<td>409</td>
</tr>
</tbody>
</table>
## Yearly Number of Approved Cases for Removal of Restriction on Alienation

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of approved cases for removal of restriction on alienation</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017</td>
<td>435</td>
</tr>
<tr>
<td>Total</td>
<td>4,687</td>
</tr>
</tbody>
</table>

Since a small house applicant may transfer the ownership of his small house after LandsD's approval for his application for removing the applicable alienation restriction and his payment of the necessary land premium, and the concerned transfer of ownership is a private transaction of the small house applicant, LandsD does not have statistics on the number of small houses transacted.

## District Minor Works Programme

14. **MR LAU KWOK-FAN** (in Chinese): President, regarding the minor works projects implemented by District Councils ("DCs") under the District Minor Works ("DMW") Programme, will the Government inform this Council:

   (1) of the number of works projects proposed by each DC in each of the past two years and the first half of this year, with a breakdown by project progress (including (i) the relevant feasibility study/design work being under way, (ii) project found to be infeasible after study, (iii) project already endorsed by DC for implementation, and (iv) project completed);

   (2) of (i) the average construction cost and (ii) the average construction period of the works projects completed in each of the past two years and the first half of this year; among such projects, the number of those the span of which from inception to completion straddled two DC terms (broken down by DC district);

   (3) of the account balance of the DMW Programme in each of the past five years; and

   (4) as it has been more than six years since the Finance Committee of this Council approved an increase in the financial ceiling of the delegated authority for Category D works projects (including DMW
projects) to $30 million in July 2012, and as the construction costs of works projects have been rising incessantly during the period, whether the Government will propose to the Finance Committee the raising of such financial ceiling according to the cumulative inflation over the years; if so, of the details; if not, the reasons for that?

SECRETARY FOR HOME AFFAIRS (in Chinese): President, regarding Mr LAU Kwok-fan's question, upon consultation with the Financial Services and the Treasury Bureau, our reply to the question is as follows:

(1) The number of District Minor Works ("DMW") projects endorsed by District Councils ("DCs") over the past two years and for the period from January to March 2018 and their respective progress, breakdown by DC, are set out in Annex.

(2) (i) The average construction cost of the works projects completed in each of the past two years and for the period from January to March 2018 are as follows:

<table>
<thead>
<tr>
<th></th>
<th>2016</th>
<th>2017</th>
<th>2018 (as at end March)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$0.7 million</td>
<td>$0.9 million</td>
<td>$1.6 million</td>
</tr>
</tbody>
</table>

(ii) The average construction period of the works projects completed in each of the past two years and for the period from January to March 2018 are as follows:

<table>
<thead>
<tr>
<th></th>
<th>2016</th>
<th>2017</th>
<th>2018 (as at end March)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>6 months</td>
<td>7 months</td>
<td>5 months</td>
</tr>
</tbody>
</table>

Among such projects, the number of those spanning over two DC terms from inception to completion are as follows:

<table>
<thead>
<tr>
<th>District</th>
<th>Number of Projects</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central and Western</td>
<td>21</td>
</tr>
<tr>
<td>Eastern</td>
<td>32</td>
</tr>
<tr>
<td>District</td>
<td>Number of Projects</td>
</tr>
<tr>
<td>-----------------</td>
<td>--------------------</td>
</tr>
<tr>
<td>Southern</td>
<td>42</td>
</tr>
<tr>
<td>Wan Chai</td>
<td>9</td>
</tr>
<tr>
<td>Kowloon City</td>
<td>30</td>
</tr>
<tr>
<td>Kwun Tong</td>
<td>41</td>
</tr>
<tr>
<td>Yau Tsim Mong</td>
<td>22</td>
</tr>
<tr>
<td>Sham Shui Po</td>
<td>31</td>
</tr>
<tr>
<td>Wong Tai Sin</td>
<td>21</td>
</tr>
<tr>
<td>Islands</td>
<td>40</td>
</tr>
<tr>
<td>Sai Kung</td>
<td>24</td>
</tr>
<tr>
<td>Tai Po</td>
<td>23</td>
</tr>
<tr>
<td>Tsuen Wan</td>
<td>44</td>
</tr>
<tr>
<td>Yuen Long</td>
<td>33</td>
</tr>
<tr>
<td>Sha Tin</td>
<td>41</td>
</tr>
<tr>
<td>Tuen Mun</td>
<td>16</td>
</tr>
<tr>
<td>North</td>
<td>22</td>
</tr>
<tr>
<td>Kwai Tsing</td>
<td>41</td>
</tr>
<tr>
<td>Headquarters</td>
<td>3</td>
</tr>
<tr>
<td>Total</td>
<td>536</td>
</tr>
</tbody>
</table>

(3) The annual provision under the DMW Programme for the past five years was $340 million. The account balance of the Programme in each of the past five years are set out as follows:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$12 million</td>
<td>$2 million</td>
<td>$1 million</td>
<td>$1 million</td>
<td>$1 million</td>
</tr>
</tbody>
</table>

(4) According to the Financial Services and the Treasury Bureau, the Government would regularly review the financial ceiling of delegated authority for items under the block allocation subheads of the Capital Works Reserve Fund ("CWRF"). The Finance Committee approved the increase of financial ceiling from $21 million to $30 million in 2012. According to the assessment with reference to tender price indices since 2012, the average price of construction works under the block allocation subheads of CWRF (including projects under the DMW Programme) has only increased slightly. Thus, the Government would not consider adjusting the financial ceiling concerned at the moment.
### DMW

<table>
<thead>
<tr>
<th>District</th>
<th>Endorsed projects</th>
<th>Projects under feasibility study/planning stage</th>
<th>Projects found infeasible after feasibility study</th>
<th>Projects under tendering/construction stages</th>
<th>Completed projects</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central and Western</td>
<td>22</td>
<td>19</td>
<td>0</td>
<td>4</td>
<td>11</td>
</tr>
<tr>
<td>Eastern</td>
<td>23</td>
<td>23</td>
<td>6</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Southern</td>
<td>60</td>
<td>28</td>
<td>1</td>
<td>28</td>
<td>7</td>
</tr>
<tr>
<td>Wan Chai</td>
<td>13</td>
<td>8</td>
<td>0</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Kowloon City</td>
<td>42</td>
<td>53</td>
<td>12</td>
<td>1</td>
<td>7</td>
</tr>
<tr>
<td>Kwun Tong</td>
<td>49</td>
<td>30</td>
<td>5</td>
<td>7</td>
<td>9</td>
</tr>
<tr>
<td>Yau Tsim Mong</td>
<td>10</td>
<td>5</td>
<td>8</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Sham Shui Po</td>
<td>31</td>
<td>28</td>
<td>11</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Wong Tai Sin</td>
<td>12</td>
<td>16</td>
<td>4</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Islands</td>
<td>25</td>
<td>17</td>
<td>6</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Sai Kung</td>
<td>17</td>
<td>24</td>
<td>3</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Tai Po</td>
<td>16</td>
<td>20</td>
<td>1</td>
<td>3</td>
<td>6</td>
</tr>
<tr>
<td>Tsuen Wan</td>
<td>45</td>
<td>35</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Yuen Long</td>
<td>23</td>
<td>16</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Sha Tin</td>
<td>6</td>
<td>24</td>
<td>0</td>
<td>1</td>
<td>12</td>
</tr>
<tr>
<td>Tuen Mun</td>
<td>14</td>
<td>14</td>
<td>2</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>North</td>
<td>22</td>
<td>14</td>
<td>9</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Kwai Tsing</td>
<td>37</td>
<td>55</td>
<td>0</td>
<td>3</td>
<td>9</td>
</tr>
<tr>
<td>Headquarters</td>
<td>7</td>
<td>7</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Total</td>
<td>474</td>
<td>436</td>
<td>70</td>
<td>50</td>
<td>64</td>
</tr>
</tbody>
</table>

Note:

* only figures as at end March 2018 are available.
15. **MR WILSON OR** (in Chinese): President, it has been reported that when the Hong Kong Housing Authority ("HA") divested in 2005 certain retail and car parking facilities of its public rental housing ("PRH") estates to The Link Real Estate Investment Trust, which has been renamed as Link Real Estate Investment Trust ("Link REIT"), it sold in the same lot the titles to some common areas in certain housing estates. If such common areas are involved in the public facilities the addition of which is intended by HA or the owners' corporations of the housing estates concerned, the relevant works may be carried out only after the consent of Link REIT (or the new owners) has been obtained. At present, a number of works projects for retrofitting public facilities cannot commence as such consent has not been obtained. For example, the lift and escalator projects at Po Tak Estate, Kwun Tong, have dragged on for 10 years, and no date has been fixed for implementing the lift retrofitting works for a centre for the elderly in Lower Wong Tai Sin Estate, resulting in the elderly with impaired mobility having to walk up and down tens of steps to commute to and from the centre every day. In this connection, will the Government inform this Council:

(1) of the number of complaints, received by the Government since 2005, alleging that HA's selling the titles to some common areas in PRH estates has resulted in a failure to retrofit public facilities to those estates; the mechanism currently in place to handle such cases;

(2) whether the Government has, since 2005, conducted any study on the impact on the residents caused by the sale by HA to Link REIT of the title to some common areas in PRH estates; if so, of the outcome; if not, the reasons for that; and

(3) whether the Government will consider invoking the Lands Resumption Ordinance (Cap. 124) to resume the titles to the common areas concerned so as to retrofit the relevant public facilities; if so, of the details; if not, the reasons for that?
SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, my consolidated reply to various parts of the question raised by Mr Wilson OR is as follows:

As with private housing projects in general, in the public housing projects jointly owned by the Hong Kong Housing Authority ("HA") and other owners (including owners of the commercial facilities, owners of individual residential flats, etc.), the titles of the common areas are co-owned by the owners in accordance with the Deeds of Mutual Covenant ("DMCs"). The responsibility for the management and maintenance of these common areas shall, in accordance with the provisions of the respective DMCs, be borne by all owners. For the estates or courts with Owners' Corporations ("OCs") formed, matters relating to the day-to-day management are discussed and resolved by OCs in accordance with the requirements under the Building Management Ordinance and DMCs through convening meetings of the Management Committee or owners' meetings. As one of the owners, HA will, apart from paying the management fees according to its management shares, also nominate representatives to participate in OCs' affairs.

Works relating to the installation of common facilities in the common areas are subject to the consent of the relevant owners. The costs of the works and future maintenance are also shared by all owners according to DMC or other agreements. If the proposed installation of common facilities involves changes to the land use or land lease conditions, approval from the Lands Department is required. Other owners of the lot are also required to give consent in the application process. Besides, when considering the installation of common facilities in these common areas, consideration should be given on the technical feasibility, topographical factors, social acceptance and compliance with the Buildings Ordinance and related planning requirements. Depending on the actual circumstances of individual estates and courts, HA and other owners will, in accordance with the mechanism above, follow up various works proposals of common facilities. As regards the cases of Po Tat Estate and Lower Wong Tai Sin Estate mentioned in the question, HA has already conveyed views on the installation of common facilities to the relevant organizations and stakeholders in accordance with the prevailing mechanism and is actively exploring various feasible options.
The Government does not maintain statistics on the number of complaints relating to the installation of common facilities in public housing projects under HA since 2005, and has no plan to conduct a study on the matters mentioned in the second part of the question.

At present, the Government has no plan to recover the titles of common areas in public housing developments under HA by invoking the Lands Resumption Ordinance.

Control for food safety of fruits and vegetables

16. **MR STEVEN HO** (in Chinese): President, regarding the Government's control for food safety of fruits and vegetables, will the Government inform this Council:

(1) given that the Centre for Food Safety under the Food and Environmental Hygiene Department ("FEHD") conducts sampling checks on fruits and vegetables imported by sea, land and air at its Kwai Chung checkpoint, Man Kam To office ("MKT office") and airport office respectively, of the details of the sampling check procedure (including the methods for taking samples of fruits and vegetables for laboratory tests); in respect of each type of imported fruits and vegetables, the current average daily quantity going through each checkpoint as well as the quantity and percentage of such quantity taken for laboratory tests (set out in a table);

(2) of the quantities of fruits and vegetables imported from the Mainland in each of the past five years; the criteria currently adopted at MKT office for conducting sampling checks on fruits and vegetables imported from the Mainland, as well as the quantities and percentages concerned;

(3) whether it will proactively improve the procedure for conducting sampling checks on imported fruits and vegetables, so that checks on fruits and vegetables fully packed in lorries are conducted in a more effective and expeditious manner; if so, of the details; if not, the reasons for that;
(4) given that many lorries carrying imported fruits and vegetables enter Hong Kong through MKT office every day, of the maximum number of lorries per hour in respect of which the sampling checks on the fruits and vegetables carried can be handled by the MKT office's staff, and the approach for handling the situation where the number of lorries that arrive exceeds that number; whether the Government will study (i) how sampling checks on fruits and vegetables can be conducted more flexibly and expeditiously at the MKT office, and (ii) the reprovisioning of the MKT office at a suitable location with a view to developing a centre that combines the functions of conducting sampling checks on fruits and vegetables with wholesale functions; if so, of the details; if not, the reasons for that;

(5) as it has been reported that some traders, after mixing organic vegetables with imported vegetables or other vegetables which have not gone through sampling checks and with unknown places of origins, sell such mixed vegetables as organic vegetables, of the measures to be put in place by the Government to combat such trade practice and ensure food safety; of the number of prosecutions instituted in the past five years by the Government in this regard, and the penalties imposed on the convicted persons; and

(6) given that the Office of The Ombudsman made eight recommendations in its direct investigation report entitled "Food and Environmental Hygiene Department's System of Safety Control for Imported Fruits and Vegetables" released in November last year, of the latest progress of FEHD's follow-up work on each of these recommendations?

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, the laws of Hong Kong stipulate that all food for sale must be fit for human consumption. The Centre for Food Safety ("CFS") of the Food and Environmental Hygiene Department takes food samples at the import, wholesale and retail levels for testing and adopts a risk-based approach in determining the types and the sizes of samples to be collected and the laboratory analyses to be conducted.

The reply to the various parts of the question is as follows:
On the sampling of vegetables and fruits at the import level for testing, CFS conducts sampling mainly at its checkpoints or offices at various control points. The majority of imported vegetables and fruits enter Hong Kong by land or air, whereas a limited amount is imported by sea.

All vegetables and fruits entering Hong Kong by land are imported from the Mainland through Man Kam To Control Point ("MKTCP"). When an inbound goods vehicle carrying vegetables and fruits arrives at the Man Kam To Food Control Office ("MKTFCO"), CFS staff would check if the seal on the vehicle remains intact, examine the accompanying documents, and adopt a risk-based approach in taking samples for quick tests for pesticide residues and comprehensive chemical analysis.

Regarding vegetables and fruits imported by air, upon arrival of the air cargos in Hong Kong, the importers would follow the instructions of the Customs and Excise Department ("C&ED") to submit import documents to CFS' office at the airport. CFS staff would examine the import documents and adopt a risk-based approach to take samples for testing.

As for vegetables and fruits imported by sea, CFS adopts a risk-based approach to arrange importers to bring the vehicles carrying the relevant consignments of vegetables and fruits to the Food Control Checkpoint at Kwai Chung Customhouse for examining the import documents and taking samples for testing, or to arrange CFS staff to carry out the relevant work on the consignments of vegetables and fruits concerned in the warehouses / cold storages of the importers.

According to the data provided by the Census and Statistics Department, the amount of vegetables and fruits imported from the Mainland to Hong Kong in the past five years is as below:
The number of goods vehicles carrying imported vegetables through MKTCP, and the number and percentage of the goods vehicles inspected by CFS in the past five years are as below:

<table>
<thead>
<tr>
<th></th>
<th>2013 (tonnes)</th>
<th>2014 (tonnes)</th>
<th>2015 (tonnes)</th>
<th>2016 (tonnes)</th>
<th>2017 (tonnes)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vegetables</td>
<td>761 636</td>
<td>756 685</td>
<td>765 533</td>
<td>789 345</td>
<td>821 781</td>
</tr>
<tr>
<td>Fruits</td>
<td>184 105</td>
<td>188 459</td>
<td>203 952</td>
<td>220 106</td>
<td>217 194</td>
</tr>
</tbody>
</table>

CFS has been flexibly deploying manpower to sample and inspect vehicles arriving at MKTFCO at different period of time. The operation is generally smooth. Insofar as taking food samples at the import level is concerned, the most effective venues to conduct the relevant sampling must be places as proximate to the control points as possible. Currently, we do not have plans to relocate the existing MKTFCO.

CFS does not have breakdown figures of each type of vegetables and fruits imported through each of its checkpoints or offices.

(3) and (6)

CFS reviews its food safety control work from time to time, including the procedures for sampling imported vegetables and fruits for testing. In response to the Investigation Report on "Food and Environmental Hygiene Department's System of Safety Control for
Imported Fruits and Vegetables" ("the Investigation Report") published by the Office of The Ombudsman in November 2017, CFS has taken various follow-up actions, as summarized below:

(i) CFS has arranged to increase the number of fruit samples taken at MKTFCO;

(ii) CFS has issued guidelines to frontline staff on the collection of samples of vegetables and fruits in the storage compartments of goods vehicles (including the inner parts). Also, CFS has enhanced training and on-site guidance to frontline staff, for the effective implementation of the procedures and ensuring the occupational safety of the frontline staff;

(iii) to enhance the surveillance of fruits imported by sea, CFS has started to take samples from the importers' warehouses for testing, and has increased the number of samples;

(iv) to enhance the surveillance of fruits imported by sea, CFS has gradually enhanced sampling from wholesale markets for testing, and will continue to increase the number of samples;

(v) CFS will maintain close contact with the Government Laboratory, making flexible arrangements to minimize the lead time for testing vegetable and fruit samples;

(vi) in view of the classification of the Codex Alimentarius Commission ("Codex") on "lotus roots" and "bean sprouts" to which the Investigation Report had made reference, CFS will keep in view the situation of other economies in adopting Codex's classification, and consider whether and if so how to adopt the standards concerned locally;

(vii) the Food and Health Bureau submitted the Food Adulteration (Metallic Contamination) (Amendment) Regulation 2018 to the Legislative Council on 13 June 2018 for negative vetting.
The Amendment Regulation adopts the relevant Codex standard for the maximum level of "lead" in leafy vegetables. The Subcommittee on Food Adulteration (Metallic Contamination) (Amendment) Regulation 2018 of the Legislative Council is scrutinizing the Amendment Regulation; and

(viii) CFS will continue to keep in view international development, including the food safety standards set by Codex and other economies, the dietary habit of Hong Kong people as well as other relevant factors, with a view to reviewing food safety legislation and regulatory regimes as and when appropriate.

(5) Under the Trade Descriptions Ordinance ("the Ordinance") (Cap. 362), any person who, in the course of any trade or business, makes false or misleading statements in respect of the goods (including organic food) he supplies commits an offence. C&ED may take enforcement actions under the Ordinance. C&ED has been proactively handling complaints related to false trade description, adopting a risk-based approach in prioritizing its enforcement actions, and taking appropriate enforcement actions having regard to the evidence of individual cases. In the past five years, C&ED had taken prosecution actions against three cases related to organic vegetables. All of them led to successful convictions. The convicted vendors were fined $2,000 to $10,000.

CFS will continue to adopt a risk-based approach to take vegetable and fruit samples at the import, wholesale and retail levels for laboratory analysis, to ensure the safety of the vegetables and fruits for sale on the market.

Implementation of waste management measures in large scale events

17. DR KWOK KA-KI (in Chinese): President, in 2017, the Environmental Protection Department ("EPD") released A Waste Reduction Guidebook for Large Scale Event Organisers ("the Guidebook"), to assist event organizers in
formulating waste management measures so as to achieve waste reduction and promote clean recycling. EPD indicated that it had appealed to the organizers of quite a number of events (including the Lunar New Year fairs, the Hong Kong Flower Show and the Hong Kong Sevens) to implement the waste management measures recommended in the Guidebook. In this connection, will the Government inform this Council:

(1) how EPD assists organizers of large scale events in implementing the measures recommended in the Guidebook;

(2) of the number of large scale events in respect of which EPD has, since the release of the Guidebook, assisted their organizers in implementing the measures recommended in the Guidebook, as well as the names of such events and their organizers;

(3) whether EPD has compiled statistics on the quantity of waste generated in the events mentioned in (2), so as to gauge the effectiveness of the waste reduction initiatives; if so, set out the relevant statistics in a table; if not, how EPD monitors the effectiveness of the Guidebook; and

(4) given that some organizations organized festive activities in the bamboo theatres at Tsing Luk Street, Tsing Yi in April and May this year, whether EPD assisted the organizers of such activities in implementing waste management measures; if so, of the details and the effectiveness; if not, the reasons for that?

SECRETARY FOR THE ENVIRONMENT (in Chinese): President, the Government has maintained liaison with organizers of a variety of events to encourage and assist them in adopting more green measures. The Environmental Protection Department ("EPD") published A Waste Reduction Guidebook for Large Scale Event Organisers ("the Guidebook") in December 2017, which provides clear and practical information as well as examples to help event organizers and related stakeholders develop strategies on waste reduction and recycling, with a view to enhancing the environmental performance of their events. My responses to the various parts of the question raised by the Dr KWOK Ka-ki are as follows:
To facilitate the drafting of the Guidebook, EPD has cooperated with 11 large-scale event organizers of varied nature to implement various green measures (details at the Annex) since April 2017. Our collaboration experience of practising green measures in event organization at early stages also facilitated the drafting of the Guidebook. Professional consultants and/or green groups have been engaged by EPD to give advice to the event organizers under the collaboration, so that various waste management measures have been implemented at different stages of their events; promotion efforts on waste reduction and recycling targeting the public, event participants and stakeholders (including exhibitors and food stall operators) have been enhanced; and waste audits have been conducted. Having regard to the actual circumstances of individual events, EPD has also provided on-site support in many aspects. They included coordinating with the Food and Environmental Hygiene Department to enhance street cleansing services during the events; lending information display boards and waste recovery facilities to the event organizers for the promotion of clean recycling; liaising with the District Offices concerned, local bodies and business establishments to recruit and train up volunteers to become environmental protection ambassadors of the events, whose main duty is to educate event participants to practise waste separation at source and clean recycling; and assisting the event organizers in collecting, recovering and donating the recovered or reusable materials generated from their events. For example, EPD has made use of its Pilot Composting Plant in Kowloon Bay to recycle food waste. Joint efforts in recycling waste plastics among the event organizers, Community Green Stations and the community recycling centres funded by the Environment and Conservation Fund have been encouraged. For the recycling of glass containers and wooden pallets generated from the events, event organizers have also been encouraged to cooperate with the glass management contractors hired by EPD and the recyclers in the EcoPark respectively. The event organizers may also make use of the Environment Bureau's social media platform in promoting relevant green measures and to enhance public participation.
Looking ahead, EPD will continue to motivate district organizations, the business sector, schools and youth groups, etc. to make reference to the Guidebook and implement relevant recommendations when organizing events, with the aim of producing less waste while boosting event participants' sense of participation and achieving green branding for their events. EPD will also closely monitor the efforts of various international and local events in promoting waste reduction and recycling to update the content of the Guidebook in a timely manner and provide more useful information and training to stakeholders.

(2) and (3)

EPD has assisted a number of event organizers in formulating and implementing measures on waste reduction and recycling for their events. The names of these organizers and their events, as well as the statistics on the waste and recyclables generated from these events, are set out at the Annex. Event organizers are welcome to refer to their relevant experience when organizing similar events in the future so as to carry out more measures on waste reduction and recycling and better achieve waste reduction at source and the sustainable use of resources, thereby enhancing the effectiveness of waste management.

(4) Regarding the Tsing Yi Bamboo Theatre 2018 held between April and May 2018, EPD, the Kwai Tsing District Office, certain green groups and the organizer of Tsing Yi Bamboo Theatre met before the event to discuss ways to improve the management of waste and recyclables for the event. They included providing more on-site recycling facilities, recruiting and training secondary school students in Kwai Tsing as environmental protection ambassadors to help promote clean recycling, enhancing publicity through the social media and encouraging the public to bring their own dining utensils and food containers. Among the 114 participating food stall operators in the event, over two-thirds of them responded to the appeal and signed a green charter pledging to encourage and facilitate the public to use less disposal tableware.
Annex

Events in which EPD Assisted Event Organisers in Launching Measures on Waste Reduction and Recycling

Statistics on Waste and Recyclables

Events organized by government departments

<table>
<thead>
<tr>
<th>Name</th>
<th>Date</th>
<th>Attendance (approximate number)</th>
<th>Organizer</th>
<th>Waste (kg)</th>
<th>Major Recyclables (kg)</th>
<th>Other Recyclables and Donated Materials</th>
</tr>
</thead>
<tbody>
<tr>
<td>FarmFest 2018</td>
<td>12 to 14 January 2018</td>
<td>207 000</td>
<td>Organizing Committee of FarmFest; Agriculture, Fisheries and Conservation Department; Vegetable Marketing Organization and Fish Marketing Organization</td>
<td>7 280</td>
<td>6 653</td>
<td>4.8</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>0</td>
<td>wooden planks (645 kg); plastic foam (108 kg)</td>
</tr>
<tr>
<td>2018 Lunar New Year Fair (Victoria Park, Causeway Bay)¹</td>
<td>10 to 16 February 2018</td>
<td>No relevant record</td>
<td>Food and Environmental Hygiene Department</td>
<td>167 370</td>
<td>11 620</td>
<td>270</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>3 330</td>
<td>wooden pallets (7 000 kg); Chinese peach blossoms (5 100 kg); bamboos (22 080 kg); bonsais (93 pots); tents (24 pieces); small-sized furniture (133 pieces); horticultural supplies (50 pieces)</td>
</tr>
<tr>
<td>Hong Kong Flower Show 2018</td>
<td>16 to 25 March 2018</td>
<td>720 000</td>
<td>Leisure and Cultural Services Department</td>
<td>221 700</td>
<td>11 910</td>
<td>26 450</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>4 240</td>
<td>food waste (750 kg); yard waste (wilted plants/turf, etc.) (13 430 kg); sand (649 670 kg);</td>
</tr>
<tr>
<td>Name</td>
<td>Date</td>
<td>Attendance (approximate number)</td>
<td>Organizer</td>
<td>Waste (kg)</td>
<td>Major Recyclables (kg)</td>
<td>Other Recyclables and Donated Materials</td>
</tr>
<tr>
<td>-----------------------</td>
<td>--------------------</td>
<td>---------------------------------</td>
<td>------------------------------------------------</td>
<td>---------------------</td>
<td>------------------------</td>
<td>----------------------------------------</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>paper</td>
<td>plastic flower-pots</td>
<td>stone (34 040 kg); wood (5 640 kg); soil (23 190 kg); potted plants (30 000 pots); transplanted trees (19); transplanted shrubs (3 029)</td>
</tr>
</tbody>
</table>

Note:

(1) EPD and the Food and Environmental Hygiene Department cooperated to implement waste reduction and recycling measures in other designated Lunar New Year ("LNY") Fairs, including recycling bamboo sticks, wooden pallets and unsold Chinese peach blossom trees. The contractor appointed by EPD would collect and store them, and redistribute resources with reusable value in the future. Besides, the Environmental Campaign Committee also supported four organizations to hold green LNY Fairs, where they shared recycling tips with members of the public, and redistributed materials with reusable value to organizations and persons in need. We did not collate statistics on the relevant wastes and recyclables of LNY years other than the one in Victoria Park, Causeway Bay.

Events organized by entities which are not government departments (2)

<table>
<thead>
<tr>
<th>Name of Event</th>
<th>Date of Event</th>
<th>Attendance (approximate number)</th>
<th>Organizer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cathay Pacific/HSBC Hong Kong Sevens 2017</td>
<td>7 to 9 April 2017</td>
<td>113 000</td>
<td>Hong Kong Rugby Union</td>
</tr>
<tr>
<td>2017 CCB (Asia) Hong Kong Wine &amp; Dine Festival</td>
<td>26 to 29 October 2017</td>
<td>141 000</td>
<td>Hong Kong Tourism Board</td>
</tr>
<tr>
<td>New World Harbour Race 2017</td>
<td>29 October 2017</td>
<td>2 900</td>
<td>Hong Kong Amateur Swimming Association</td>
</tr>
<tr>
<td>The 52\textsuperscript{nd} Hong Kong Brands and Products Expo</td>
<td>16 December 2017 to 8 January 2018</td>
<td>Not available from the event organizer</td>
<td>Chinese Manufacturers' Association of Hong Kong</td>
</tr>
<tr>
<td>Standard Chartered Hong Kong Marathon 2018</td>
<td>21 January 2018</td>
<td>73 900</td>
<td>Hong Kong Amateur Athletic Association</td>
</tr>
<tr>
<td>Name of Event</td>
<td>Date of Event</td>
<td>Attendance (approximate number)</td>
<td>Organizer</td>
</tr>
<tr>
<td>--------------------------------------</td>
<td>------------------------</td>
<td>---------------------------------</td>
<td>------------------------------------------------</td>
</tr>
<tr>
<td>The 14th Tai Kok Tsui Temple Fair</td>
<td>4 March 2018</td>
<td>150 000</td>
<td>Mongkok Kaifong Association</td>
</tr>
<tr>
<td>Tsing Yi Bamboo Theatre 2018</td>
<td>Birthday of Zhen Jun</td>
<td>Not available from the event organizer</td>
<td>Tsing Yi Zhen Jun Festival Opera Committee</td>
</tr>
<tr>
<td></td>
<td>27 April to 1 May 2018</td>
<td></td>
<td>Tsing Yi Tin Hau Festival Opera Committee</td>
</tr>
<tr>
<td></td>
<td>Birthday of Tin Hau</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>15 to 19 May 2018</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2018 Aberdeen Dragon Boat Race</td>
<td>18 June 2018</td>
<td>10 000</td>
<td>Aberdeen Dragon Boat Race Committee</td>
</tr>
</tbody>
</table>

Note:

(2) Statistics on the waste and recyclables generated from these events are provided by the respective event organizers. Please enquire with the relevant event organizers if necessary.

**Suspension of vehicle licences**

18. **MR FRANKIE YICK** (in Chinese): President, under section 93 of the Road Traffic Ordinance (Cap. 374), the Commissioner for Transport ("the Commissioner") may suspend the licence of a motor vehicle concerned in respect of the offences specified in Schedule 4 (including section 52 (in contravention of the restriction on the use of vehicles)). The period of suspension for the first offence is three months and that for subsequent offence in respect of the same motor vehicle is six months. Any person who uses a private car without a valid hire car permit to carry passengers for reward (commonly known as "white licence cars' service") is in breach of section 52. Some members of the public have pointed out that as white licence cars' service has become rampant in recent years, the authorities should amend the legislation to lengthen the period of suspension of the licences of white licence cars or even cancel their licences permanently to enhance the deterrent effect. In this connection, will the Government inform this Council:
(1) of the number of vehicles the licence of which was suspended under the aforesaid provision in each of the past three years and the periods of suspension concerned, together with a breakdown by vehicle class and the offence involved;

(2) of the respective numbers of cases in each of the past three years in which the registered owners of vehicles, under section 90 of Cap. 374, (i) made representations in writing to the Commissioner and (ii) applied in writing to the Commissioner for a hearing before a Transport Tribunal ("Tribunal") to show cause why the vehicle licences should not be suspended; among such cases, the respective numbers of cases ruled by the Tribunal that the owners concerned had shown the cause, with a breakdown by vehicle class and the offence involved; and

(3) given that in reply to a question raised by a Member of this Council in May this year in respect of the permanent cancellation of licences of white licence cars, the authorities indicated that the Transport Department was then reviewing the need to raise the penalty for the relevant offences and would consult the trade concerned, of the details and timetables of the review and the consultation exercise?

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, the Government has all along been concerned about the situation on illegal carriage of passengers for hire or reward by private cars and light goods vehicles ("LGV"). The Government has been taking stern enforcement actions against illegal carriage of passengers for reward and will not condone such activities. Sections 52(3) and 93 and Schedule 4 of the Road Traffic Ordinance (Cap. 374) stipulate that an offender who uses a private car or LGV for the illegal carriage of passengers for reward, or who solicits or attempts to solicit any person to travel in such vehicles, is liable to a fine of $5,000 and three months' imprisonment on the first conviction. The licence of the subject vehicle may also be suspended for three months. On the second or subsequent conviction, the offender is liable to a fine of $10,000 and six months' imprisonment. For a subsequent offence in respect of the same motor vehicle, the licence of that vehicle may be suspended
for six months. Besides, according to section 69 of Cap. 374, if a person is convicted of any offence under Cap. 374 in connection with the driving of a motor vehicle (including illegal carriage of passengers for reward), the court may disqualify him from driving for such period as it thinks fit.

In accordance with section 90(2)(c)(i) of Cap. 374, the registered owner whose vehicle licence was suspended may make representations in writing to the Commissioner showing cause why the vehicle licence should not be suspended within 14 days after the receipt of the notice issued by the Commissioner; or by virtue of section 90(2)(c)(ii) of Cap. 374, he may apply in writing to the Commissioner for a hearing before a Transport Tribunal to show cause why the vehicle licence should not be suspended. The Transport Tribunal is a statutory organization independent of the Government, comprising non-official members appointed by the Government, including persons from the legal sector, District Council members and other professionals. Every case hearing of the Transport Tribunal is conducted by a chairman and two panel members.

My reply to the various parts of Mr Frankie YICK's question is as follows:

(1) The breakdown of cases involving the suspension of motor vehicle licences by the Transport Department ("TD") from 2015 to 2017 in accordance with the section 93 of Cap. 374 is tabulated below. In all these cases, the drivers have breached section 52(3) of Cap. 374 by driving or using a motor vehicle, or suffering or permitting a motor vehicle to be driven or used, for the carriage of passengers for hire or reward without obtaining a valid hire car permit. As all cases are first offences, the licences were suspended for three months.

<table>
<thead>
<tr>
<th>Year</th>
<th>Private car</th>
<th>LGV</th>
<th>Private light bus</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>1</td>
<td>16</td>
<td>1</td>
<td>18</td>
</tr>
<tr>
<td>2016</td>
<td>6</td>
<td>2</td>
<td>1</td>
<td>9</td>
</tr>
<tr>
<td>2017</td>
<td>7</td>
<td>2</td>
<td>0</td>
<td>9</td>
</tr>
</tbody>
</table>
(2) During the same period, TD has not received any representations made in writing to the Commissioner in accordance with section 90(2)(c)(i) of Cap. 374 showing cause why the vehicle licences concerned should not be suspended.

As for applications made under section 90(2)(c)(ii) of Cap. 374 to the Commissioner for a hearing before a Transport Tribunal to show cause why the vehicle licences should not be suspended, the drivers of all these cases have contravened section 52(3) of Cap. 374. The number of cases by vehicle types is tabulated below.

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of cases applying for a hearing before a Tribunal</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Private car</td>
</tr>
<tr>
<td>2015</td>
<td>0</td>
</tr>
<tr>
<td>2016</td>
<td>3</td>
</tr>
<tr>
<td>2017</td>
<td>2</td>
</tr>
</tbody>
</table>

All the judgments handed down by the Transport Tribunal in respect of the cases in the last three years upheld the decision that the vehicle licences concerned should be suspended.

(3) The Government is currently reviewing the need to raise the penalties for offences related to illegal carriage of passengers for hire or reward by motor vehicles so as to enhance the deterrent effects. We aim to report specific proposals to the Panel on Transport of the Legislative Council and consult Members in the 2018-2019 legislative year.

Development of the horticulture industry

19. **MR LEUNG CHE-CHEUNG** (in Chinese): President, an organization in the horticulture industry has relayed that the development of the industry has all along been neglected over the years. The horticulture industry is not regarded as a separate trade in the construction industry, and there is currently no registration system for practitioners in the industry, rendering such practitioners
being regarded as general workers only. Moreover, as it is difficult to attract new blood to join the industry due to its remuneration being on the low side, coupled with an ageing workforce, the industry has been beset by a shortage of manpower. The organization has also pointed out that horticulture contractors often face financial difficulties arising from default on payments by the principal contractors of public works projects ("PWPs"). On the other hand, the proportion of greening projects in the all PWPs has been rather low in recent years. In this connection, will the Government inform this Council:

(1) whether the authorities have compiled statistics on the added value of horticulture-related industries, and its percentage in Gross Domestic Product, in each of the past three years;

(2) of the amount of resources allocated by the authorities in the past three years to assist in and promote the development of the horticulture industry;

(3) whether the authorities have projected and planned for the manpower requirements of the horticulture industry; if so, of the details, including a tabulated breakdown by trade of the number and age distribution of the practitioners in the past three years, as well as the manpower requirements in the coming three years; if not, whether the authorities will consider conducting relevant projections and planning;

(4) whether the authorities have plans to implement the initiative of "designated workers for designated skills" to stipulate that only registered workers in the trades of the horticulture industry may undertake the relevant work, so as to assist the industry in moving towards professionalization; if so, of the details; if not, the reasons for that;

(5) whether the authorities know if the Construction Workers Registration Board received in the past three years written applications for designating the trades of the horticulture industry as registered trades; if the Board did, of the relevant vetting and approval outcome;
(6) of the proportion of contracts of greening projects among the PWP contracts awarded in each of past three years;

(7) whether the authorities will, in the long run, increase the proportion of greening projects in the all PWPs, so as to promote greening; and

(8) whether the authorities will consider separately awarding contracts of greening projects, so as to avoid horticulture contractors being defaulted on payments by principal contractors?

SECRETARY FOR DEVELOPMENT (in Chinese): President, my reply to the eight-part question raised by Mr LEUNG Che-cheung is as follows:

(1) According to the Census and Statistics Department, landscape care and greenery services contributed to 0.02% of Hong Kong's Gross Domestic Product ("GDP") in recent years. The value added and GDP contribution of landscape care and greenery services from 2014 to 2016 is set out below. The figure for 2017 is not yet available.

<table>
<thead>
<tr>
<th>Year</th>
<th>Value added (HK$ million)</th>
<th>Contribution to GDP</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014</td>
<td>444.3</td>
<td>0.02%</td>
</tr>
<tr>
<td>2015</td>
<td>480.0</td>
<td>0.02%</td>
</tr>
<tr>
<td>2016</td>
<td>496.0</td>
<td>0.02%</td>
</tr>
</tbody>
</table>

(2) In the past three years, the Development Bureau organized 120 horticulture related seminars and workshops for horticultural practitioners and students to enhance their professional knowledge and work practices. These seminars and workshops, which included tree risk assessment, pre-wet season tree management, tree inspection after inclement weather, tree identification, proper tree care, urban forestry and management of Brown Root Rot disease, etc., would help support the development of the industry. To further broaden practitioners' professional knowledge, the Development Bureau also arranged expert members of the Urban Forestry Advisory Panel to deliver talks in urban forestry seminars, and, in collaboration with the Hong Kong Institute of Horticultural Science and The Chinese University of Hong Kong, invited Mainland and overseas experts to attend seminars to share their
experience. Organizing horticulture related seminars and workshops is an integral part of the work of the Greening, Landscape and Tree Management Section of the Development Bureau. There is no separate breakdown on the resources devoted to such work.

In October 2016, the Qualifications Framework Secretariat of the Education Bureau set up the Arboriculture and Horticulture Industry Training Advisory Committee ("A&H ITAC"). In the past two years, the Promotion and Consultation Subcommittee of A&H ITAC has introduced the "Award Scheme for Learning Experiences", in which scholarships were awarded to three practitioners in the industry for participating in industry-related learning activities and promoting the Qualifications Framework ("QF"). In addition, the Subcommittee has also launched the "Pilot Project on QF Promotion in School Sector" to provide experiential activities in arboriculture and horticulture to about 100 secondary school students and to introduce the prospects of the industry in order to attract newcomers to the industry.

With the Development Bureau's assistance, the Horticultural and Arboricultural Trade Confederation has been established to facilitate communication in the industry, support the formulation of the Specification of Competency Standards ("SCS") and relevant professional code of conduct so as to uphold quality standards, and encourage continuous professional development.

Besides, the Government also provides resources in support of local landscape architecture, horticulture and landscape management, including liaison with relevant organizations to implement education and human resources plan, and reserving over HK$10 million to subsidize relevant Bachelor Degree programs via the "Study Subsidy Scheme for Designated Professions/Sectors".

(3) In 2015, the Development Bureau commissioned a consultancy study to assess the manpower supply for the arboriculture, horticulture and landscape management and maintenance industry ("greening industry"). The study also covered the assessment of education and training for the greening industry and explored measures to tackle short-, medium- and long-term manpower demands. The study was
completed in 2017. The projected manpower situation in various years, as well as their age distribution in 2015 are set out below:

<table>
<thead>
<tr>
<th>Greening Industry-related Workers</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
<th>2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist/Arborist Assistant</td>
<td>780</td>
<td>980</td>
<td>960</td>
<td>980</td>
</tr>
<tr>
<td>Tree Climber Specialist/Tree Climber Assistant</td>
<td>220</td>
<td>400</td>
<td>380</td>
<td>360</td>
</tr>
<tr>
<td>Horticulturist/Horticulturist Assistant</td>
<td>100</td>
<td>210</td>
<td>230</td>
<td>230</td>
</tr>
<tr>
<td>Landscape Architect</td>
<td>50</td>
<td>70</td>
<td>70</td>
<td>100</td>
</tr>
<tr>
<td>Landscape Designer/Assistant</td>
<td>180</td>
<td>230</td>
<td>230</td>
<td>230</td>
</tr>
<tr>
<td>Landscape Designer/Landscape Draftsman</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
<tr>
<td>Skilled Horticulture/Arboriculture Worker</td>
<td>3 150</td>
<td>3 760</td>
<td>3 770</td>
<td>3 950</td>
</tr>
<tr>
<td>Unskilled Horticulture/Arboriculture Worker</td>
<td>2 820</td>
<td>3 520</td>
<td>3 520</td>
<td>3 980</td>
</tr>
<tr>
<td>Total:</td>
<td>7 300</td>
<td>9 170</td>
<td>9 160</td>
<td>9 830</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Age Distribution of Greening Industry-related Workers in 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Greening Industry-related Workers</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>Arborist/Arborist Assistant</td>
</tr>
<tr>
<td>Tree Climber Specialist/Tree Climber Assistant</td>
</tr>
<tr>
<td>Horticulturist/Horticulturist Assistant</td>
</tr>
<tr>
<td>Landscape Architect</td>
</tr>
<tr>
<td>Landscape Designer/Assistant Landscape Designer/Landscape Draftsman</td>
</tr>
<tr>
<td>Skilled Horticulture/Arboriculture Worker</td>
</tr>
<tr>
<td>Unskilled Horticulture/Arboriculture Worker</td>
</tr>
</tbody>
</table>

The study indicated that there was an estimated workforce of approximately 7 300 in 2015 and projected that there would be an additional manpower requirement of about 2 530 in 2018, including 1 370 skilled workers and 1 160 unskilled workers. Based on the findings, the Development Bureau will undertake a series of
measures, including actively working with educational and training institutions to provide more suitable training programmes on horticulture; and collaborating with educational and training institutions to organize activities to promote the industry to a wider audience.

(4) Currently, there is no registration system for horticulture-related work in Hong Kong. The "designated workers for designated skills" requirement is being implemented through contract terms. For example, the use of chainsaws, tree inspection and aerial tree works all require special training and qualifications.

To assist the industry to move towards professionalization and enhance the knowledge and standard of horticultural practitioners, A&H ITAC is now assisting the industry in formulating SCS, setting the competency standards for major tasks in the industry and detailing the skills, knowledge, outcome standards, and professional ethics and attitude expected of practitioners. Based on SCS, training programmes catering for the needs of the industry will be developed. SCS can provide the basis for industry regulation. Formulation of SCS will be completed by 2019.

(5) The Hong Kong Landscape and Arboriculture Professionals General Union requested the Construction Workers Registration Board ("CWRB") to include the relevant trades under the Construction Workers Registration Ordinance. The Subcommittee on Registration Matters ("the Subcommittee") under CWRB considered the proposal in accordance with its workflow and principles of adding new trades (e.g. industry-recognized skill levels, availability of established skill assessment mechanism) and discussed with relevant industry stakeholders. The Subcommittee noted that the Development Bureau had commissioned a consultancy study to assess the manpower supply for the greening industry, which recommended that training should be provided and a QF for the industry be established. CWRB considered that enhancement of training and establishment of a QF would be more effective in addressing the industry's request for recognizing the competency level of industry practitioners and enhancing job opportunities.
(6) The percentage of planting works against total project estimates in public works contracts\(^{(1)}\) in the past three years is as follow:

<table>
<thead>
<tr>
<th>Public Works Category</th>
<th>Year of Works Contracts Awarded</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2015</td>
</tr>
<tr>
<td>New works projects</td>
<td>1.03%</td>
</tr>
<tr>
<td>Maintenance works projects*</td>
<td>22.2%</td>
</tr>
</tbody>
</table>

Note:

* As the duration of maintenance works contracts usually spans several years, there is periodic fluctuation on the quantity and cost estimates of this type of contracts.

(7) The Government attaches importance to the quality of our outdoor environment. Landscape and planting requirements are incorporated in all new and maintenance works projects. As works projects differ in nature and development parameters, the percentage of planting works against total project estimates also varies accordingly.

Different types of projects are required through circulars and guidelines to incorporate certain greening percentage. For example, new government building projects with site area of 1 000 sq m or above require 20% to 30% green coverage. We also require at-grade public roads to reserve sufficient space for roadside planting works, and integrate landscape elements in the highway structure design. Further, there are technical guidelines on the use of vegetation in landslip prevention and mitigation works to integrate landscape works with its surrounds.

(8) Having regard to the type, complexity, technical requirements and costs of projects, works departments will formulate appropriate works contracts or split the project into separate works contracts. As various processes in horticultural projects need to be aligned and coordinated with other works components, singling out horticultural work into separate contracts is not an effective arrangement. This notwithstanding, under special circumstances, government

(1) Only works contracts with planting elements are included.
departments may award planting contracts individually taking into account the characteristics of the project and practical circumstances.

Subcontracting is a common practice in the construction industry to facilitate project implementation in a cost-effective and efficient manner. To enhance the transparency of subcontracting arrangements and accountability, all public works contractors are required to submit a "Subcontractor Management Plan" upon contract commencement and provide quarterly updates during the contract period. Works departments will monitor the contractors' performance. Substandard subcontracting management, if any, will be reflected in the quarterly performance report.

Bank accounts of licensed money service operators

20. MR SHIU KA-FAI (in Chinese): President, at present, operators of money changers must possess a licence granted by the Commissioner of Customs and Excise for operating money changing service, a kind of money service. Some operators of money changers have relayed to me that in recent years, some banks have not only rejected their applications for opening new accounts but also suddenly frozen or cancelled the existing accounts of money changers and the personal accounts of their operators, dealing a serious blow to their business operations. In this connection, will the Government inform this Council:

(1) of the number of licensed money changers in each of the past five years;

(2) of the number of complaints or requests for assistance about the opening/maintenance of bank accounts received by the authorities from operators of money changers in the past five years; whether the authorities have taken follow-up actions, including gaining an understanding from the banks of the reasons for that; if so, of the details; if not, the reasons for that;

(3) whether the authorities intend to eradicate the money changing service operated by money changers; if so, why they have not made any announcement on this; if not, why the authorities have all along
allowed banks to refuse the opening/maintenance of bank accounts by money changers;

(4) whether it knows (i) the respective numbers of accounts of money changers and personal accounts of their operators which were cancelled by banks in each of the past five years, and (ii) the number of existing bank accounts belonging to money changers; if it does not know, whether it will request banks to provide the relevant information;

(5) whether the Hong Kong Monetary Authority has issued guidelines regarding the circumstances under which banks may refuse to open new accounts for money changers and cancel/freeze their existing accounts; if so, of the details; if not, the reasons for that; whether the authorities will request banks to give an explanation for such decisions to the affected operators of money changers; if so, of the details; if not, how the authorities safeguard the proper interests of operators of money changers; and

(6) given that the Customs and Excise Department ("C&ED") will examine the records of new applicants for a licence of money service operator or those of applicants for renewal of the licence every two years, and will issue/renew the licence only after it has ascertained that such applicants have met all the requirements, and that C&ED will conduct compliance inspections on existing money changers, whether the authorities will consider assisting those operators with good records in opening bank accounts; if so, of the details; if not, the reasons for that?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Chinese): President, our consolidated reply to the above questions is set out as follows:

Under the Anti-Money Laundering and Counter-Terrorist Financing Ordinance, any person who wishes to operate a remittance and/or money changing service in Hong Kong is required to apply for a money service operator ("MSO") licence from the Customs and Excise Department ("C&ED"). C&ED is responsible for the supervision of licensed MSOs' compliance with the
customer due diligence ("CDD") and record-keeping obligations and other licensing requirements, as well as combating unlicensed operation of money service.

In the past five years, the number of licensed MSOs continues to increase, as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
<th>First six months of 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Licensed MSOs</td>
<td>1 206</td>
<td>1 226</td>
<td>1 231</td>
<td>1 309</td>
<td>1 402</td>
</tr>
</tbody>
</table>

In recent years, as the international community intensifies its efforts in combating money laundering and terrorist financing ("ML/TF"), financial institutions around the world (including banks in Hong Kong) have generally strengthened the related controls, including undertaking more in-depth CDD and ongoing monitoring on customers and adopting control measures commensurate with customers' background and risk levels. Where suspicious transactions are identified, financial institutions are required by law to report to law enforcement agencies.

In accordance with international standards and local laws, the Hong Kong Monetary Authority ("HKMA") monitors the anti-money laundering and counter-terrorist financing ("AML/CTF") controls of the banking industry. HKMA has been reminding the banking industry that, in implementing robust AML/CTF controls, they should take care not to unreasonably impede access to banking services by legitimate businesses and ordinary citizens. HKMA has also issued guidance to banks in the past two years, stressing that banks should apply a risk-based approach to the CDD process, instead of adopting a one-size-fits-all approach. Meanwhile, banks should maintain proper communication with customers throughout the CDD process, which should be transparent, reasonable and efficient, as required by the "Treat Customers Fairly" principle. In response to the guidance, banks have taken various steps to enhance transparency and improve customer experience; for example, all retail banks have established mechanisms to review unsuccessful applications. HKMA also set up a dedicated web page on its website and launched a dedicated email account <accountopening@hkma.gov.hk> to facilitate customers' submission of enquiries and feedback.

In practice, individual banks will determine whether to establish business relationships with individual customers based on their own business strategies.
and risk assessments and after taking into account various relevant factors. After accounts are opened, banks and customers should follow the relevant terms and conditions to operate the accounts. Generally speaking, where banks, during their ongoing monitoring process, suspect that certain accounts may be involved in irregular or suspicious transactions (for example, a personal account is being used for business purpose, or if a customer is not able to provide background information as required by a bank), they should undertake appropriate risk mitigating measures, such as by filing a suspicious transaction report in accordance with the law, or terminating the accounts and business relationships as appropriate. HKMA requires banks to explain to customers the reasons for rejecting account opening applications or closure of accounts where permitted by law. Should a customer consider that a bank has not handled his/her case properly, he/she can make a complaint to the bank concerned or HKMA and request review for his/her case.

Since the launch of the dedicated email account last year, HKMA has received, amongst other enquiry/assistance seeking cases, six cases concerning MSOs. As for complaint cases, the statistics is set out below:

<table>
<thead>
<tr>
<th>Types of Complaint</th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
<th>First six months of 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Refusal of account opening application by banks</td>
<td>11</td>
<td>37</td>
<td>0</td>
<td>3</td>
<td>0</td>
</tr>
<tr>
<td>Closure of accounts by banks</td>
<td>1</td>
<td>6</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

HKMA will follow up on each and every complaint. Where appropriate, it will remind the bank concerned to understand more about the business nature of MSOs and give due consideration to the fact that MSOs are regulated by the relevant government department. HKMA also requires banks to properly distinguish the risk levels of individual MSOs, and adopt appropriate and effective CDD and ongoing monitoring measures accordingly. HKMA considers that it will be more effective to monitor the situation through complaints lodged by customers and handling of the cases directly, and therefore does not collect statistics about bank accounts relating to MSOs.

C&ED has been maintaining communication with HKMA to facilitate deeper understanding of the MSO sector by HKMA and the banking sector. For instance, C&ED participates in seminars organized by HKMA to brief banks on the mode of operation of MSOs and the regulatory regime for the industry.
C&ED will continue to work with HKMA to strengthen banks' confidence in licensed MSOs.

HKMA will also continue to maintain communication and work together with the banking industry, business community and relevant stakeholders (including MSOs) to tackle this global and complex issue. The aim of HKMA is to maintain a robust AML/CTF regime in Hong Kong, without compromising access by legitimate businesses and ordinary citizens to basic banking services.

Escalator systems in the vicinity of MTR Lam Tin Station

21. **MR JEREMY TAM** (in Chinese): President, some residents in Lam Tin have relayed to me that MTR is the major external means of transport for them. They usually commute to and from the concourse of MTR Lam Tin Station using the two sets of escalator systems ("escalator systems") which connect Hong Tin Court and Lei Yue Mun Road respectively with the Sceneway Plaza. However, the escalator systems are overcrowded during peak hours in recent years and their services are frequently suspended pending repairs, causing inconvenience to the residents. In this connection, will the Government inform this Council:

1. whether it knows (i) the design capacity and (ii) the peak-hour loading of the escalator systems; if it does not know the peak-hour loading, whether it will compile statistics in this respect;

2. whether it knows (i) the manufacturers and (ii) the repair and maintenance contractors of the escalator systems;

3. whether it knows (i) the number of hours spent on repairing the escalator systems and (ii) the number of days on which services of the escalator systems were suspended, in each of the past three years;

4. whether it will follow up the problem of frequent suspension of service of the escalator systems for a prolonged period of time pending repairs, including giving advice to the persons concerned, with a view to shortening the time taken and reducing the need for repairs; if so, of the details; if not, the reasons for that; and
(5) whether it has studied the retrofitting of escalators or lifts at the passageway connecting Kai Tin Road with Lei Yue Mun Road, so that whenever the service of any one of the aforesaid escalator systems is suspended, the residents may commute to and from the station concourse conveniently via the new facilities and the other set of escalator system; if so, of the outcome; if not, the reasons for that?

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, my reply to the various parts of Mr Jeremy TAM's question is as follows:

(1) The MTR Corporation Limited ("MTRCL") has been committed to providing a safe and reliable travelling environment for passengers. The Lam Tin Station was commissioned in 1989. At its Entrance/Exit A, there are a total of nine escalators, which are divided into three groups at three sections (i.e. the upper, middle and lower sections) and connect the station's concourse with Kai Tin Road. The design capacity is around 120 commuters per minute for each escalator. While MTRCL does not have statistics on the actual escalator throughput, it observed that the escalators had been operating smoothly and able to effectively ease passenger flow during peak and non-peak hours. In fact, at times of major refurbishment, MTRCL will adopt appropriate passenger flow management measures to facilitate passenger movement. The escalators at the upper and middle sections were respectively refurbished under a total of three major refurbishment projects (each time for a group of two escalators) from end-2015 to early 2018. Despite so, the remaining seven escalators still managed to ease passenger flow effectively.

(2) to (4)

The design, manufacture, examination, testing, operation and service of all escalators within the MTR network shall comply with the requirements of the Lifts and Escalators Ordinance (Cap. 618) and the Code of Practice formulated by the Electrical and Mechanical Services Department ("EMSD"). Escalators should not be put in service unless they have been issued with relevant permits upon their passing safety checks conducted by EMSD. According to EMSD,
MTRCL is the owner of these escalators. Under section 44 of the Ordinance, MTRCL must ensure that these escalators and all its associated equipment or machinery are kept in a proper state of repair and in safe working order. The Corporation has put in place a stringent system of repair and maintenance for escalators within the MTR network, and will conduct regular examinations and maintenance work to ensure safe and reliable escalator operation that complies with statutory requirements.

In general, escalators within the MTR network have a design lifespan of over 40 years. Apart from routine inspection and maintenance, at around their 25th year of use, the escalators will undergo a major mid-life refurbishment by MTRCL. Contractors have to repair and maintain each component of the whole escalator thoroughly during the major refurbishment. Worn-out components will have to be replaced as well. Each major refurbishment takes around three months, with only one escalator or a group of two escalators undergoing the refurbishment at a time. During the refurbishment, MTRCL will closely monitor the work progress and ensure smooth flow of passengers. Relevant measures will also be implemented to minimize the impact on passengers. At the same time, MTRCL will provide to stakeholders information on the works by various means so that the latter can make corresponding arrangements.

The manufacturer and the current maintenance contractor for the escalators in Lam Tin Station are CNIM and OTIS respectively. The mid-life refurbishment for the escalators in Lam Tin Station was commenced in 2015, lasting for about three months each time. The refurbishment for the six escalators at the middle and upper sections was completed in November 2015, June 2017 and March 2018 respectively. MTRCL is now carrying out refurbishment for an escalator at the lower section at Entrance/Exit A, which is scheduled for completion by the end of next month. Refurbishment for the remaining two escalators will be carried out at a later time.

MTRCL points out that in the past three years, the nine escalators at Entrance/Exit A of Lam Tin Station functioned normally in more than 99% of their operational time. According to the record of the
Corporation, the frequency of failure to provide service due to malfunctioning of the escalators in Lam Tin Station is comparable to that of other similar escalators within the MTR network. These malfunctioning cases were mostly caused by external factors such as foreign objects caught at the edge of the steps.

(5) At present, there are no lifts or other barrier-free facilities connecting MTR Lam Tin Station with Kai Tin Road. People with impaired mobility who wants to use the MTR or go to Lei Yue Mun Road have to take a circuitous route via a steep section of Kai Tin Road. MTRCL appreciates the request of the local community for improving barrier-free facilities at Entrance/Exit A and strives to make suitable arrangements. Since September 2016, MTRCL has launched barrier-free connection services at Lam Tin Station free of charge which enable wheelchair passengers to travel conveniently to the station entrances/exits on Kai Tin Road and Lei Yue Mun Road. The services are generally welcomed by the local community and people with disabilities.

To further improve the situation, the Government is considering conducting feasibility study on the provision of barrier-free pedestrian link for Lei Yue Mun Road and Kai Tin Road and will report to the District Council at appropriate time.

Prosecution decisions

22. MR HO KAI-MING (in Chinese): President, in June last year, a well-known person was suspected of having intimidated a reporter while the latter was reporting news. The Department of Justice ("DoJ") has so far not decided whether or not to institute prosecution against that person. In this connection, will the Government inform this Council:

(1) whether, in handling criminal cases that involve well-known persons, DoJ needs longer time to examine the particulars of the cases in order to make prosecution decisions; if so, of the reasons for that; if not, why DoJ has so far not yet made any prosecution decision in respect of the aforesaid case;
(2) of DoJ's considerations in making a prosecution decision in respect of the case, and whether such considerations include the possible impacts of instituting prosecution on the community and public interests;

(3) whether DoJ has assessed if the fact that it has so far not made any prosecution decision in respect of the case has any social repercussion, such as undermining the morale of the journalists; if it has assessed and the outcome is in the affirmative, whether DoJ will expedite its handling of the case;

(4) as the Victims of Crime Charter stipulates that "[s]o far as can be done without prejudicing the progress or outcome, victims of crime shall be kept fully informed of the progress of the case", of the number of enquiries received by DoJ in each of the past two years from reporters as victims about the progress of the cases concerned, the number of occasions on which DoJ failed to make a reply within the pledged time (i.e. 14 working days) and the reasons for that, as well as the improvement measures to be put in place; and

(5) whether DoJ will compile statistics on a regular basis in respect of cases involving the threatening of freedom of news coverage, and make prosecution decisions expeditiously so as to demonstrate its determination to safeguard freedom of news coverage?

SOLICITOR GENERAL (in Chinese): President, prosecutors within the Department of Justice ("DoJ") always uphold the constitutional duty under Article 63 of the Basic Law in handling all prosecution work in a fair, impartial and open manner. Article 63 of the Basic Law provides that "the Department of Justice of the Hong Kong Special Administrative Region shall control criminal prosecutions, free from any interference".

The independence of the prosecutor is elaborated in the Prosecution Code of DoJ. According to paragraphs 1.1 and 1.2 of the Code, in making decisions and exercising discretion, a prosecutor must act fairly and dispassionately on the basis of the law, the facts provable by the admissible evidence, other relevant information known to the prosecution and any applicable policy or guidelines. Specifically, a prosecutor must not be influenced by:
(a) any investigatory, political, media, community or individual interest or representation;

(b) the personal feelings or beliefs of the prosecutor concerning the offence, the suspect, the accused or a victim of crime;

(c) the possible effect of the decision on the personal or professional circumstances of those who have the conduct of the case;

(d) the possible political effect on the government, any political party, any group or individual;

(e) possible media or public reaction to the decision;

(f) the race, religion, sex, ethnic or national origin, colour, language, political or other opinion, social origin, social or political affiliation, official or other position in the community, lawful activities, beliefs, property, health, disability or any other personal characteristics of the suspect or accused or any other person involved or concerned (although such considerations may need to be addressed for other reasons).

A prosecutor must act in accordance with the guidelines set out in the Prosecution Code in making a decision to prosecute or not to prosecute. The fundamental principle is that unless there is sufficient admissible evidence so that the case has a reasonable prospect of conviction, and that it is in the public interest to prosecute, no prosecution should be commenced.

The said principles relating to prosecutorial independence and prosecutorial decisions apply to each and every case. DoJ handles all cases in the same way regardless of whether public figures or the media are involved.

In respect of parts (1) to (5) of Mr HO's question, the DoJ's response is as follows:

(1) and (3)

The time required to process a case from commencement of investigation to institution of prosecution depends on a number of factors, including the nature and complexity of the case, the quantity
of evidence to be handled, duration for seeking legal advice and whether further follow-up is necessary pursuant to the legal advice, etc. Since the evidence and the law involved in and the level of complexity of each case differ, the processing time each requires may also vary.

Take the prosecution work relating to the "Occupy Movement" as an example. Since the number of arrested persons is large and the volume of evidence involved is substantial, colleagues of the Prosecutions Division have to spend substantial time to study and examine the relevant materials and possible legal or technical issues. For instance, colleagues concerned have to take a long time to go through the video evidence, consider admissibility and other questions relevant under the law of evidence, analyse the specific circumstances of each and every incident, and provide legal advice on the appropriate manner to handle each relevant person. Moreover, unless the relevant incidents could be handled on their own, the numerous incidents involved in the "Occupy Movement" are often inter-connected, rendering it impossible to handle individual arrestees separately. Quite the contrary, it is necessary for DoJ to consider the cases of numerous arrestees in a comprehensive and holistic manner. In respect of the 48 persons who were arrested after the "Occupy Movement" (including some of those suspected to have performed a leading role), after seeking the advice of DoJ, the Police on 27 March 2017 charged nine of them with the offences of conspiracy to commit public nuisance, incitement to commit public nuisance, and incitement to incite public nuisance. The pre-trial review of the case has been fixed for 17 September 2018 and the trial for 19 November 2018. Therefore, contrary to what was suggested in the question, the prosecution work is not such that no prosecutorial decision had been made in respect of any of the organizers concerned.

I wish to reiterate that DoJ will strive to ensure that all prosecutorial decisions are made in a timely manner, but the progress of individual cases (including those involving celebrities and/or with journalists being the targets of alleged offences) may be affected by the factors mentioned above. Hence, save for cases involving vulnerable witnesses, we are in general unable (nor is it desirable for us) to
expedite the handling of cases on account of the identity of the persons involved.

(2) As stated above, a prosecutor will consider only the applicable law, the relevant evidence, the Prosecution Code and any applicable policy or guidelines in deciding whether or not to prosecute a case. According to the Code, prosecution should be instituted only if there is sufficient admissible evidence and where it is in the public interest to do so. Any political or media interest or representation, the possible political effect of the decision to prosecute or otherwise on any group or individual, and the position of the person involved in the community are by no means relevant considerations.

(4) It is the performance pledge of the DoJ's Prosecutions Division to reply to enquiries on matters related to prosecution policy or decision within 14 working days of receipt of such enquiries, and to issue an interim reply if a substantive reply is not available within this period. On the other hand, in order not to prejudice the criminal proceedings that may arise, it is not appropriate for DoJ to comment on the specific progress and handling approach of a case when law enforcement agencies are seeking legal advice from DoJ on the same.

DoJ does not maintain information on the number of enquiries about the progress of cases involving journalists as victims or the number of delayed replies to such enquiries. Nevertheless, DoJ will continue its endeavour to handle enquiries on matters related to prosecution policy or decision in compliance with the above mentioned performance pledge and in accordance with the principle not to prejudice criminal proceedings.

(5) Freedom of the press is protected under Article 27 of the Basic Law and other Hong Kong laws. The SAR Government, including law enforcement agencies and DoJ, respects and strives to safeguard freedom of the press. DoJ takes a serious view of alleged illegal acts targeting at journalists, and will ensure that prosecutorial decisions are made timely.
GOVERNMENT BILLS

First Reading and Second Reading of Government Bills

First Reading of Government Bills


HOTEL AND GUESTHOUSE ACCOMMODATION (AMENDMENT) BILL 2018

ELECTORAL LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL 2018

CLERK (in Cantonese): Hotel and Guesthouse Accommodation (Amendment) Bill 2018
Electoral Legislation (Miscellaneous Amendments) Bill 2018.

Bills 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 Bills


HOTEL AND GUESTHOUSE ACCOMMODATION (AMENDMENT) BILL 2018

SECRETARY FOR HOME AFFAIRS (in Cantonese): Deputy President, I move the Second Reading of the Hotel and Guesthouse Accommodation (Amendment) Bill 2018 ("the Bill").

At present, the operation of hotels or guesthouses in Hong Kong are under the regulation of the Hotel and Guesthouse Accommodation Ordinance ("the Ordinance") (Cap. 349). The Ordinance aims to ensure that premises to be used
as hotels or guesthouses meet the building structure and fire safety standards through a licensing regime. Under the Ordinance, there is no express provision empowering the Authority to take into account compliance with any deed of mutual covenant ("DMC") or land lease provisions of the premises concerned.

In 2013, arising from a fire incident which caused casualties in a guesthouse, there had been strong calls for tightening up the licensing regime and strengthening regulatory efforts. The public were also expecting more effective enforcement actions and stronger deterrent effect against unlicensed hotels and guesthouses.

Based on the above background, the Home Affairs Department published a consultation paper in 2014 to gauge public views on various proposals to address the public concerns about hotels and guesthouses. Overwhelming public support was received. The Administration maintained contact with all stakeholders afterwards and briefed the Legislative Council Panel on Home Affairs on our proposals to amend the Ordinance in 2015 and 2017 respectively. Members of the Panel on Home Affairs generally supported our proposals.

The new requirements set out in the Bill seek to implement the findings of the consultation, to improve the current licensing regime, to enhance deterrence and to facilitate enforcement actions against unlicensed hotels and guesthouses.

We will improve the existing licensing regime in four aspects. First, the Hotel and Guesthouse Accommodation Authority ("the Authority") will be empowered to take into account relevant restrictive provisions in land documents in the licensing process. The Authority may refuse to issue licence to an applicant if DMC of the premises concerned contains any express provision which prohibits the premises concerned from being used (i) as a hotel or guesthouse, (ii) for commercial purpose; or (iii) otherwise than for private residential purpose (hereafter referred to as "restrictive provision"). If the premises concerned are not regulated under any DMC, then the Authority will take into account the land lease provisions of the premises concerned and see if there is any restrictive provision.

The second aspect is that the Bill will empower the Authority to take into account local residents' views before making a decision on the licence application. To this end, we will set up an independent panel to collect views
submitted by affected residents and make recommendations to the Authority, which will become one of the factors which the Authority may take into account in the licensing process. However, this local consultation requirement will not apply if the use of the premises concerned as a hotel or guesthouse is permitted under the Town Planning Ordinance (Cap. 131), as such use has already been covered by the relevant statutory consultation under Cap. 131.

Under the current licensing system, if an applicant has been convicted of operating an unlicensed hotel or guesthouse before, the applicant can still apply for a licence and the Authority has no power to refuse the application on such grounds. Therefore, the Bill introduces the third enhancement by empowering the Authority to take into account in the licensing process whether an applicant is a "fit and proper" person, that is, whether the applicant has committed an offence under the Ordinance, or any other serious offence resulting in a sentence to imprisonment for more than three months, or is a undischarged bankrupt, in liquidation or the subject of a winding-up order.

As to the fourth aspect, the Bill provides for a clear differentiation between a "hotel licence" and a "guesthouse licence". The Bill also empowers the Authority to impose a licence condition on a "guesthouse licence" to prohibit the use of the word "hotel" in the business name in order to avoid misleading the public.

With regards to facilitating enforcement actions, the Bill empowers the Authority to apply to the Court for a search warrant to allow enforcement officers to enter into or break into, with reasonable force when necessary, a suspected unlicensed hotel or guesthouse to collect evidence with a view to enhancing enforcement actions against unlicensed hotels and guesthouses.

Moreover, the proliferations of new modes of operation, including those with the aid of technology, have made the collection of evidence and enforcement actions increasingly difficult. Under the current Ordinance, we cannot secure sufficient admissible evidence to initiate a prosecution unless the operator is apprehended on the premises. To address the above problems, the Bill adds new provisions by introducing strict liability offence on the owners and tenants of the premises concerned if there is evidence to prove that the premises concerned are used as an unlicensed hotel or guesthouse, unless they can establish a statutory defence.
In order to enhance the deterrence, the Bill empowers the Authority to apply to the Court, upon the second conviction within 16 months of the offence of operating an unlicensed hotel or guesthouse or the new strict liability offence in respect of the same premises, to issue a closure order for the premises for 6 months. The maximum penalty of the offence for operating an unlicensed hotel or guesthouse, on indictment, will be increased from $200,000 to $500,000, and an imprisonment term increased from two to three years, to underline the seriousness of the offence so that the courts may consider passing heavier sentences on defendants in future cases.

We have put in place a transitional period of 12 months after the commencement of the amended Ordinance for existing licensees. Specifically, if their licences expire within the 12-month transitional period, licensees may renew their licences once for a period not exceeding 12 months based on the existing requirements. Upon expiry of this first-renewed licence, they will have to meet all new requirements if they apply for further renewal of their licences.

Deputy President, we have been maintaining dialogue with stakeholders since 2014 in order to understand their views on the Bill. New requirements of the Bill will meet public aspirations for enhancing the current regulatory regime over hotels and guesthouses operations. It has also balanced the views of a broad cross section of all parties concerned, including the trade. The new licensing considerations can also help enhance the quality of hotels and guesthouses and minimize the nuisance caused to nearby residents and thereby achieving a win-win situation. I implore Members to support and pass the Bill as soon as practicable. The Administration will give its full cooperation in the scrutiny work of the Legislative Council.

I so submit. Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Hotel and Guesthouse Accommodation (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.
ELECTORAL LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL 2018

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, I move the Second Reading of the Electoral Legislation (Miscellaneous Amendments) Bill 2018 ("the Bill").

To prepare for the next cycle of elections, we have reviewed various electoral legislation in the light of the experience gained from previous elections, with a view to rationalizing the electoral procedures and improving the clarity and consistency of certain electoral legislation. In this connection, we propose to improve the voter registration ("VR") arrangements, and the electoral procedures for the Chief Executive, Election Committee Subsector ("ECSS"), Legislative Council, District Council, and Rural Representative elections by means of the Bill. The proposed amendments have been detailed in paragraphs 3 to 21 of the Legislative Council Brief.

The proposed amendments of the Bill fall into four categories:

(a) enhancing the VR system;

(b) broadening the pool of eligible candidates for appointment as Revising Officers;

(c) introducing a targeted exemption from criminal liability in respect of a third party publishing on the Internet election advertisements which incur merely electricity and/ or Internet access charges; and

(d) rationalizing electoral procedures and improving the clarity and consistency of certain electoral legislation.

As regards enhancing the VR system, we propose the maximum penalties for making false statements in VR be increased so as to enhance the deterrent effect; and the claim and objection mechanism be improved so as to enable more effective processing of claims/objections as well as to minimize the chance of the mechanism being abused.

As for broadening the pool of eligible candidates for appointment as Revising Officer, we propose amendments be made to the relevant provisions to
allow serving, former and retired magistrates to serve as Revising Officer. This will give the Judiciary flexibility in the appointment of suitable candidate as Revising Officer.

In respect of introducing a targeted exemption, we propose that a third party be exempted from criminal liability arising from the expression of views which constitutes election advertisements on the Internet and the election expenses, which involve merely electricity and/or Internet access charges, thus incurred. This is to safeguard the freedom enjoyed by the public in their daily expression of views on the Internet on the premise of upholding the fairness of elections.

Concerning rationalization of the electoral procedures and improvement of certain electoral legislation, our proposals include:

(a) clarification of the arrangements for issuing ballot papers in ECSS elections;

(b) rationalization of counting process for the Chief Executive elections;

(c) rationalization of the authority for issuing the notification for returning or forfeiting election deposits;

(d) classification of certain ballot papers as clearly invalid to streamline the counting process;

(e) rationalization of the stamping arrangements for ballot papers under specified circumstances; and

(f) some minor technical amendments as set out in Annex B to the Legislative Council Brief.

With these remarks, Deputy President, I hope that Members will support the Bill. To tie in with the election cycle, I hope that the Bill will be passed within this year so that the amendments which seek to enhance the VR and electoral procedures can take effect as early as possible. Thank you, Deputy President.
DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Electoral Legislation (Miscellaneous Amendments) 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 Human Organ Transplant (Amendment) Bill 2018.

HUMAN ORGAN TRANSPLANT (AMENDMENT) BILL 2018

Resumption of debate on Second Reading which was moved on 9 May 2018

DEPUTY PRESIDENT (in Cantonese): Dr Pierre CHAN, Chairman of the Bills Committee on the Bill, will first address the Council on the Committee's Report.

DR PIERRE CHAN (in Cantonese): Deputy President, in my capacity as Chairman of the Bills Committee on the Human Organ Transplant (Amendment) Bill 2018 ("the Bill"), I now report on the major areas of work of the Bills Committee.

The Bill seeks to amend the Human Organ Transplant Ordinance ("the Ordinance") to provide that under a paired or pooled donation arrangement, the fact that consent has been given in consideration of a proposed organ transplant into a person chosen by the donor would not in itself constitute an offer of inducement.

The Bills Committee has held a total of two meetings with the Government. While members generally support the Bill, some of them are concerned about the technicalities of a paired or pooled donation arrangement, including what types of organs are involved; whether the authorities will impose restrictions on the nationalities of organ donors and recipients; whether private hospitals, private organizations or acquaintances can make such arrangements;
whether prior approval is required for such arrangements; and whether the donation arrangement will be affected if the organ donor or the recipient passes away before the organ transplant takes place.

The Administration has stated that the Bill does not specify the types of organs intended for a paired or pooled donation arrangement. At present, such arrangements only cover donations and transplants of livers and kidneys. More types of organs may be included in such arrangements in the future when the relevant surgical techniques become more mature. Also, the Ordinance imposes no restriction on the nationalities of organ donors or recipients. The Bill does not stipulate the types of hospitals in which organ transplants are to be carried out. Irrespective of whether a paired or pooled donation arrangement is made by Hospital Authority ("HA"), a private hospital or a private organization, prior written approval must be obtained from the Human Organ Transplant Board ("the Board") before the carrying out of an organ removal or transplant in accordance with the relevant arrangement. If the organ donor and the recipient are not genetically related nor spouses whose marriage has subsisted for more than three years, an application for the organ transplant between them must be submitted by a medical practitioner and the Board's written approval must be obtained in advance. The donation arrangement made between an organ donor and a recipient will be called off if one of them passes away before the transplant takes place. In addition, either party can withdraw from the arrangement any time.

Furthermore, some members are concerned whether a pecuniary advantage provided by an organ recipient to a donor many years after the organ transplant will be regarded as an inducement. These members worry that the Bill may induce some people to collect information about organ donors and sell such information to patients. They think that the possibility of organ donors' information being sold outside Hong Kong may create a loophole in the Bill. They therefore call on the Administration to plug this loophole by stepping up prosecution actions and law enforcement effort. What is more, they also ask the authorities to consider allowing patients and their families to access HA's database to enable them to make a paired or pooled donation arrangement.

As explained by the Administration, the Ordinance prohibits commercial dealings in human organs. When deciding whether a human organ transplant complies with the requirement (i.e. a donor is not induced to give consent to the relevant donation), the Board must be satisfied that the donor is free from any inducement at the time he gives the consent. The objective of introducing the Bill is to provide that the donor's consent given under a paired or pooled donation
arrangement will not in itself constitute an offer of inducement. As regards the sale of information about organ donors, any arrangement or advertisement involving payment for the supply of a human organ intended for transplant is prohibited under sections 4(1)(c) and 4(3) of the Ordinance respectively.

Members note that the Board's prior approval is not required for an organ transplant between spouses and yet the requirements under section 5A of the Ordinance should still be met, i.e. the marriage concerned must have subsisted for not less than three years. Some members enquire about the definition of marriage under the Ordinance and whether a marriage of same-sex persons and a marriage celebrated or contracted outside Hong Kong are covered by the Ordinance.

As advised by the Administration, for the purposes of section 5A of the Ordinance, section 2A of the Human Organ Transplant Regulation ("Regulation") provides for the establishment of the fact of marriage. Section 2A(i)(A) of the Regulation provides that the fact of a marriage is to be established by means of any document or documents issued under the Marriage Ordinance or the Marriage Reform Ordinance which shows or show that the two persons are the parties to (i) a marriage celebrated or contracted in accordance with the provisions of the Marriage Ordinance; (ii) a modern marriage validated by the Marriage Reform Ordinance; or (iii) a customary marriage declared to be valid by the Marriage Reform Ordinance. Section 2A(i)(B) of the Regulation provides that the fact of a marriage is to be established by means of any document or documents equivalent to any document or documents issued under the Marriage Ordinance or the Marriage Reform Ordinance which shows or show that the two persons are the parties to a marriage celebrated or contracted outside Hong Kong in accordance with the law in force at the time and in the place where the marriage was performed. Section 2A(i)(B) of the Regulation does not distinguish same-sex or different-sex marriages.

Some members express concern about the increase in the number of organ donations after the passage of the Bill and whether there will be sufficient medical practitioners and hospitals to cope with the increase. These members urge HA to proactively approach doctors who are interested in becoming organ transplant surgeons and ensure that doctors who have received the required training will have opportunities to participate in organ transplant surgery in Hong Kong. In this connection, they request that HA provide information about the manpower provision target for organ transplants; the relevant plans of manpower training and development; and the distribution of the relevant organ transplant
surgeons in the organ transplant centres of HA. In particular, these members request that HA re-open the liver transplant centre in the Prince of Wales Hospital, so as to improve the manpower situation and organ transplantation services.

HA states that, each year, around 100 health care professionals of acute hospitals participate in training courses to enhance the quality and effectiveness of organ and tissue transplantation. Moreover, basic surgical trainees who are interested in organ transplant service can apply for higher surgical training at the training centres of the relevant surgical specialties. The relevant trainings include increasing their clinical exposure to organ transplant service. Organ transplant services in HA is provided through a team approach. Organ transplant surgery is covered by the relevant surgical specialties of designated centres as an integrated element of their service provision. For this reason, HA does not have the information regarding the staff specializing in organ transplantation. HA will pay attention to the development of pooled or paired donation arrangements, with a view to providing training for doctors and allocating additional resources to hospitals where necessary.

Some members urge the authorities to promote organ donation in a more proactive fashion. They ask the authorities to invite Legislative Council Members and civil servants to sign up for organ donation after death. These members also request that the authorities promote organ donation when the territory-wide Hong Kong Identity Card replacement exercise commences in the future. On the other hand, the authorities have conducted a survey on the "opt-out" system for organ donation in Hong Kong whereby the deceased is presumed to have agreed to organ donation unless he or she has indicated any preference of not donating his/her organs before his or her death. Members ask about the findings of the survey.

According to the Administration, around 34% of the respondents expressed support for the implementation of an "opt-out" system in Hong Kong, while about 36% were against it. The remaining 30% were either neutral or did not specify their views. The authorities will consider ways to encourage more people to register their wish to donate organs after death and study the survey findings in mapping out the way forward.

Deputy President, I urge Members to support the Bill. I so submit.
DEPUTY PRESIDENT (in Cantonese): Does any other Member wish to speak?


Deputy President, according to the information from the Department of Health, as at this mid-April, over 280,000 people have registered at the Centralized Organ Donation Register, representing an additional 30,000-odd sign-ups as compared with the same time last year. Perhaps the Secretary will later tell us the latest number. That said, over 2,500 patients are now waiting for an organ transplant. Different types of organ donations still lag far behind the number of patients waiting for an organ transplant. We thus hold that it is necessary to amend Cap. 465 to remove the legal ambiguities surrounding paired or pooled donation arrangements, so as to let more people have the opportunity to live on through organ donations.

Deputy President, the Women Affairs Committee of the Democratic Alliance for the Betterment and Progress of Hong Kong ("DAB") has been promoting organ donation since 2008. In order to echo the organ donation efforts of the Government, we have made use of different channels, including on-street surveys, Internet promotion and through District Council members' offices in 18 districts, to appeal to the public to sign organ donation cards. We also became a signatory of the Organ Donation Promotion Charter earlier to signify our support of the promotional activities on organ donation.

In 2017, we conducted our second questionnaire on organ donation to gauge public views on organ donation, especially their acceptability of the "opt-out" system for organ donation. I wish to highlight some data to Members and I think it is indicative of the way forward for promoting organ donation.

We interviewed 843 people in the 2017 survey and 58% of the interviewees respond that they have not signed any organ donation card but they will do so if someone approaches them for signing up. Thus, I brought to the attention of the Government at the Bills Committee that it is too passive to rely on promotional activities or advertisements alone to promote organ donation cards or organ donation registration. The Government apparently has not made use of every opportunity to get in touch with people for signing organ donation cards.
Based on my experience in on-street appeals for signing organ donation cards, people may come to our street stalls by themselves, but not many. However, if we proactively approach them to sign an organ donation card, many of them will sign. Besides, the atmosphere of society has changed over the recent years. I remember back in 2008 or 2009, many people scolded us when we appealed to them on the street to sign organ donation cards. Perhaps they thought this might bring bad luck to them. Some elderly even said to us, "Do not set up these stalls on the street. I am not dead yet." They resisted such an idea.

However, according to the appeals done over the past couple of years, more people were willing to actively approach us on the street. Some elderly people came to us and said, "I will sign up. I will donate all my organs, whatever you want. I cannot use them after my death anyway." More people are willing to sign up and accept organ donation. But the problem is whether someone will proactively approach and pass a form to them, or help them with the registration.

Our survey finds that the major reason of the respondents for not signing organ donation cards is the influence of traditional thinking. But the people still influenced by traditional thinking are diminishing. Hence, the Government can more proactively promote organ donation in different government departments. Given that there will be a territory-wide replacement of the smart Hong Kong identity cards for Hong Kong residents, it will provide a golden opportunity to call on people to sign organ donation cards.

Besides, we notice that another reason of the respondents (more than 13%) for not signing organ donation cards is the worry that medical personnel will stop saving their life. This reason is the same as the reason for those who do not support the "opt-out" system. Of the respondents who do not support the "opt-out" system, 42% say that they do not want to be forced to donate their organs, and 13% are worried that medical personnel will stop saving their life.

This proves that many people directly associate the signing of organ donation cards with the determination of medical personnel in saving their life. I thus hold that in its future promotion and public education, the Government must bolster public confidence in the health care system and convey the message that whether people have signed an organ donation card and whether they support the "opt-out" system will not affect their chance of being saved by medical personnel, nor will they be forced to donate their organs.
Over 50% of the respondents opine that the Government has not tried hard enough in promoting organ donation. In this regard, we are certainly very concerned, since organ donation registration has been on the low side. Despite the additional promotion of the Government done in the past two years, our number of organ donation is still lower than those of other cities. If we refer to other cities with a higher number of organ donation, they have put in place an "opt-out" system.

Our Government is currently looking into the "opt-out" system. It told us that it conducted an opinion poll. The results show that 33.8% of Hong Kong people support the "opt-out" system, under which the deceased is presumed to have agreed to organ donation unless he/she has indicated any preference of not donating his/her organs before his/her death, and 35.9% do not support the system. However, the results of the opinion poll conducted by DAB are different. Our opinion poll interviewed 843 people, and 55% of them support the Government to adopt an "opt-out" system, and only 25.5% do not support doing so. Hence, the results of our opinion poll seem very different from that of the Government.

My interpretation is that most of the people do not understand what an "opt-out" system is. Beside, as I just said, the reasons of our respondents for not supporting the "opt-out" system are mainly that they do not want to be forced to donate organs and that they are concerned that medical personnel will not save their life. If the Government can reassure people that they will not be forced to donate organs and dispel their fear that they will not be saved in the event of sickness, perhaps more people will understand and support the "opt-out" system.

In my opinion, the Government has not done enough education and promotion on the "opt-out" system. As a result, its opinion poll indicates an unrealistic opposition rate. I thus hope that the Government can conduct promotion and education afresh and then initiate another opinion poll to see what the results will be.

Other cities with an "opt-out" system have a much higher organ donation rate. In my opinion, even if the law is amended, we still have a lot work to do. Deputy President, many patients are fighting to live on every day. Organ donation is the only chance for patients with organ failure to survive. At present, some 2 000 patients are waiting for an organ donation to have a new lease of life. Many of them may not be able to have one and many are fighting
and struggling to live on. Their family members are subject to immense psychological stress as well. I thus hope that the Government can make every effort to call on more people to support organ donation, and that it can make better provision for manpower, resources and financial support.

The Bills Committee has also discussed the manpower arrangement of the Hospital Authority ("HA"). We know that the Government is of the view that HA has already assigned manpower to promote organ donation. But we still think that if a designated team is available in each hospital to conduct early identification of potential cases, as well as discussion and counselling with family members on the process of and issues concerning organ donation, more family members will be supportive of organ donation and more patients will have a chance to live on.

We are also concerned about insufficient manpower of HA, since we know that there is a high wastage of doctors to the private market. Insufficient health care staff is always a stringent problem. Despite the pledge of HA and the Government that more doctors' training and more resources will be provided for hospitals, we are very concerned whether this pledge can actually solve the problem. Hence, HA and the Government must try every means to attract more doctors to the public sector and train more doctors, or even see if it can overcome the present obstacles and import more overseas specialist doctors to Hong Kong to help relieve the problem of insufficient health care staff, so that this will not affect the work of organ donation. This is something we are very concerned about.

Deputy President, love can prolong life. Here, I call on Hong Kong people to support organ donation, so that more patients can have a new lease of life.

Thank you, Deputy President. I so submit.

MR TOMMY CHEUNG (in Cantonese): Deputy President, the Human Organ Transplant (Amendment) Bill 2018 ("the Bill") is very simple, it seeks to expressly provide for paired donation arrangement and pooled donation arrangement in response to requests of health care professionals and patient groups, so as to ensure organ transplants between two living non-related persons to avoid the legal pitfall of "an offer of inducement".
The Liberal Party supports the relevant amendment, because the Government's amendments to the Human Organ Transplant Ordinance can set the people's minds at rest for conducting the transplant of organs under paired or pooled donation arrangement, thereby addressing the concerns of the relevant parties and health care workers.

However, I also note that a member questioned in the meeting of the Bills Committee that in case a beneficiary present a gift, such as a flat as a gift, to the organ donor years after the transplant, can he/she avoid the net of justice? The Administration explained to the Bills Committee that the objective of introducing the Bill was to provide that the donor's consent given under the paired or pooled donation arrangement would not in itself constitute an offer of inducement. In other words, if any pecuniary transaction is subsequently found, the parties involved could not get away from the long arm of the law simply because of the amendment this time around. However, the prosecution should provide evidence to prove that pecuniary transaction was involved in the organ donation.

It is undeniable that the member's example is just a hypothesis, but it does not mean that it would not happen. For that reason, the Administration should explain clearly the relevant legislation to the public as soon as practicable, so as to prevent people from committing any wrongdoing due to the misunderstanding of the relevant legislation.

Deputy President, on the macro level, we need not worry about the problem of organ trading since Hong Kong has put stringent laws in place. Moreover, the number of Hong Kong's living organ donation is on the low side. Let us take kidney and liver transplants as an example, only about 50 cases per year of kidney or liver transplants took place in Hong Kong. The living organ transplants among people who are not genetically related are even fewer, only about 20 cases are approved on a yearly basis. Moreover, as Hong Kong has put in place a regulatory system that all living organ transplants among people who are not genetically related should be approved by the Human Organ Transplant Board, it is adequate to curtail the possibility of commercial organ trading in Hong Kong.

On the contrary, Hong Kong's cadaveric organ donation rate is on the low side, which warrants more attention. Just because the situation is worrying, some people suggest that a "opt-out" system should be put in place for cadaveric donation. Nevertheless, the Liberal Party considers that as Hong Kong regards
personal preference very important, we have reservations in this proposal. For that reason, the Liberal Party considers that the Administration should try to increase the resources and break social taboos by actively urging the public to support cadaveric donation. After all, the transplanting of human organs between living persons will pose certain risk to the living donors, thus we should encourage cadaveric donation so that the deceased may spread their love among the living and make it the focus of organ transplant policy. We consider that the right direction.

Deputy President, I understand the topic of the Bill has nothing to do with the shortage of doctors, but since the media exposed that a liver transplant patient was left lying on the operating table with abdomen cut open after the surgeon suddenly left Queen Mary Hospital for another appointment, thus the patient had to wait for hours until the surgeon returned due to the shortage problem of doctors, the public started to realize the serious shortage problem of doctors in Hong Kong.

I also hope to take this opportunity to urge the Administration to face the relevant issue squarely. Since training takes time and it is very difficult to recruit adequate health care professionals, every one of us should set aside our differences of our own interests and bring in overseas doctors and medical professionals as soon as practical in order to alleviate the manpower shortage problem, on the premise of not affecting the level of our local health care quality. As the Liberal Party has been advocating in recent year that one of the solutions is to follow the examples of Singapore and other places in permitting talents graduated from renowned overseas' universities to work in public hospitals. That will help us to encourage children of Hong Kong people who have studied medicine to return to Hong Kong and to deal with our pressing problem.

Deputy President, I so submit.

MR CHAN CHI-CHUEN (in Cantonese): Deputy President, we are holding the resumption of Second Reading debate on the Human Organ Transplant (Amendment) Bill 2018 today. I was one of the members of the Bills Committee. The main objective of the Human Organ Transplant Ordinance (Cap. 465) is to prohibit commercial dealings in human organs intended for transplanting, and in particular, to restrict the transplanting of human organs
between living persons and the transplanting of imported human organs. Under section 5 of Cap. 465, except as provided in sections 5A(1), 5B(1) or 5C(1), any person who carries out a restricted organ removal or a restricted organ transplant is guilty of an offence.

If written approval is given by the Human Organ Transplant Board ("the Board"), a registered medical practitioner may carry out a restricted organ removal or a restricted organ transplant, or both. Cap. 465 sets out the general requirements to be satisfied when the Board decides whether to give its approval. One of the requirements is set out in section 5D(1)(c), which reads: "the donor has given his consent to the proposed organ removal without coercion or the offer of inducement and has not subsequently withdrawn his consent." This means that there must be mutual consent and no coercion, and there must not be any involvement of interests either.

According to the Administration, under a paired or pooled donation arrangement, a donor will donate an organ to a stranger in exchange for the donation of an organ to the donor's intended recipient. Put simply, there are two pairs of persons, and it is something like I donate an organ to your father and you donate one to my daughter. As the term "inducement" is not specifically defined in Cap. 465, the Administration has proposed to introduce a number of amendments, so that the fact that consent has been given in consideration of a proposed organ transplant into a person chosen by the donor under the paired or pooled donation arrangement will not in itself constitute an offer of inducement.

The Bills Committee has actually asked the Government whether the Board has ever rejected any such applications. The answer is no, as indicated by available statistics. The legislative amendments this time around are only intended to allay people's worry that the paired or pooled donation arrangement may lead to suspected involvement of interests as aforesaid. The amendments are mainly about living organ transplants.

As we all know, the best approach to organ transplant must be cadaveric donation. Unfortunately, cadaveric donation is not yet so well-accepted in Hong Kong, which is why society has been discussing some sort of mandatory donation arrangement over the past few years. Actually, the arrangement discussed is not exactly mandatory as such. Rather, it is only an "opt-out" system under which the deceased is presumed to have agreed to organ donation unless he or she indicated any preference of not donating his or her organs before death. But this proposal has still aroused huge controversies in society. Secretary, I therefore
think that for the time being, the Government must still conduct more publicity in order to change people's traditional mindset.

One example is full body burial after death. My mother is still insisting that one should not be cut open by others after death. This idea is an anachronism, and even some religious beliefs are likewise erroneous or incorrect. One example is the Buddhist belief that the deceased can still feel pains, pains that are way sharper than the ones they felt before death. So, if the deceased are touched in any way, they will feel very severe pains. That is why, Buddhists say, we should leave a dead body alone for some time, refraining from moving it around or touching it.

The whole idea of human organ transplant is founded on altruism, meant to allow the dead to leave behind a legacy of love for the good of others. But since it is about altruism, coercion is out of the question. I therefore hope that for the time being, the Government can continue with its efforts to transform age-old beliefs and customs by way of encouragement. We need to do so, because many traditional values are either incorrect or hard to prove either way. As circumstances change with the passage of time, we should no longer look upon traditional values as any supreme laws. In case any such values hinder social progress and make it impossible for us to benefit and look after the needy in larger numbers, we must reconsider their appropriateness. We must even join hands to change them and then explain clearly to society. Even if the theory that the dead can still feel pains is indeed true, I must still say that with altruism, we will be doing something much greater to mankind if the organs donated for transplant can save human lives.

Discussions on an "opt-out" system were already initiated by the last Government. At that time, I told the then Secretary for Food and Health, Dr KO Wing-man, that while I welcomed the authorities' study on establishing an "opt-out" system, I honestly thought that I would not be able to donate my organs anyway, as there would be no recipients. Why? During the time of the last Legislative Council, in October 2015, Dr Elizabeth QUAT asked an oral question on organ transplant. I remember that I also asked a supplementary question, in which I told Dr KO that male homosexuals were still barred from blood donation in Hong Kong at the time. You know, this life-long ban on blood donation was lifted and replaced by a one-year prohibition only as recently as last year.
This means that if a male homosexual has never engaged in any high-risk sexual acts, such as buggery and fellatio, over the previous one year, he will be allowed to donate blood. But since blood donation by male homosexuals was still banned at that time and a study on establishing an "opt-out" system would commence, I asked the Administration if male homosexuals would also be allowed to donate organs. After hearing my question, Dr KO was unable to give any answer offhand. Later, in response to this supplementary question, he submitted a paper which explains that since Cap. 465 contains no provisions on forbidding homosexuals to donate organs, a person wishing to be a donor may enter into a paired arrangement provided that he has not engaged in any high-risk sexual acts over the previous six months. The paper dispelled my doubt and worry, as I was able to know that homosexuals could likewise donate organs.

But subsequently, last year, the Hong Kong Red Cross lifted the life-long blood donation ban and replaced it by a one-year prohibition period. So, once again, in the Bills Committee, I asked medical practitioners to explain why the ban should be just half a year for organ donation but one whole year for blood donation. I actually wanted to ask Dr KO why there should be a length of time when the same person could donate organs but could not give any blood. Well, is that because all the blood in his organs would have drained away? This is simply impossible and downright absurd. Eventually, the Hospital Authority doctor on the Bills Committee replied that a uniform treatment had been adopted for both cases, with male homosexuals being also allowed to donate organs if they had not engaged in any high-risk homosexual acts over the previous one year.

Here, I want to raise another point for some special discussion, and the Bills Committee has in fact also dealt with it. You see, under Cap. 465, all human organ transplants must have the prior written approval of the Board unless the recipient is the donor's spouse or a person genetically related to the donor as specified under section 5A of Cap. 465.

The requirements under section 5A are very strict. Their aims are to prohibit commercial dealings in human organs, and to prevent organ donation through bogus marriage. Apart from requiring a marital relationship, the section further requires that the marriage must have subsisted for not less than three years. At that time, I asked the Government whether a same-sex marriage contracted outside Hong Kong that had subsisted for not less than three years
would also be deemed as satisfying the requirements concerned, thus enabling the donor to donate organs to his spouse for transplant without having to obtain approval from the Board.

According to the Administration, section 2A of the Human Organ Transplant Regulation (Cap. 465A) provides, for the purposes of section 5A of Cap. 465, for the establishment of the fact of marriage. Section 2A(i)(A) of Cap. 465A provides that the fact of a marriage is to be established by means of any document or documents issued under the Marriage Ordinance (Cap. 181) or the Marriage Reform Ordinance (Cap. 178) which shows or show that the two persons are the parties to (i) a marriage celebrated or contracted in accordance with the provisions of Cap. 181; (ii) a modern marriage validated by Cap. 178; or (iii) a customary marriage declared to be valid by Cap. 178.

Section 2A(i)(B) of Cap. 465A provides that the fact of a marriage is to be established by means of any document or documents equivalent to any document or documents issued under Cap. 181 or Cap. 178 which shows or show that the two persons are the parties to a marriage celebrated or contracted outside Hong Kong in accordance with the law in force at the time and in the place where the marriage was performed. As explained by the Administration, section 2A(i)(B) of Cap. 465A does not distinguish same-sex or different-sex marriages.

Now, all is indeed very clear. This means that any marriage contracted outside Hong Kong, be it same-sex or different-sex, can satisfy the requirements of Cap. 465 as long as the marriage has subsisted for not less than three year. I welcome the Government's reply. Actually, when the Court of Final Appeal dealt with the "QT" case, it was also asked whether the marriage relationship involved in the case had to be as defined under the laws of Hong Kong. The answer to this question is no. For example, Hong Kong does not need to recognize the institution of polygyny practised in a foreign country, but as long as the person concerned is one of the wives in this type of marriage, the definition of a marriage relationship is deemed to be satisfied. Let us look at another example. Under the marriage system in Hong Kong, a person can get married only when he or she reaches the age of 16. But suppose the age requirement in a foreign country is just 14 or 15, the requirements of Cap. 465 can still be met if a certificate proving the marriage relationship in that particular country is produced.
Once in one private discussion, I asked the previous Secretary for Food and Health a question about organ donation arrangements, and he said to me that as long as no commercial dealings were involved, any such arrangements should be flexible rather than rigid. In public hospitals, there are only 10-odd living organ donations by strangers every year. But we actually have a ratio of 20:1 here, meaning that only one out of 20 recipients gets the organ from a stranger's donation. So, any means which may increase organ donations are all very valuable. That is why the requirements under different ordinances all vary in flexibility and rigidity. I will come back to this when I discuss the Fatal Accidents Ordinance later.

The Bills Committee also discussed the paired and pooled donation arrangement, one of the objectives of this amendment exercise. As shown by the experience of foreign countries, such an arrangement can lead to a drastic increase in living organ donations. In the United States, the number of living donor kidney transplants through the paired arrangement even shot from 4 cases in 2001 to more than 400 cases in 2010. The idea is to have two incompatible donor/recipient pairs. When necessary, the doctor will match the donor in one pair with the recipient in the other pair. Such a paired or pooled mechanism can facilitate the matching of donors and recipients who are not genetically related, thus greatly increasing the chances of organ transplants.

On this arrangement, I once asked in a Bills Committee meeting whether an HIV-positive recipient could likewise receive an organ through this donation mechanism. I also thought about the opposite case, and asked whether an HIV-positive person could donate an organ to another HIV-positive person. Under the laws of nearby Taiwan, organ donations among HIV-positive persons are permitted. In November 2016, Taiwan amended its HIV Infection Control and Patient Rights Protection Act, relaxing the arrangement for organ donations among HIV-positive persons.

I therefore asked this very question in the Bills Committee. Perhaps because the arrangement involves extremely rare and precious organ donations, the Hospital Authority representative gave the following reply: "Every matching must be done by a medical practitioner based on professional judgment and with the consent of both parties; as long as no commercial dealings are involved, a case can be referred to the Board, which will make a clinical decision based on the circumstances of the case. And, since the provisions do not restrict any
particular donations, the possibility of organ donations among HIV-positive persons cannot be ruled out."

I think the Government's thinking and approach are both very flexible.

To patients suffering from end-stage organ failure, every opportunity of organ transplant is extremely valuable, something that gives them the hope of recovery and beginning a new life. Fortunately, as I observed from the scrutiny work of the Bills Committee this time around, the medical profession will not be driven by any religious and moral dogmas to deprive ailing patients of their chances of recovery and beginning a new life. In her election campaign, Carrie LAM once avowed that though a devout Catholic, she would not allow her religious faith to shape the Government's policy stances. I hope when the Government handles other policy matters, it can use the same principle and impartially execute different social policies without any discrimination against different sexual orientations. That way, more Hong Kong people can benefit. I so submit.

DR CHENG CHUNG-TAI (in Cantonese): Deputy President, as a member of the Bills Committee on Human Organ Transplant (Amendment) Bill 2018 ("the Bills Committee"), I support the Second Reading. Let me briefly talk about the background of my participation in the Bills Committee.

First, when it became necessary to discuss the Human Organ Transplant (Amendment) Bill 2018 ("the Bill"), Dr Pierre CHAN was the first to express the wish for my participation in handling and scrutinizing the Bill because how the general public and I understood some of its contents might deviate from the way they should be.

Second, why would I be convinced to join the Bills Committee? Why did I consider it necessary to participate in it? During the discussions over these few years, the general public seem to have put their focus of organ donation on the "opt-out" direction or issue. So, some Hong Kong people or netizens conjecture whether any political motives or even conspiracies are involved in the relevant discussions. Due to a lack of trust in the Government, people will naturally question whether the underlying reason for the authorities' adoption of the "opt-out" mechanism in promoting organ donation is to donate or send the organs of deceased Hong Kong people to the Mainland as not many people agreed to donate their organs in the past. Certainly, I believe that if people see the reality
or have a deeper understanding of the matter, they will notice a huge discrepancy between the Bill today and the impression I discussed just now.

I think I should begin my discussion with the conclusion. The objective of the Bill is very simple: To increase flexibility for the restrictions on live human organ transplant. It is necessary to increase flexibility because of a very important restriction on human organ transplant as stipulated in the only piece of legislation—the restriction on "inducement" as it is so called. In the previous cases of live organ transplant, this restriction is aimed to prevent illegal commercial activities through the law or organ transplant surgeries for the sale and trading of organs. To put it simply, the aim is to ban the stealing or sale of organs as we have learnt from time to time during the past few decades on the Mainland. Therefore, the original restrictions on "inducement" in the relevant ordinance are very stringent and thorough.

To my understanding, relaxing the restrictions or increasing flexibility today is not aimed to permit the illegal activities I have just talked about. The reality in recent years is that some tragedies or system-induced tragedies have honestly taken place. For instance, some relatives or family members who agree to donate their live organs—liver or kidney problems are more common in Chinese societies—are unable to receive live organ donation surgeries due to systemic restrictions.

Over the past couple of years, people have learned from many news reports or media interviews how legal restrictions have made it impossible for family members to conduct organ donation between them. Even worse, a patient's family member who agrees to donate his organ is found unsuitable for pairing up with the patient due to the former's physical conditions. Nevertheless, he is actually a suitable match for a stranger recipient on the waiting list. But owing to systemic restrictions, A cannot pair up with C, or B cannot pair up with D. What I mean is that due to cross-matching restrictions in law, two families or multiple families are unable to benefit as a whole as mutual donation is not possible.

From this perspective, the system has led to tragedies because it has incurred some social costs which it has failed to anticipate. A patient already has to bear physical costs and even family costs. Even though a member of his family agrees to contribute more and donate his live organ to him, systemic restrictions have ripped the patient of the opportunity for recovery or a new life.
I have already spent five minutes on explaining the relevant background. The Bill precisely aims to introduce some simple and straightforward amendments, so as to make it possible to conduct paired or pooled donation.

The Bills Committee discussed the implementation details in the process, and this has given rise to some corresponding questions from me or members. One restriction stipulated in the relevant ordinance all along is that free information flow is forbidden. Here is a simple example. Suppose I am a donor who wants to donate my organ to my family member. If it is impossible for me to do so, everything will come to a halt, whether speaking of organ donation or information exchange. But the Bill seeks to relax this restriction, and this will lead to one problem. While some agree to donate their live organs, some are awaiting organ donation. Perhaps Members have no idea in this respect. For instance, organ failure statistics show that at least 2,600 people in Hong Kong are now awaiting organ donation. At the same time, their friends or family members—let us assume that the number is half of the former figure—are willing to donate their organs. That is to say, around 1,000 people agree to be included in the organ donation list or undergo the matching process. In that case, a question will arise, one which needs to be handled: Who has the power to handle and access the database on donors and persons awaiting organ donation? And, who has the power to conduct the matching process?

I believe Members can understand my earlier reasoning better than others. The reason is that without any such arrangements for organ exchange at the beginning, no information would be involved as this was not permissible. Perhaps organ exchange might take place on the black market. But this was against the law. But as organ exchange is now permissible, problems will arise. Who has the power to manage the information of both sides? I once asked a question at a meeting. I asked whether any problem would result if the Hospital Authority ("HA") set up a central database for storing the particulars of people who agreed to live organ donation while also handling the relevant waiting list. That is to say, will HA's framework and legitimacy come under challenge? Certainly, Members should also take account of other problems associated with HA at present. One example is that HA has been criticized for "harbouring doctors" in case of incidents or administrative blunders.

On this basis, I think the most direct and reasonable solution concerning an information exchange mechanism is the setting up of an independent statutory body in Hong Kong for coordinating matters relating to organ donation instead of
entrusting HA with this task. But now, HA will take the course of setting up a central database. Members will certainly argue that HA is also a public body in Hong Kong, and we should have faith in it. Let me put aside the issue of trust or otherwise for the time being. But as the authorities will draw up flexible matching arrangements for live organ donation, will any private companies collect the personal particulars of people who agree to donate their live organs for patients and engage in the trading of information in the database for the purpose of making money?

This will become a grey area in the Bill. This is a grey area because the process only involves the trading of information without any direct inducement. Deputy President, the trading of information is not the same as the trading of organs. Are you clear about this? When a person pays a membership fee or a sum of money, the relevant company will give him a list of persons who agree to organ donation. As a patient, he merely purchases information from the company and must handle all the follow-up himself, such as initiating contact. This will not contravene the Bill. Therefore, I hope that the Food and Health Bureau or the Government can think carefully about how to deal with those commercial activities arising from the trading or free flow of information under the Bill.

This will also lead to a fundamental issue, the issue that it is hard to deal with the definition of "inducement" or the act of "inducement". I once cited a clear example at a meeting. The example I gave at the time was about Mr CHAN Chi-chuen and me. Well, I do not know Mr CHAN Chi-chuen. Suppose he has fallen ill and needs organ donation from others, and I successfully save his life as I agree to help him out by donating my organ to him. When this happens, we do not have any direct exchange of benefits. But as he grows old to the point that he will die very soon, he recalls that I donated my kidney to him 20 years ago and saved his life, so he states in his will that I am the beneficiary of all his estate. It is hard to determine if this constitutes the illegal act of "inducement" under the Bill. Under the present circumstances, there is no problem as this is not allowed in society. Therefore, we do not see such cases very frequently or very often. Such cases may only happen in upper-class families even if they really happen. Who will give all his estate to a stranger for no reason? This is what I mean. But we can never be sure because upper-class families may obtain the required organs from overseas, right? This is another matter. So, regarding this part, the present amendment proposals under the Bill may complicate the issue of "inducement".
Taking account of the two examples I cited just now, I hope the Bureau concerned can think about one thing very carefully. The amendments under the Bill can honestly bring hope to those suffering from organ failure who are awaiting organ donation while enabling the Hong Kong society to realize that when it comes to organ donation, Hong Kong is more backward than those backward regions in the world. Less than 6 or 7 people in every 1 million people are willing to donate their organs. This is taken from the statistics in 2015. Hong Kong ranked fifth from the bottom worldwide.

Why am I so concerned about the Bill? Let me give my conclusion. The reason is that in my view, measures such as an "opt-out" mechanism are not suitable for Hong Kong, and the unpopularity of organ donation can certainly be explained by cultural or custom factors. Setting a direction by enacting legislation will only destroy the remaining bit of public or social spontaneity in Hong Kong. The Government cannot impose any restriction and require people to donate their organs after death because they will question, "The body is mine. Why should I donate my organs to others?" But we can do something else, such as donating live organs. The Bill's amendments under discussion have honestly offered a desirable direction. But I hope the Government can give more far-sighted and thorough consideration in this direction. The implementation of the Bill will not necessarily open up more possibilities or options for live organ donation. As I said midway through my speech, the Government should give careful thoughts to the idea of entrusting an independent statutory body with the tasks of organ donation and organ transplant. It is not a wise direction if HA is vested with everything.

Here comes the end of my speech on the Bill. I hope more Members can put forth their views later on.

I so submit.

DR KWOK KA-KI (in Cantonese): Deputy President, I speak in support of the Human Organ Transplant (Amendment) Bill 2018 ("the Bill"). The objective of this Bill is actually very simple. As explained in the Government papers or by the Secretary, it is to encourage paired donation or increase its successful rate, so that more people can successfully receive organ donation.
A number of Members who spoke earlier mentioned that the organ donation rate in Hong Kong is rather low. Hong Kong can be regarded as one of the backward areas in the world in this aspect, with only 5.8 persons in every 1 million people are willing to donate organs, a rate much lower than many neighbouring areas in Asia and even many places in the globe. For example, Spain and Croatia have very high donation rates, which are above 39%, but they both adopt an Opt-out Organ Donation System.

We will not oppose the submission of this Bill by the Government. In fact, the most important objective of this Bill is to boost organ donation. However, even after this Bill is successfully passed and implemented, how many patients or citizens on the waiting list can receive organ donation? Judging from the present situation, we are dubious about the effect, as a lot of restrictions have been imposed on this by the existing legislation in Hong Kong. We definitely do not encourage commercial dealings or suspected transactions of organs. But in terms of donation of live organs, no substantial increase could be traced from the figures of the Hospital Authority ("HA") or the Government. Therefore, most of the patients who are waiting for either kidney, liver, heart or lung donation can only receive cadaveric organ transplantation. I believe that it will become a major factor in the future, as in terms of brain death or brain stem death cases in Hong Kong, there were about 80 to 120 cases in 2015, and about 100 cases per year around these few years, which means that there are at least 100 cases suitable for cadaveric organ transplantation each year. This is the first point.

Secondly, living organ donation is worth promoting. However, apart from the Bill, what has Government done or undertaken for the substantial development of organ donation as a whole? During the discussion of the Bills Committee, we really could not hear any rather positive messages. I believe Hong Kong people still remember the incident of Ms TANG Kwai-sze who received liver transplant surgery last year at Queen Mary Hospital, an incident which has actually touched many people in Hong Kong. Firstly, this proves that the Government does not have sufficient legislation and supportive measures to encourage organ donation by people less than 18 years of age. Secondly, we learn from the ineffective flow of information in the course of donation and this incident that HA and individual hospitals, including Queen Mary Hospital and United Christian Hospital, have committed some blunders unacceptable to the public. That is why after the TANG Kwai-sze incident, many people have requested to remove their names from the donors' list.
In the following year, we also learned some bad news related to organ
donation, including the incident concerning Queen Mary Hospital, which was in
lack of full-time liver transplant surgeons. In this incident, a part-time doctor in
private practice, who was willing to offer assistance to the hospital, left the
patient unattended half way in the surgery. This has even dealt a blow to the
willingness of the general public in organ donation. In fact, all these blunders
should not have been committed. Many years ago, the Government and HA
decided to retain only one liver transplant centre in Hong Kong, and this is a
direct cause to the difficulties in liver transplantation that we have to face today.
For instance, in terms of liver transplantation, do we have sufficient manpower?
Do we have enough experienced personnel? Do we have enough personnel who
are willing to bear so much work pressure?

This has been a serious problem, but not a problem peculiar to Hong Kong,
as the donation teams all over the world are facing very high turnover rates.
Therefore, the Government or HA should be principally responsible for ensuring
that there are sufficient experienced personnel to carry out this kind of surgeries.
However, it is unfortunate that since the decision was made to retain only one
donation centre, the Government or HA has never shown its willingness to review
this mechanism. More disappointingly, due to the lack of enough opportunities
or supportive measures, the young health care personnel who want to devote
themselves to organ transplantation, especially liver transplantation, lose out on
the opportunity to be committed in this service. It is because Queen Mary
Hospital on the Hong Kong Island is the only option for carrying out this kind of
surgeries. If a doctor is not working on the Hong Kong Island or in that
hospital, he will have no chance to participate in such surgeries.

This is running contrary to global development, as there will not be only
one transplant team in many major cities. For instance, when there are kidney
transplant experts in a few major hospitals in Hong Kong, why is there only one
medical team in respect of liver transplantation? This is incomprehensible.
Perhaps the Government merely did it for the sake of convenience. That means
since the University of Hong Kong ("HKU") is willing to take up this
responsibility, the Government will just sit on its hands and leave this aspect of
work to HKU. No matter HKU is successful or not, the Government will not
care too much. Not any single responsible government has ever done that. All
responsible governments know that organ donation is not a responsibility of an
individual hospital, university or institution, such as HA. The responsibility of
organ donation should be taken up by the Government, as a rather large number of people passed away each year while waiting for organ transplantation.

Every year, nearly 2,000 renal patients are waiting for kidney transplantation and the average waiting time is 51 months. This is only an average figure, meaning that many patients have been waiting for more than five years. In terms of liver transplantation, the situation is also undesirable. According to the figures in 2015, there were 89 patients while the average waiting time was 43 months. The waiting time for heart and lung transplantation was 16 months and 15 months respectively. We can make a comparison with Spain, which was also mentioned in the previous example. In Spain, the patients only need to wait for 15 to 18 months for kidney transplantation, four to five months for liver transplantation, three months for heart transplantation, and five to six months for lung transplantation.

Why do I want to raise this point? This is very important. In fact, many patients awaiting liver transplantation cannot wait that long. There are a few kinds of patients who need liver transplants. One kind is the patients suffering from terminal liver cancer who do not have an appropriate alternative option and waiting for organ transplantation is their only option. This is the first kind of patients. Second, some patients suffering from acute hepatitis also need to wait for liver transplants, as their liver functions cannot be restored within a short period of time. For these major patients, none of them can have enough time to wait for a period of 43 months, which is totally unrealistic. During this period of 43 months awaiting liver transplantation, many of them will be gone for good unfortunately.

The Government, being irresponsible, is requiring the patients to wait for 43 months for liver transplantation. The situation for renal patients will be better, as many patients awaiting kidney transplantation have already undergone haemodialysis or peritoneal dialysis treatment. In the interim even without any suitable organs for transplantation, their lives may not be at risk as the most basic functions of their bodies can still be maintained due to sufficient dialysis services. But Hong Kong should feel shameful for requiring patients to wait for 43 months for liver transplantation. Because as a matter of fact, not many patients with liver disease can manage to wait that long. They may die after waiting for a few months. If the patients awaiting liver transplantation need to wait that long and the standard of Spain cannot be matched, Deputy President, even if we pass this Bill, the improvement will only be very limited. This is the first point.
Secondly, during discussion of the Bills Committee, we have asked HA and the Government a question: Even though there is only one organ transplant team, is there any way to ensure that there are sufficient young successors in the team? Their reply to us is that the situation is fine, as there are already the Queen Mary Hospital and HKU team. No further information is given. As we all know, in regard to the transplant team of HKU, Prof LO Chung-mau is also the Hospital Chief Executive at the University of Hong Kong-Shenzhen Hospital, and he is known to be very busy. Without any alternative option, the Government allows this situation to continue. In our view, this is a kind of maladministration and mismanagement.

It is difficult for me to guess how many more people will agree to organ donation after the passage of the Bill. But we can foresee that only if we delay in promoting organ transplantation, we will see people who are waiting for transplantation of various organs, like heart, lung, liver and kidney, losing their lives each day, especially patients suffering from liver disease. Hence, the Government is obliged to do this work.

Besides, we also have some questions concerning the Bill, including how many resources the Government has injected into organ donation. According to government data, within this decade, there is no discernible growth in the number of people who have really shown their willingness to donate organs. As regards the amount of resources the Government has injected into organ donation, we fail to see that the Government has injected appropriately.

During discussion at the Bills Committee, some health care personnel responsible for organ transplantation in HA said that no matter in living or cadaveric organ donation, they do not have a dedicated health care member or officer to deal with, for example, two types of transplant cases involving two different organs, and they sometimes needed to manage different kinds of work on one day. In fact, in many countries, organ donation matters are handled systematically by a central coordinator or some institutions, different from the current practice of the Hong Kong Government which only passes the buck to HA. We all learn that HA has very limited resources. Since HA has to face many different kinds of needs, such as the needs from patients suffering from chronic diseases, cancer or other diseases, how many capabilities or resources can it allocate to deal with organ donation? This may not be HA's responsibility, because as a matter of fact, HA is now "having just nine lids for 12 pots". It is
irresponsible of the Government to only grant a one-off funding to HA which is then required to get the job done properly.

Therefore, our request is that after the Bill is passed, the Government must review the undesirable situation of organ donation, including setting up a central coordinating office or administrative platform to properly deal with donation of various organs in different hospitals. Secondly, in the light of the serious shortfall of health care personnel, the Government needs to recruit more personnel to deal with organ donation, including recruiting additional organ transplant officers who can be veteran nurses or surgeons to deal with pre-surgery matters. I reiterate that it is not proper to solely rely on one hospital or one centre to deal with organ transplant surgeries.

Therefore, if the Government is really considering the interests of the patients, who may lose their lives while waiting for donation of various organs, and their family members, it should not do any superficial task by merely amending the Bill but without formally injecting resources. Because without injection of resources or provision of sufficient support, including promotion of organ donation, no matter how well we have done in registration or in getting consent from donors' family members, all efforts will also be wasted. I hope that after the passage of the Bill, the Government can do a better job so that organ transplantation in Hong Kong can be improved. *(The buzzer sounded)* … I so submit.

**DEPUTY PRESIDENT** (in Cantonese): Dr KWOK, your speaking time is up.

**MR HOLDEN CHOW** (in Cantonese): Deputy President, I certainly support the Human Organ Transplant (Amendment) Bill 2018 (*"the Bill"*).

I did not join the Bills Committee. Just now I have heard the speeches delivered by Members. Everyone understands and hopes that the passage of this Bill will encourage more organ transplant, help more people, and will prevent the organ trading through coercion and inducement. I support all of these objectives.

Deputy President, I speak for one reason. That is, after listening to the speech of Mr CHAN Chi-chuen in which he touched upon the definition of spouse in the Bill, I wish to make clear a notion. That is, a lawful marriage in
Hong Kong is the matrimony between a man and a woman, which is also the only lawful marriage that we recognize in Hong Kong. I also wish to stress once again that when the Bill is enacted after today, I hope the Administration can tell Hong Kong people clearly that the lawful marriage in Hong Kong is the matrimony contracted between a man and a woman, instead of any other forms of matrimonial regime. I also hope that the arrangement of this Bill will not cause any misunderstanding among the public that some changes have taken place in our matrimonial regime. This is the view I wish to state clearly.

(THE PRESIDENT resumed the Chair)

Moreover, section 5A of the Human Organ Transplant Ordinance (Cap. 465) specifically mentions organ transplants between spouses. And it is clearly stipulated that at the time of the organ transplant, the spouse of the donor and their marriage should have subsisted for not less than three years. I only want to raise a proposal for the Government's consideration in case we are to make any arrangement to allow same-sex couples to deal with matters relating to organ transplant. If Members still have some memories about the Private Columbaria Bill, Members should be able to recall that there is an explicit provision under the Private Columbaria Bill which allows partners of the same sex or opposite sex who have no marital relationship at all to handle matters relating to the cremains, as long as they can produce convincing and satisfactory evidence to prove the relationship has last for a certain period of time. President, I consider that at least a middle-of-the-road approach is adopted to deal with such issues. The benefit of the approach is that no one will fall into any fallacy, thereby destabilizing or changing our existing legal matrimonial regime which is required to be contracted between a man and a woman.

I am only putting forward a proposal to the Government. And I hope that when the Government enacts the Bill in future, it should also understand my view in this regards by taking reference to the approach under the Private Columbaria Bill. The Government should not make the public misunderstand that the Government is going to acknowledge any matrimonial regime other than the regime which is contracted between a man and a woman. At the same time, even if the relevant parties are allowed to handle the organ transplant, the Government should emphasize that such couples should have maintained a relationship for a certain period of time, instead of falling into the fallacy that
they are only required to have entered into other forms of matrimonial relationship. If the Government can deal with the matter in this way, it will not destabilize or change our existing legal matrimonial regime which is required to be contracted between a man and a woman, it will also cause any misunderstanding among the public. I really hope the Government will listen to our views in this regards carefully. I only wish to express my views in this regards.

President, I so submit.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): if not, I now call upon the Secretary for Food and Health to reply. Then, the debate will come to a close.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, the Food and Health Bureau introduced to the Legislative Council the Human Organ Transplant (Amendment) Bill 2018 ("the Bill") in May this year, proposing amendments to the Human Organ Transplant Ordinance ("the Ordinance") to allow the conduct of paired or pooled donation arrangements in Hong Kong. With regard to the proposal, the authorities have earlier consulted health care professionals, patient groups, the Legislative Council Panel on Health Services and the Human Organ Transplant Board ("HOTB") and in return have received support from all these parties. Here I would like to express my gratitude to all the delegations and individuals that have provided comments and support for the proposal.

The Bills Committee on Human Organ Transplant (Amendment) Bill 2018 has altogether held two meetings to discuss provisions of the Bill and the actual operational arrangement to be carried out by the Hospital Authority ("HA") regarding the pilot Paired Kidney Donation Programme. All members of the Bills Committee have expressed support for the proposal. I am deeply grateful to Dr Pierre CHAN, Chairman of the Bills Committee, and other members for their efforts which enabled the smooth completion of the scrutiny.
Let us take a look at the background of the Bill. Living donation can increase the supply of organ, providing one more option for patients waiting for cadaveric donation. There are however cases where patients needing organ transplants have living related donors who are willing but unable to donate because of incompatible blood type or tissue type. One way to overcome this barrier is paired donation. At present, section 5D of the Ordinance stipulates that all cases of organ transplants that involve living donors have to comply with a provision under which the donors have given consent to the proposed organ removal without coercion or the offer of inducement.

Paired or pooled donation arrangement is conducted between living non-related persons in exchange for the donation of an organ to the donor's intended recipient, that is "the beneficiary" as defined under the Bill. Currently, the term "inducement" is not specifically defined under the Ordinance, necessitating us to propose a legislative amendment.

On the details of the Bill, the major amendment introduced by the Bill is the addition of a new section 5DA which stipulates that a donor is not to be regarded as having given consent with the offer of inducement only because the donor's consent has been given to donate an organ to a stranger in consideration of a proposed transplant into the donor's intended beneficiary under a paired or pooled donation arrangement.

Paired or pooled donation arrangement involves transplant between living non-related persons. Therefore, prior approval from HOTB is required before conducting the intended operation under the Ordinance.

During the scrutiny of the Bill, members of the Bills Committee have raised certain concerns. I would like to spell out these major concerns of the members and the responses subsequently provided by the Government.

The approval of paired or pooled donation arrangements is one of the concerns of the Members. The Bill makes no restriction on the premises in which the transplant of organ from paired or pooled donation takes place. Application for prior approval from HOTB is mandatory for paired or pooled donation arrangement, no matter whether the transplant is going to take place in HA or private hospital. HOTB will only approve the relevant application when it is satisfied that the proposed organ transplant complies with stipulations under
the Ordinance, including the fact that the transplant involves no commercial dealing in human organ.

Another issue is about the operation of the pilot Programme. With reference to the current target, the pilot Programme is going to run for three years. HA will arrange sufficient manpower to tackle paired organ donation in consideration of the actual situation. It will also review the relevant mechanism when appropriate and explore the expansion of the Programme to include a paired liver donation scheme. After the passage of the Bill, HA will carry out preliminary preparatory work, including the organization of sharing session, to brief members of the public the specific operation details of the pilot Programme and invite eligible donors and recipients to participate in blood test procedure for pairing. Just like the current arrangement for organ transplant operation, HA will keep in confidence the identities of donors and recipients, on top of providing explanation on the relevant statutory requirements when laying out the procedures and operative risks concerned. Just now, Mr Tommy CHEUNG asked us to explain to interested donors various requirements and procedures. We will certainly do this. HA will also seek approval from HOTB on intended paired donation transplant operation, in accordance with the Ordinance.

A few Members talked about their concerns or comments of certain issues when delivering their speeches a moment ago. I would like to respond briefly to them now. Dr Elizabeth QUAT brought up for our attention the findings of a survey they conducted. She also highlighted notable issues with regard to the promotion of organ donation and looked forward to seeing us working even more proactively. Also mentioned were the "opt-out" system and the manpower issue. I would like to report here that the Food and Health Bureau set up in 2016 the Committee on Promotion of Organ Donation to pool and increase resources on launching more promotion work. Of course we can always do more promotions and do them better. Apart from promotion which the Government has all along been doing, the main responsibility of the Committee is to develop rapport with various community sectors even more proactively, inviting them to sign the charter and to promote it to their own sector. Apart from conventional promotion activities such as the production of promotional videos, fliers, website, and so on, the Government has also designated the second Saturday in November each year as the Organ Donation Day, augmenting promotion in November.
Several Members, including Dr Elizabeth QUAT, Mr CHAN Chi-chuen and Dr KWOK Ka-ki, expressed their views on the "opt-out" system just now. We have conducted a survey on this system before and the findings showed that the "opt-out" system had yet to gain unanimous support from the community. About one third of the surveyed supported the system, one-third opposed it and the remaining one-third had no opinion. In future, we should do more promotion and education so as to muster support from those who had no opinion or were neutral in their stance, or raise their level of recognition over organ donation. I also would like to let you know that the surveys we conducted showed that the public had a heightened acceptance towards organ donation. In the survey conducted in the 1990s, about 50% of the surveyed objected organ donation after one's death. But in our most recent survey conducted in 2016-2017, the magnitude of the issue has plummeted to only about 10%. In other words, in the past about 50% or about half of the interviewed opposed organ donation after one's departure but now only about 10% showed objection. This shows that the public have begun to give more thoughts to organ donation and we will continue encouraging the people to support organ donation.

Apart from the above, Mr Tommy CHEUNG and some other Members also talked about the issue of manpower. Manpower shortage or the shortage of medical doctors, and especially those in the public system, is an issue of grave concern to us. I have asked HA to draw up a medium-and-long-term manpower planning so that we can ask for resources with reference to the plan and work on manpower deployment for the future so as to cope with service demand. Meanwhile, Mr Tommy CHEUNG talked about the importation of overseas medical practitioners. After the passage of the Medical Registration Ordinance, we have extended the contract of doctors who practise with limited registration from one year to three years, in the hope of boosting the incentive for foreign-trained Hong Kong doctors to return to and work in Hong Kong.

Mr CHAN Chi-chuen also spoke on the "opt-out" issue which had been discussed by the Bills Committee and talked about by me just now. As for the concern brought up by Dr CHENG Chung-tai, it has been discussed in the Bills Committee as far as I understand. And section 4(1) of the existing Ordinance also imposes prohibition against commercial dealings in human organ.

About the ways to increase people's access to messages on organ donation, to raise their awareness, to allow them have more access opportunities to these promotional materials, or to make it easier for them to tell people their wishes, the
Food and Health Bureau is now in discussion with the Immigration Department to make use of the chance arising from the replacement of identity cards to publicize organ donation and to encourage people to register their wishes.

Dr KWOK Ka-ki has brought up issues on HA's conduct of organ transplant, including its coordination work, manpower availability regarding Organ Donation Coordinators or the doctors concerned. A central coordinating committee for organ transplant under HA has all along been discussing and monitoring organ transplant arrangement together with the manpower needed, and working out appropriate pairing. Organ transplant services are provided through a team approach under which help is enlisted from not only doctors or Organ Donation Coordinators but also from different specialists, such as those from medicine, intensive care, anaesthesia, surgery and laboratory. It takes an entire professional team to support our work in this respect. HA will also provide the necessary manpower for giving counselling support to donors' families and for providing post-operative nursing care. It will continue to review and monitor paired organ donation in the future and increase the manpower and resources needed accordingly in its annual plan.

As for the liver transplant team, the Queen Mary Hospital set up in 2003 the only liver transplant centre in Hong Kong. On top of facilitating coordination and the conduct of operation, this arrangement also helps the responsible officers accumulate experience. HA will review its service planning and training arrangement from time to time to ensure service quality.

President, I implore Members to support the Bill with a view to assisting more patients who are waiting for organ transplant. Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Human Organ Transplant (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.


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 Human Organ Transplant (Amendment) Bill 2018.

HUMAN ORGAN TRANSPLANT (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, 2 and 3.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): If no Member wishes to speak, I now put the question to you and that is: That clauses 1, 2 and 3 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 Human Organ Transplant (Amendment) Bill 2018 have been concluded in committee of the whole Council. Council now resumes.

Council then resumed.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, I now report to the Council: That the Human Organ Transplant (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 Food and Health be passed.

In accordance with Rule 59(2) of 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


HUMAN ORGAN TRANSPLANT (AMENDMENT) BILL 2018

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, I move that the
Human Organ Transplant (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 Human Organ Transplant (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): If no Member wishes to speak, 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.


MOTIONS

PRESIDENT (in Cantonese): Motions. The Legislative Council Secretariat has informed Members in writing that the Solicitor General and Mr HUI Chi-fung will each propose a resolution under the Fatal Accidents Ordinance and the two motions are identical.

This Council will proceed to a joint debate on the two motions. After the joint debate has come to a close, this Council will proceed to vote on the Solicitor General's motion. Irrespective of whether the Solicitor General's motion is passed or not, Mr HUI Chi-fung may not 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 will first call upon the Solicitor General to speak and move his motion. Then I will call upon Mr HUI Chi-fung to speak.

TWO PROPOSED RESOLUTIONS UNDER THE FATAL ACCIDENTS ORDINANCE

SOLICITOR GENERAL (in Cantonese): President, I move that the resolution, as printed on Appendix 1 of the Agenda, be passed.

The purpose of this resolution is to increase the statutory sum of damages for bereavement ("the bereavement sum") under section 4(3) of the Fatal Accidents Ordinance (Cap. 22) ("the Ordinance") to $220,000.
The Ordinance was enacted in 1986. It allows an action for damages to be brought against a person for the benefit of dependants of the deceased in respect of that person's wrongful act, neglect or default which has caused the death of the deceased. An action under the Ordinance may include a claim for damages for bereavement in the sum as prescribed in section 4(3). Section 4(5) of the Ordinance provides that the Legislative Council may by resolution vary the sum. Since the enactment of the Ordinance, the bereavement sum was adjusted in 1991 and 1997. The current sum is set at $150,000.

In 2000, the Government conducted a review of the bereavement sum and reached the view that there was no basis for increasing the sum at that stage considering, inter alia, the drop in the consumer price index between 1997 and 2000. The Legislative Council Panel on Administration of Justice and Legal Services ("the AJLS Panel") was informed of the result of the review.

The overall downward trend in the cumulative inflation rate had continued and by making reference to the indices in March of each year, the Consumer Price Index (A) ("CPI(A)") returned to the 1997 level only by March 2010.

In mid-2014, the Government commenced a review of the bereavement sum and, having made reference to the cumulative inflation as measured by the CPI(A), proposed to increase the sum to $190,000. In response to that consultation, The Law Society of Hong Kong and the Hong Kong Bar Association counter-proposed that the proposed increase should take into account not only inflation but also "changing social and economic conditions of Hong Kong".

The Department of Justice ("DoJ") then consulted the Census and Statistics Department and the Office of the Government Economist on whether, and if so how, the "changing social and economic conditions of Hong Kong" could be quantified objectively. It was concluded that the "social and economic conditions" of an economy could embrace many different aspects, including but not limited to population growth and structure, public health, housing, social welfare, crime, social stability, economic growth, business performance, inflation, employment earnings and income. Therefore, there is no single indicator that can serve the purpose of manifesting the changing social and economic conditions in a nutshell.
The DoJ has also, in parallel, studied the methodology adopted in other common law jurisdictions. In England and Wales and several jurisdictions in Canada (namely Alberta, Manitoba, Saskatchewan and Yukon) where damages for bereavement are provided, none of them factor in "changing social and economic conditions" when adjusting the amount of damages.

In light of the above, the Government takes the view that it is not appropriate to include an amount over and above inflation in the review of the bereavement sum to reflect the "changing social and economic conditions of Hong Kong" in the absence of an objective methodology to quantify the same.

In May 2018, the AJLS Panel was consulted in relation to the Government's proposal to move today's resolution to increase the bereavement sum to $220,000. Members of the AJLS Panel, the two legal professional bodies and the Hong Kong Federation of Insurers supports the Government's proposal. The Government's proposal was also discussed before the Subcommittee on Proposed Resolution under Section 4(5) of the Fatal Accidents Ordinance (Cap. 22) at its meeting of 18 June 2018, during which all members present expressed support.

The figure of $220,000 in today's resolution is arrived at, with the exception of the period from March 2017 to March 2018, by reviewing the bereavement sum every two years based on the CPI(A) from March 1997 to March 2018 and rounded up to the nearest $5,000 upon each notional biennial adjustment. Upon passage, the resolution would take effect from the date of its publication in the Gazette, and the increase in the bereavement sum would be more than sufficient to cover the cumulative inflation from March 1997 to March 2018.

An adjustment based on inflation by making reference to the CPI(A) could provide a simple and objective methodology for the coming and future reviews of the bereavement sum. On this basis, the Government will in future be able to conduct routine reviews every two years by making reference to the CPI(A) and move a resolution to adjust the bereavement sum if necessary.

With the above remarks, I urge Members to support the resolution.

Thank you, President.
The Solicitor General moved the following motion:

"RESOLVED that the Fatal Accidents Ordinance (Cap. 22) be amended as set out in the Schedule.

Schedule

Amendment to Fatal Accidents Ordinance

1. Section 4 amended (bereavement)

Section 4(3)——

Repeal
"$150,000"

Substitute
"$220,000"."
wrongful act, neglect or default, a claim for damages for bereavement may be brought by dependants (i.e. relatives) of the deceased against the person who would have been liable in damages to the deceased, to compensate for the grief of the loss of their beloved and inability to live with him/her anymore. Pursuant to the Ordinance, relatives of the deceased may bring an action for damages to court for it to decide if anyone should be made liable for such a wrongful act, neglect or default.

The bereavement legislation was first proposed by the Law Reform Commission in its report in 1995. The Commission made it clear that time that fixing the amount of the award for bereavement was an arbitrary decision. It proposed to follow the British approach of awarding a fixed sum initially at $40,000. It also suggested that a mechanism be devised to enable this figure to be adjusted and reviewed from time to time without the need for new legislation. However, no adjustment has been made to the fixed sum for 21 years since the Secretary for Justice proposed a motion to increase the sum to $70,000 in 1991 and Mr Albert HO proposed to further adjust upward the amount to $150,000 in 1997.

Hong Kong is a civilized society. The Government should, as far as possible, give the greatest help and consolation to people who have lost their beloved ones. As we all know, the loss of the beloved can neither be qualified nor calculated in terms of money. Hence, we make reference to the methodology adopted by Mr Albert HO in the last adjustment of the bereavement sum in 1997. Using the initial sum as the base, we calculate the adjustment rate by tracking the changes in the Consumer Price Index (A) ("CPI(A)"). On the basis of the 43.7% cumulative inflation rate over the period from 1997 to 2017, the adjusted sum should be $215,550, rounding up to $220,000.

We estimate the total number of deaths caused by traffic and industrial accidents to be 314 per year. The total amount of compensation will be around $47 million if we use the sum stipulated in the current legislation for calculation. The compensation will be increased to around $69 million in total if the bereavement sum is raised to $220,000 under the legislative amendment. I think the $22 million increase in the total compensation amount will not have a significant impact on the relevant industry, say, the insurance industry.

If we look at previous court cases, we will find that claims for bereavement damages only make up a small portion of the total amounts of claims. Yet, the
sum is generally sufficient for relatives to pay for burial expenses and lawyers' fees, and is really helpful. The sum of $220,000 is not significant, but it can still provide some financial assistance to relatives of the deceased.

The amount of compensation under the Ordinance has not been adjusted for 21 years. I think it is high time to have it reviewed and adjusted. The faster we finish the amendment, the faster we can award a higher sum of compensation to relatives of the deceased and give them some more help.

In as early as March, I planned to hold a press conference and issue press releases in preparation for the moving of this resolution. To seek the views of relevant organizations, I wrote to the Department of Justice ("DoJ"), the Hong Kong Bar Association, The Law Society of Hong Kong, Members from the insurance and legal functional constituencies, as well as the Panel on Administration of Justice and Legal Services ("AJLS") of this Council. In the AJLS Panel meeting on 26 March, I also consulted members of the need to discuss the proposed amendment, despite the fact that similar amendments were not discussed in the AJLS Panel during the previous two adjustments. I also told members my intention to move the proposed resolution in the Council if they did not raise any opposition. Neither members nor DoJ spoke against the resolution or requested to discuss it. Hence, I already notified and also consulted the Government and all other stakeholders of my intention to move the resolution. On the same day, I gave a notice for the moving of the proposed resolution at the Legislative Council meeting on 9 May.

However, to my disappointment, as soon as I gave the notice for the moving of the resolution, I was approached by the Government as it tried to lobby me to withdraw my motion in favour of the motion to be moved by the Government. I definitely would not do so. The adjustment has been delayed for 21 years. If the Government really intended to increase the payment, it should have done so years earlier. If I withdraw the resolution, I really do not know how long the proposed adjustment will drag on.

The Government then made use of an unconvincing excuse to obstruct my moving of the proposed resolution through administrative means. In its letter addressed to the Secretariat to give comments on my proposed resolution, DoJ said my proposal would increase the Government expenditure and have a charging effect, and should thus be ruled inadmissible.
Despite its citation of the charging effect to oppose my resolution, the Government could not tell us officially the exact amount of Government expenditure to be incurred by the legislative amendment. This resolution does not seek to directly increase Government expenditure, and the amendment will only lead to indirect, non-recurrent, and negligible Government spending. Besides, when Mr Albert HO moved a similar amendment in 1997, the Government did not cite charging effect as the reason for opposing his amendment.

Apart from the Government's obstruction, the most classic example comes from Mr LEUNG. Examples of Mr LEUNG's cooperation with the Government include the "wait for 'Uncle Fat'" incident in the past. Now, he also has to "wait for DoJ".

**PRESIDENT** (in Cantonese): Mr HUI Chi-fung, if you mention me in your speech, you should address me as President.

**MR HUI CHI-FUNG** (in Cantonese): Can you ask me to pause for a moment? Please do not take up my speaking time.

**PRESIDENT** (in Cantonese): Because "Mr LEUNG" does not have the power to rule if Members' proposed resolutions are admissible or not. This power is vested with the President. As President, I perform my duties in accordance with the Rules of Procedure ("RoP").

**MR HUI CHI-FUNG** (in Cantonese): President, please do not interrupt me. If you wish to speak, you can first ask me to pause for a moment.

**PRESIDENT** (in Cantonese): You have made accusation against me in your speech.

**MR HUI CHI-FUNG** (in Cantonese): You are also a Member, and you can rise to a point of order to seek my clarification. You should not interrupt me.
PRESIDENT (in Cantonese): Since you have made accusation against me, I have to tell you …

MR HUI CHI-FUNG (in Cantonese): President, I really think you have abused the power. You should at least allow me to criticize you and to explain how you have abused your power to "wait for DoJ". You have no right to interrupt me. Please give me another 30 seconds of speaking time to make up for the time lost.

Hence, I think the most classic example is that you have abused your power to "wait for DoJ" by putting aside my proposed resolution and not dealing with it until two months and six days later. Actually, what have happened during this period of time?

PRESIDENT (in Cantonese): Mr HUI Chi-fung, I request you to clarify. You have accused me of putting aside this proposed resolution for two months. Please give evidence to support your claim.

MR HUI CHI-FUNG (in Cantonese): I am about to tell you. This is the first time that I have witnessed how the President has taken advantage of his power to deal with a proposed resolution this way. The President neither approved nor rejected it. Instead, he put the resolution on hold. Only after I repeatedly called the Secretariat for a reply that I received its reply, telling me that my proposed resolution was put on hold pending comments from DoJ and discussion by the AJLS Panel. I think this is a full display of how Mr Andrew LEUNG has made use of his power to put the proposed resolution on hold in cooperation with the executive authorities.

PRESIDENT (in Cantonese): Mr HUI Chi-fung, if you wish to continue with your speech, you shall address your observations to the President.

MR HUI CHI-FUNG (in Cantonese): President, according to RoP, should you wait until I finish my speech, after which you can rise to seek elucidation? Do you have the right to interrupt me?
**PRESIDENT** (in Cantonese): According to RoP, when Members speak, they shall address their observations to the President. If you do not observe this rule, I will ask you to stop speaking.

**MR HUI CHI-FUNG** (in Cantonese): President, I have to continue with my speech. Do you wish to keep interrupting me?

Hence, discussion of my proposed resolution has been put on hold until the last Council meeting before summer recess. Indeed, the debate almost has to be stood over to the next legislative session. I explain the story of collusion between the executive authorities and "Mr LEUNG" who has abused his power in great length as I wish to let the public know "Mr LEUNG" has abused his power by conniving with DoJ to delay the work …

**PRESIDENT** (in Cantonese): Mr HUI Chi-fung …

**MR HUI CHI-FUNG** (in Cantonese): … and even to put this simple livelihood issue on hold for several months.

**PRESIDENT** (in Cantonese): Mr HUI Chi-fung, please withdraw your remark just now, otherwise, I will regard your behaviour as grossly disorderly.

**MR HUI CHI-FUNG** (in Cantonese): Since DoJ has already moved the proposed resolution, someone may ask why I still bother to propose an identical resolution.

**PRESIDENT** (in Cantonese): Mr HUI Chi-fung, please withdraw your remark.

**MR HUI CHI-FUNG** (in Cantonese): What I wish to say is that I am not afraid of DoJ copying from me, nor do I mind DoJ overshadowing me in this legislative exercise …
PRESIDENT (in Cantonese): Mr HUI Chi-fung, I give you the last warning. If you do not withdraw your remark, I will ask you to stop speaking.

MR HUI CHI-FUNG (in Cantonese): … I only fear that DoJ does not proceed with its work. If I do not keep monitoring DoJ all the way in the legislative process, I am afraid DoJ will chicken out and delay the work indefinitely. Now, even if DoJ backs out, I can still move my resolution as a fallback.

PRESIDENT (in Cantonese): Mr HUI Chi-fung, if you do not withdraw your remark just now, I will ask you to stop speaking.

MR HUI CHI-FUNG (in Cantonese): Even if the proposed resolution is passed today, our work is not yet over because we still have to keep monitoring the work of DoJ.

PRESIDENT (in Cantonese): Mr HUI Chi-fung, please stop speaking.

Mr HUI, will you withdraw your remark? You have made accusation against the President.

MR HUI CHI-FUNG (in Cantonese): President, may I ask why Members cannot criticize you for abusing the power? May I know which rule of RoP prohibits Members from criticize the President for abusing his power?

PRESIDENT (in Cantonese): You can criticize me, but you cannot accuse me of having any motive.

MR HUI CHI-FUNG (in Cantonese): May you point out which rule of RoP prohibits me from criticizing you for abusing the power?
PRESIDENT (in Cantonese): After all, I have ruled your proposed resolution admissible after going through relevant procedures.

MR HUI CHI-FUNG (in Cantonese): But you have already put it on hold for two months in order to "wait for DoJ". You did not give me any reply in the meantime.

PRESIDENT (in Cantonese): Please be reminded that under rule 22(q) of the House Rules ("HR"), the relevant Panel should be consulted first before a major and/or potentially controversial legislative is introduced into the Council.

MR HUI CHI-FUNG (in Cantonese): I have already consulted various stakeholders. President, you are the one who has procrastinated for two months in order to "wait for DoJ" and to connive with it.

President, I wish to raise a point of order: under which rule of RoP I am prohibited from criticizing the President for abusing the power?

PRESIDENT (in Cantonese): This is not a criticism …

MR HUI CHI-FUNG (in Cantonese): President, I am criticizing you for abusing your power.

PRESIDENT (in Cantonese): … but rather questioning my motive.

MR HUI CHI-FUNG (in Cantonese): I do not question your motive. I just criticize you for abusing the power and procedures in order to connive with DoJ and to "wait for DoJ".

PRESIDENT (in Cantonese): You have doubted about my motive. By saying I have connived with DoJ, you have called my motive in question.
MR HUI CHI-FUNG (in Cantonese): Please give me another five minutes of speaking time to make up for the time lost, so that I can continue with my speech.

PRESIDENT (in Cantonese): Mr HUI Chi-fung, HR 22(q) stipulates that Members have to go through relevant procedures before moving their proposed resolutions at Council meetings.

MR HUI CHI-FUNG (in Cantonese): But does this mean that you can procrastinate for two months? You can simply make the ruling if you consider my proposed resolution inadmissible. But why have you put the proposed resolution on hold for two months, not approving or rejecting it?

PRESIDENT (in Cantonese): Members will need to go through relevant procedures for proposing resolutions.

MR HUI CHI-FUNG (in Cantonese): President, have there been any proposed resolutions which you have put aside for two months and on which you have deferred making any ruling?

PRESIDENT (in Cantonese): Mr HUI, I do not procrastinate. There is a need to first consult the AJLS Panel …

MR HUI CHI-FUNG (in Cantonese): You have essentially abused your power.

PRESIDENT (in Cantonese): … before submitting it to the Council.

MR HUI CHI-FUNG (in Cantonese): President, can you stop making overlapping speech? If you seek to clarify, can you please wait until I finish my speech? You are also a Member, and you have the right to speak.
PRESIDENT (in Cantonese): Mr HUI Chi-fung, please withdraw your remark first.

MR HUI CHI-FUNG (in Cantonese): I will not withdraw my remark. I do think that you have abused the power to procrastinate in order to "wait for DoJ". You may exercise your right to clarify after I finish my speech. Please do not interrupt me.

PRESIDENT (in Cantonese): You have questioned my motive. Under RoP, a Member shall not question the motive of another Member.

MR HUI CHI-FUNG (in Cantonese): Which part of my remark has questioned your motive? I have only criticized you for abusing the power and delaying the handling of my proposed resolution.

PRESIDENT (in Cantonese): You can criticize me for abusing the power, but you cannot question the ruling which I have made.

MR HUI CHI-FUNG (in Cantonese): You have put the proposed resolution on hold for two months, neither approving nor rejecting it. I am just clarifying this very fact. Please stop interrupting me. Please also give me additional speaking time to make up for the time lost.

PRESIDENT (in Cantonese): Please come back to the subject of this resolution.

MR HUI CHI-FUNG (in Cantonese): I have returned to the subject matter. Hence, even if the resolution is passed today, we still have to keep monitoring the Government.

In today's speech, DoJ has promised once again that the Government would in future be able to conduct routine reviews every two years by making reference
to CPI(A) and move a resolution to adjust the bereavement sum if necessary. So, let us see if the Government would conduct regular reviews on its own accord. Or would it come to realize the need of the review only upon request by Members, as in the current case? DoJ already made empty promise in the past. When it spoke on a similar resolution in 1997, DoJ said "to ensure that the sum will keep to be adjusted according to the inflation rate, if the resolution is passed today, we will conduct reviews every two years". It made the same promise 21 years ago. But why does this "two-year review" pledge made 21 years ago become an empty promise now?

The Ordinance was enacted in 1986 and amended in 1991 to adjust upward the bereavement sum from $40,000 to $70,000. However, no resolution has been proposed by DoJ to amend the sum since 1991 due to various reasons. As DoJ has just mentioned, the Government conducted a review of the bereavement sum in 2000, but reached the view that there was no basis for increasing the sum at that stage considering, inter alia, the drop in the consumer price index.

Let us have a look at the calculation of the compensation amount according to changes in CPI(A) from 1997 to 2018 as set out in Annex of the DoJ paper submitted to the AJLS Panel in May. I would like to draw your attention to the fact that on the basis of CPI(A), the bereavement sum should be adjusted upward to $155,000 in 1999. Members may think the $5,000 increase is negligible. But we have to note that the sum of $5,000 is different in value in 1999 and today. New residential flats were only sold at $3,400 per square foot in 1999, while a McDonald's meal only cost $17.80 that time. The sum of $5,000 was not a small amount in 1999. Yet, the authorities did not review the bereavement sum despite the rise in CPI(A).

It is okay for DoJ to skip the review exercise between 2000 and 2009 as the correspondent CPI(A) figures were really lower than that in 1997. However, with reference to the same paper, the bereavement sum should have been increased to $165,000 in 2011 and to $180,000 in 2013 under the two-year review criterion. Why did DoJ not review the sum until in the middle of 2014 after The Law Society of Hong Kong and the Hong Kong Bar Association has submitted their views (The buzzer sounded) …
PRESIDENT (in Cantonese): Mr HUI, please stop speaking.

In the AJLS Panel meeting on 26 March 2018, you consulted members on the need to discuss your legislative proposal. The then Panel Chairman agreed to discuss your proposal and made the relevant meeting arrangement with the Administration. Subsequently, the Administration proposed to discuss the topic on the Panel meeting of 28 May.

On 6 April, I wrote to inform you that as the AJLS Panel would discuss the legislative proposal on 28 May, according to the established mechanism, I would consider the admissibility of your proposed resolution after the Panel and the Subcommittee to be set up under the Panel finished their discussions. The letter has been uploaded onto the Legislative Council website for public inspection.

PRESIDENT (in Cantonese): Mr Holden CHOW, please speak.

(Mr HUI Chi-fung indicated a wish to raise a point of order)

PRESIDENT (in Cantonese): Mr HUI Chi-fung, what is your point of order?

MR HUI CHI-FUNG (in Cantonese): Please give me two more minutes of speaking time to make up for the time lost. It is against RoP for you to interrupt me to seek clarification without my consent. Hence, I hope that the President can give me two more minutes to make up for the time lost, so that I can finish my speech.

PRESIDENT (in Cantonese): Mr HUI, your speaking time is up. Please sit down. Mr Holden CHOW, please speak.

(Mr HUI Chi-fung once again indicated a wish to raise a point of order)

PRESIDENT (in Cantonese): Mr HUI Chi-fung, what is your point of order? I have already told you that your speaking time is up.
MR HUI CHI-FUNG (in Cantonese): President, I have to point out that you have acted against RoP by interrupting me to seek clarification without my consent. I request to finish my speech.

President, you should not abuse your power any more.

PRESIDENT (in Cantonese): Mr HUI, please sit down. Mr Holden CHOW, please speak.

MR HOLDEN CHOW (in Cantonese): President, I now make a report in my capacity as the Chairman of Subcommittee on Proposed Resolution under Section 4(5) of the Fatal Accidents Ordinance (Cap. 22) ("the Subcommittee").

The Subcommittee held two meetings in total and had completed the scrutiny of the proposed resolution to be moved by the Government. Members were in support of increasing the statutory sum of damages for bereavement ("the bereavement sum") from $150,000 to $220,000 but were disappointed by the fact that the bereavement sum has never been adjusted since 1997.

Members in general supported the Administration's conducting biennial reviews of the bereavement sum to reflect the inflation trend. However, they opined that the authorities ought to comprehensively review the bereavement sum, taking into account other factors as well. Some members expressed concerns that the bereavement sum could not provide sufficient deterrent to prevent the occurrence of the wrongful act, neglect or default of a person that may cause the death of another person and the sum failed to reflect the impacts of change in family structure following the bereavement. Some members were of the view that the bereavement sum should be increased substantially. A member raised concerns over the classes of recognized dependants who may claim for the bereavement sum under the Fatal Accidents Ordinance ("the Ordinance") and sought relevant information in this regard. The Government has given its reply to the Subcommittee in this connection.

The Subcommittee will support the proposed resolution and will not move any amendments. Members noted that Mr HUI Chi-fung had indicated he would also propose a resolution to increase the bereavement sum.
Next, I would like to state my personal views. President, better late than never as far as the Government's current proposal on adjusting the bereavement sum is concerned because the sum has never been adjusted since 1997 up to the present. Yet, I must criticize the Department of Justice for not taking proactive actions in this regard which did not seek to adjust the sum until someone else proposed to do so. After all, not any adjustment had ever been made during a period of more than 10 years. The situation is similar to that of the Small Claims Tribunal ("SCT"). In October 2016, I requested that discussions on increasing the SCT's jurisdictional limit with regard to claim amounts be held by the Panel on Administration of Justice and Legal Services ("the Panel"). After we had waited for a long while, the Government eventually made the first step last month to officially finalize the proposed increase in SCT's jurisdictional limit from $50,000 to $75,000.

Both cases happened to be so similar in that the amounts were never adjusted over the past 10 odd years. This tells us that the Secretary for Justice has been much too passive in work, but anyway, better late than never. Today, we are still pleased with the Government's proposal of increasing the bereavement sum from $150,000 to $220,000. The Subcommittee had discussed in greater depth such a resolution proposed by the Government.

Here, President, I wish to express some personal views of mine. Concerning the authorities' current proposal of increasing the bereavement sum to $220,000, the magnitude of increase is based on the cumulative inflation. However, I think it is imperative upon the Government to conduct a comprehensive review because even though it has undertaken to review regularly the bereavement sum every two years in future, but it is most likely that they will only follow the usual practice of making reference to the inflation rates.

We are of the view that the authorities should consider other relevant factors in conducting a comprehensive review on the bereavement sum. For example, do we have to consider if the deceased used to bear major responsibility for providing financial support to whose family or raising whose children? Or is it necessary to consider the age of the deceased? Simply put, for a case in which the deceased was the sole breadwinner of the family while whose wife is young and children still small, should the authorities take this into account and pay the dependants of the deceased a bereavement sum of larger amount?
President, I also noticed that The Law Society of Hong Kong has indicated that it would issue written comments on the overall review of the bereavement sum later which will be submitted to the Secretary of Justice. Although The Law Society of Hong Kong has not submitted its written comments yet, I do hope the Secretary for Justice will carefully consider its comments upon receipt of the written submission.

It is worth mentioning that may have got involved in such kind of cases or lawsuits—well, President, I wish to share some legal knowledge here with members of the public who are now watching us on the television—as regards industrial or traffic accidents happened in the past involving no deaths, a factor known as "loss of earnings" (i.e. the incapacity of a wage earner resulted from injuries sustained in an accident) had been taken into account in the calculation of compensation amount. For example, if the reduction in the income of the injured after the accident is caused by change in job as he can no longer resume duties of his original post (i.e. apparent partial loss of earnings), the compensation amount to cover the loss of earnings would be determined on the calculation of the earnings based on his age.

Hence, when any death is caused in an accident, it will probably involve bereavement. Thus, apart from the current sum of $150,000, the loss of earnings will not be taken into account in calculating the amount of bereavement sum in this case since the person concerned has already passed away. Instead of applying this approach for cases involving deaths, the level of financial support provided by the deceased to whose dependants or the monthly expenses of whose dependants paid by the deceased will be taken into consideration in calculating the amount of bereavement sum payable to the dependants of the deceased, that is, the sum is based on the level of financial support provided by the deceased to whose family (e.g. the monthly take-home pay to cover family expenses). Therefore, regarding such cases, the claim amount differs from the amount of compensation for loss of earnings.

Meanwhile, I also want to bring up this point: The Government may not be able to provide adequate protection for dependants of the deceased if it does not increase substantially the bereavement sum. And so, I do concur with the view expressed by some members at the Subcommittee meetings, that is, the Government should not be so rigid like a sheet of metal in the calculation of the bereavement sum. Instead, it should take into account factors such as the level
of financial support provided by the deceased to whose family and make appropriate adjustment to the bereavement sum payable to the dependants in a bid to provide them with further compensation. President, I wish to make clear my such view in my speech.

President, regarding the resolution moved by Mr HUI Chi-fung today which is identical to the resolution proposed by the Government, I can only say … Certainly, I trust that no one will query Mr HUI's determination in following up on the matters, but I think there is something wrong with the time sequence. In fact, at the meeting of the Panel held in March, members had already agreed upon making relevant arrangements for proposing amendments to the Ordinance and relevant discussions were scheduled and included on the Panel's meeting agenda of 28 May. Regrettably, instead of waiting patiently for arrangements to be made by the Panel, Mr HUI pre-empted the Government earlier on to claim that he would definitely move a proposed resolution.

President, I surely deem his such an approach of stealing a head start to propose a resolution improper as I consider it a must to follow normal procedures in dealing with the matter. I want to point out also that Mr HUI's act of moving a resolution today, which is identical to the one moved by the Government, will inevitably give the public the impression of overdoing the whole matter. Therefore, in my opinion, it is utterly unnecessary for him to do so, especially when the Government has undertaken to propose a resolution accordingly. He really does not have to take such an unnecessary step of moving a resolution that looks like a duplicate of the Government's, using exactly the same wording.

President, I hope the current resolution moved by the Government will gain passage so that the bereavement sum will be increased to $220,000. Yet, I must emphasize once again that this never means an end to the issue. On the contrary, it only marks the beginning. We welcome the Government's promise of conducting biennial reviews on the bereavement sum. Nevertheless, I think the Government must also conduct comprehensive reviews indeed and hope the Secretary for Justice will really listen to our views, including the written submission to be submitted by The Law Society of Hong Kong later on. I hope they will comprehensively review the matters relating to the bereavement sum and decide if other factors (including the family situation of the deceased, the level of financial support provided by the deceased to whose family, the age of
the deceased, etc.) should also be taken into consideration in determining the amount of the bereavement sum in future. The Government should no longer be as rigid as a sheet of metal in dealing with the calculation of the bereavement sum.

I so submit, President.

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

DR KWOK KA-KI (in Cantonese): President, I rise to speak in support of the resolution under the Fatal Accidents Ordinance ("the Ordinance") (Cap. 22). But I am a bit disappointed because the authorities could have dealt with the whole thing in a much better way. I notice that during the period from February to March this year, Mr HUI Chi-fung already began to do research and go through the history of the Ordinance, in a bid to understand the criteria for determining the compensation amount for fatal accidents. He also adopted the Consumer Price Index (A) ("CPI(A)") as the basis for computing the relevant sums and their previous proportions under overseas legislation. This is in total contrast to certain Members' comment that Mr HUI only began to do such work after the Government had expressly indicated that it would hold discussions in March. Mr HUI already started his preparation as early as the beginning of this year.

Besides, he also intended to propose a resolution and wrote to the Secretary for Justice, the Chairman and the Deputy Chairman of the Panel on Administration of Justice and Legal Services ("the Panel"), the Member from the insurance sector, the Hong Kong Bar Association ("the Bar Association") and also The Law Society of Hong Kong ("The Law Society"). He received a reply letter from The Law Society and the Bar Association on 29 March and 3 April this year respectively. All this is actual proof showing that Mr HUI Chi-fung has honestly taken the initiative to do concrete things on the whole matter rather than following the Government.

Interestingly, however, some news reports asserted that Secretary for Justice Teresa CHENG, also known as "Secretary with UBWs", only tabled the resolution before the Panel and the relevant Council meeting for endorsement at a
later time, or "after she had woken up from sleep", to put it somewhat jokingly. Members all know that as opposed to the Government, which is armed with the support of a sizeable legal department, various teams of legal officers and resources in considering this matter, pro-democracy Members are ripped of any enormous manpower, resources and means whatsoever to take forward this matter. So, I think this is honestly ridiculous and ironical.

The most important question that has been brought up in the process is how much a human life is worth. What is the value of a human life? Twenty-one years have passed between this amendment exercise and the previous one, and the value of a human life is increased from $150,000 to $220,000. Let me give an example for comparison purpose. As Members all know, incidents are frequent in China. One of the most notorious incidents is the high-speed train collision near Wenzhou. At the time, China's Ministry of Railways paid a compensation of RMB915,000 in the end, or nearly HK$1 million after conversion. But most bereaved families refused to accept this compensation amount.

How much is a human life worth actually? Basically, it is hard to do any computation. But I think it is a bit sad to see that the meagre sum of $150,000 for the families of those who died in industrial accidents, road traffic accidents or other accidents is increased only after a wait of a solid 21 years, and the Department of Justice ("DoJ") in charge of this matter gives a response only upon the requests of some powerless Members of this Council. It is sad to see that the quality and calibre of our legal officers in DoJ is so deplorable; it is sad to see that they regard human lives as something worthless; and it is sad to see that they have so far refused to apologize for ripping many families of a sufficient and reasonable compensation due to a delay of 21 years this time around. All this warrants our condemnation.

In estimation, around 314 people are injured or killed in industrial and traffic accidents every year. Even if the Government now increases the compensation amount from the meagre sum of $150,000 to $220,000 as newly amended, the total compensation amount will only rise from $47 million to $69 million. It accounts for an insignificant amount in the billions of dollars of insurance compensations for work injuries and traffic incidents. But people have to wait 21 years before the Government agrees to amend this sum. This is hardly acceptable to people no matter how hard the Government tries to explain.
Frankly speaking, I believe that if Members compare the present Hong Kong with the Hong Kong 21 years ago, they will realize that the rates of increase in grass-roots people's expenses in various aspects ... I dare not mention rental or home purchase expenses. The expenses in these respects are simply shocking. Ordinary people must also bear clothing, eating, accommodation and transport expenses and fare increases by the MTR Corporation Limited and bus companies. While we cannot say that the relevant expenses have increased by 50% over those 21 years ago, we are most concerned about the time of further amending this sum, one which is only amended after 21 years. In my view, the current arrangement of making adjustment based on CPI(A) is definitely unable to reflect the agony of bereaved families.

Members should know this. Suppose a young child of an old couple loses his life. If the couple receives $3,000 as housekeeping money, they will get $720,000 after 20 years. Assuming that they save up $10,000 a month, they will get $1.8 million if computation is done on the basis of 15 years. The point I am driving at is that the meagre sum of $220,000 is definitely unable to make up for the loss of a human life and the losses sustained by a family.

President, the major issue is that many members requested the Government to comprehensively review the criteria for computing the compensation amount under the Ordinance at a meeting of the Subcommittee on Proposed Resolution under Section 4(5) of the Fatal Accidents Ordinance (Cap. 22). I think it is definitely shameful to adhere to the relevant criteria. Hong Kong is extremely affluent, and the insurance sector is like a "wealthy fat guy who is unable to put on his socks". I think the Government can hardly explain itself if a family can only receive $220,000 for its loss of a beloved member who can earn money to afford its expenses. Most importantly, the Government must formulate a timetable for a comprehensive review after the passage of the resolution. The reason is that the existing Ordinance is devoid of a clear, responsible and holistic method for computing the various financial losses sustained by an affected family.

While we have been saying that human lives are priceless, the Government should at least offer compensation for the loss of human lives in traffic accidents and, especially, industrial accidents. The various massive infrastructure projects now underway in Hong Kong have led to the loss of members in dozens of families. In the case of the Hong Kong-Zhuhai-Macao Bridge ("HZMB"), for
example, more than 11 families have sustained a loss of family members due to the construction of HZMB. Under the relevant compensation arrangements, they can only receive $150,000 or $220,000. These two sums are basically not enough to meet the expenses of all members in a family within one year. How can we still say that the Government is a responsible one?

Many industrial accidents stem from inadequate supervision on the part of contractors or the Labour Department. Therefore, the Government in fact only wants to redeem its sins by offering a new compensation amount to the beneficiaries of the relevant families through legislative amendments. As explained many times by Members during discussions in the Legislative Council, many accidents, especially industrial accidents, happen because the Government is lax in law enforcement and over-tolerates or even harbours businessmen, especially large contractors. In many cases, bereaved families do not receive compensation automatically. Very often, they must undergo a cumbersome process and even submit many documents before they can receive bereavement compensation. Therefore, the Government has done a huge disservice to the relevant families.

In my view, the reason for the Government's setting of a new amount in 1986, 1991, 1997 and, most ridiculously, today—after the passage of 21 years—is that the Secretary for Justice ... Well, she slacks off again today and is not present at the meeting. She should tell Members when she will conduct a holistic and fundamental review of the criteria for increasing the compensation amount. I have noticed that when addressing this Council, the Secretary for Justice shirked the fault of failing to introduce a timely increase in the compensation amount to the replies given by the Bar Association and The Law Society. Even though I have not read their replies, I believe that if the Government had had the intention to do this task satisfactorily, it would have held active discussions when The Law Society and the Bar Association gave their initial replies in mid-2014, rather than hastening to deal with this matter only after Mr HUI Chi-fung put forth a proposed resolution early this year. This has precisely shown that DoJ officers are slack and are not up to standard.

We should understand that the Government possesses enormous resources and data, and it must take account of many factors. Therefore, it is all the more necessary to do reasonable computation of the financial losses sustained by the families of those who died in industrial or traffic accidents. The computation
process must include population growth, medical and housing expenses and also welfare benefits, together with a clear account. It should not be like the Secretary for Justice's assertion in her speech in this Council, the assertion that since all such various factors such as public health and housing are very complicated, they should rather be excluded from computation. Judging from her slack and lazy attitude, we can hardly believe that she will give a holistic reply in the future.

As for other jurisdictions, there are bound to be some individual cases which show a different practice, and the Government will certainly cite those countries which suit it best as examples, such as England, Wales and Canada. But other jurisdictions (such as the United States) have already laid down a minimum compensation amount. Families of those who died in industrial or traffic accidents are entitled to the relevant compensation amount. The United States or other jurisdictions have set down a clear amount.

Another ground put forth by the DoJ officer is that if the compensation amount is inadequate, the people concerned can take the matter to court because there are many lawsuits at present anyway. The Government is indeed self-contradictory. While the Government has all along criticized or even condemned people for casually resorting to court proceedings to claim compensations which they think are reasonable, has it ever occurred to it that the Ordinance has actually given rise to the reality that affected families have no alternative but to resort to court or legal proceedings? The Government has precisely encouraged all such matters which are initially avoidable and those legal actions deemed unnecessary by the Government. This is the first point.

Second, if legal proceedings are initiated, the families concerned must recount their agony in court again during the trial process. This is totally inhumane. Members can come to imagine this. Families which have lost their beloved ones and their most important breadwinners have to recount their sad stories in court as they fail to receive sufficient or reasonable compensation. Rubbing salt into the wound is precisely an absurdity in present Hong Kong. The Government or the business sector possesses lots of money. But they have adopted a mean or even merciless attitude towards grass-roots or working-class families which have been affected or even those which have lost their family members. This is what is sad about the Government and the business sector.
I so submit. I hope that after the passage of the resolution, the Government can give a formal response to the community and the Legislative Council and review its overall funding and computation approach.

Thank you, President.

**PRESIDENT** (in Cantonese): Dr KWOK Ka-ki, your speech just now asserts that the Secretary for Justice is not present at this meeting. Actually, the Secretariat has issued a circular informing Members that the Secretary for Justice is not in Hong Kong now. Under section 7 of the Legal Officers Ordinance, during the absence of the Secretary for Justice, her proposed resolution can be moved by the Solicitor General.

(Dr KWOK Ka-ki stood up)

**PRESIDENT** (in Cantonese): Dr KWOK Ka-ki, what is your point?

**DR KWOK KA-KI** (in Cantonese): President, a point of order. Had the Secretary for Justice really attached a great deal of importance to the proposed resolution, she would have changed her schedule, so as to attend this meeting.

**PRESIDENT** (in Cantonese): Dr KWOK, as I have just pointed out, the Secretariat already issued a circular explaining the matter to Members.

**MR CHAN CHI-CHUEN** (in Cantonese): Today, we are going to discuss two proposed resolutions under the Fatal Accidents Ordinance ("the Ordinance"). First of all, we should thank Mr HUI Chi-fung for raising the proposed resolution in relation to the Ordinance. Had it not been Mr HUI Chi-fung, we would not be able to deal with the proposal resolution today—the very last day of the Legislative Council's meeting on 11 July of the 2017-2018 session, with a view to increasing the sum of damages for bereavement from $150,000 to $220,000 which has not been adjusted over the past 21 years. The credit absolutely goes to Mr HUI Chi-fung. The representative of the Department of Justice should come out and make a fair comment. If Mr HUI Chi-fung has not proposed the
resolution, will the Government take the initiative to propose it? Will there be a chance for Members to approve the resolutions today, that is, 11 July?

I believe many Members anticipate the Secretary for Justice, Ms Teresa CHENG to reply in her own words: Regardless of everything, the former Secretary for Justice and his predecessors should be held responsible for that, but were they simply daydreaming in the office? Why had they not considered adjusting the amount of the bereavement sum under the Ordinance all along?

Upon entering the Chamber, I saw Mr Wesley WONG, SC, was also in the Chamber. I thought the Government had appointed a new Secretary for Justice—that is; Mr Wesley WONG, SC, was rumoured to be the successor of Mr Rimsky YUEN as soon as news of the resignation of the latter was spread. I checked the Internet immediately and found that Ms Teresa CHENG was having a duty visit in Washington and New York. I am slightly disappointed for being unable to have a dialogue with Secretary Teresa CHENG. Even pro-establishment Members complained about her for not attending the last Council meeting when we were debating the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill. She must be very busy. One may say that she is fully occupied with both her personal and public affairs. But as far as how she should manage her daily itinerary and which piece of legislation deserves her attention are concerned, it is all up to her to decide and manage. Nevertheless, Legislative Council Members will also raise their anticipation on this.

This time around, Mr HUI Chi-fung has given pressure to the Government, that is why the Government is willing to amend the Ordinance by increasing the bereavement sum to $220,000. It turned out that no one knew that the compensation amount had not been adjusted for 21 years. The Government indicated in the relevant papers that as to how it came up with the adjustment this time around, it considered that the bereavement sum had to be increased after having made reference to the cumulative inflation as measured by the Consumer Price Index ("CPI") over the past 20 years. For people who know nothing about the background, they would consider that the sum is increased because the Government feels like showing mercy all of a sudden. This time around, the Government really needs to clarify this for the avoidance of doubt. The Legislative Council really has its functions. From time to time, reminders made or pressure exerted by Members would result in the Government's action. This time around we can see the outcome. Instead of turning a blind eye to its own
responsibility, the Government should review the bereavement sum on a regular basis. Had it not been the frequent occurrence of so many tragedies, and had it not been Mr HUI Chi-fung who proposed to increase the sum, I believe the Government would not be motivated to revise the bereavement sum. The Government would only put the blame on others. In fact, the Government should have calculated and reviewed the bereavement sum according to the cumulative inflation as well as CPI, but it failed to do so. Even the level of minimum wage is reviewed every two years. However, we found that the Government failed to do so. For that reason, Members should not think that the Government would review all the compensation and payment related matters on a regular basis. Therefore, I hope the Government can learn a lesson from this incident.

The amendment to the Ordinance will be passed eventually. However, with regards to compensation payments of other relevant laws, will the Government review them on a regular basis? Will the Secretary for Justice please examine all the relevant laws and see if they should be reviewed every two or three years? Should a dedicated officer or a task forced be appointed to deal with the regular review work of a host of provisions concerning the amounts of compensation? This time around, the request made by Mr HUI Chi-fung was replied so swiftly simply because the Government needed to save face. There is no reason for the Government to allow Mr HUI Chi-fung to propose the resolution while the pro-establishment camp will not vote against Mr HUI Chi-fung's resolution. As it is a matter of life and death, Members will not say no to provide solace to families of the deceased by way of increasing the bereavement sum.

Mr Holden CHOW is the Chairman of the Subcommittee on Proposed Resolution under Section 4(5) of the Fatal Accidents Ordinance (Cap. 22). Just now he pointed out that after the Government had proposed the resolution, Mr HUI Chi-fung proposed an identical resolution as if it was off the same mould. However, he should make clear of the order of events. Actually, Mr HUI Chi-fung proposed the resolution first and then the Government proposed an identical resolution. It was not the Government which proposed the resolution first and then Mr HUI Chi-fung followed suit. Could it be said that Mr HUI Chi-fung was so naughty that he had to nose around in order to get an additional opportunity to speak? It was not the case, because Mr HUI Chi-fung was the first one to propose the resolution.
I certainly understand that there is nothing wrong for the Government to do the job if Members have put forward good ideas and the Government accepted them. It is because if that is a Members' motion, then there will be a lot of restrictions and the motion has to be passed under the system of separate voting. But a Government motion is much simpler. Anyway, today we cannot vote on Mr HUI Chi-fung's resolution. It is because according to the voting arrangement, we should vote on the Government's resolution when the debate comes to a close. Since the Government's resolution is identical to Mr HUI Chi-fung's resolution, as soon as the Government's resolution is passed, we need not vote on Mr HUI Chi-fung's resolution. We need not to vote even if the Government's resolution is vetoed. For that reason, he does not stand a chance and that is the fact. However, why should Mr HUI Chi-fung keeps on proposing the resolution? It is because he needs to tell Hong Kong people that the Government prefers the style of "going slow" and it has overlooked the matter. Now the Government is trying to make up for the deficiency simply because a Member has exerted pressure on it.

Mr HUI Chi-fung wrote to the Secretariat and proposed the resolution as early as 18 April, but it was objected by the Department of Justice as it considered a Member's motion should not cause an increase in Government spending. Later on, the Government knew it had made a mistake, thus it proposed a resolution identical to Mr HUI Chi-fung's resolution in order to make up for the deficiency. Today we will cast our votes in the Legislative Council, and I believe that the motion will be passed without much problems, but the question is, is it the Government's responsibility to adjust the sum? Should a 21-year delay be considered a dereliction of duty on the part of the Government? I know that the Government has pledged to review it every two years in future. But there are two levels of review; the first is to review according to inflation. Such a review should not be considered a major review, as we are not talking about if the sum can reflect the extent of the bereavement and families of the deceased could get the solace through the compensation. For that reason, I hope that other than an every two year review which is based on inflation, there should be a more comprehensive review.

The sum is of course very important. But another question I have to raise is that even if the sum is increased, can the relatives of the deceased receive the compensation? I find that they may not necessary get the compensation. What is the definition of a relative under this Ordinance? What is the definition of a spouse? Hence, I have raised questions in the meeting of the Bills Committee.
I consider that the Government was duty-bound to explain if the definition of a spouse under the Ordinance included the matrimonial relationship registered in overseas places, including polygamy or same-sex civil unions.

The relevant provision has stated the requirements to a matrimonial relationship registered in overseas places, in which I can see the definition of the wife, it reads, "the lawful wife of such marriage; or if there is more than one lawful wife, the lawful principal wife recognized as such by the personal law of the husband of such marriage, or if there is no lawful principal wife, the lawful wives so recognized.". That is to say, the definition of spouse/wife under the Ordinance, regardless of whether or not the country allows polygamy, thus there is an inconsistency between that country and Hong Kong as Hong Kong does not allow polygamy, as long as the deceased has registered that he has a wife, the bereavement provision is still applicable to his case.

Another question I wish to speak is whether this Ordinance's bereavement provision includes a same-sex marriage contracted in an overseas country, or a same-sex couple's relationship?

Before that, we do not have any chance to discuss or amend the Ordinance. This time around, we may take the opportunity of reviewing the sum to review the relevant issue. Under section 4 of the Ordinance concerning "Bereavement", Section 4(2)(e)(i)(ii) states one of the relationships: Any person who—"(i) was living with the deceased in the same household immediately before the date of his death; and (ii) had been living with the deceased in the same household for at least 2 years before that date" as the husband or wife of the deceased.

Before discussing with the Government the issue, I thought that this kind of "as the husband or wife" relationship should include same-sex marriage registered in overseas countries or same-sex couples who get married in overseas jurisdictions …

PRESIDENT (in Cantonese): Mr CHAN Chi-chuen, this resolution only increases the bereavement sum from $150,000 to $220,000. It does not involve any other provision. Please return to the topic of debate.
MR CHAN CHI-CHUEN (in Cantonese): President, the purpose for me to bring up this issue in my speech, which has been discussed in the Bills Committee, is that I wish the Government will review and take note of it. The sum has been increased, but if the next of kin of the deceased cannot get the compensation, then it would be useless to increase the sum. I will not give a lengthy discourse on that. I only want to tell the representative of the Department of Justice that after the judgment of the QT case was handed down, he needs to go back to the office and review the definition of a dependant, because there is a definition of dependant in this Ordinance. According to the definition of a dependant, if the Government's interpretation does not include same-sex couples in the definition of the "as the husband or wife" relationship, then according to the QT case, the Government will breach the law and therefore it is unconstitutional.

Of course, yesterday Carrie LAM said that if you were good enough, you might litigate or initiate a judicial review, if the Government had lost in one case, one item would be changed, but she would not take the initiative to review anything. I implore to the Department of Justice, be it the Secretary for Justice Ms Teresa CHENG, or the Solicitor General Mr Wesley WONG, SC, that I wish to listen in your own words that if the definition of dependant under the Ordinance includes same-sex couples who get married in overseas jurisdictions after the decision of the QT case was handed down? If such a decision is not included, will you conduct a review? I put my question in a simple way, if it is not included; will the Government only change one item after losing one judicial review law suit initiated by any given Hong Kong resident? This is the only point I wish to raise.

I so submit.

DR FERNANDO CHEUNG (in Cantonese): President, I rise to speak in support of the two proposed resolutions under the Fatal Accidents Ordinance ("the Ordinance").

The amendment this time around is relatively simple, as it only seeks to increase the bereavement sum from $150,000 to $220,000 for the benefit of the dependants of the deceased in respect of a person's wrongful act which has caused the death of the deceased. Even after the upward adjustment to $220,000, the bereavement sum still cannot be described as big in any way. Yet, this is already the first and only adjustment in nearly 21 years. We simply fail to see,
from whichever perspectives, why there has been no adjustment whatsoever for so many years. I must therefore give Mr HUI Chi-fung my special thanks here. I believe that had it not been for his efforts, the amendment would not have come into being today.

As I heard just now from the Solicitor General, Mr Wesley WONG, SC, the bereavement sum was adjusted two times after the enactment of the Ordinance in 1986, one in 1991 and the other in 1997. Then, during the review in 2000, it was noticed that due to the effect of deflation, the sum might even have to be reduced if an adjustment was to be made. The Solicitor General added that another review was conducted in 2014, and it was determined that the sum could be raised to $190,000. But when the two legal professional bodies were consulted, they advised that the "changing social and economic conditions of Hong Kong" should also be taken into account. Then, having consulted the Census and Statistics Department and the Government Economist, the Government got the clear advice that it was difficult to ever quantify such changes. In this way, an adjustment of the sum was shelved yet again.

But it was 2014, and four years have since passed. It would have taken as long as four years, even if the Government somehow decided against its initial idea of including this new factor, the "changing social and economic conditions of Hong Kong", after internal consultation or because of its political judgment. I thus think that if Mr HUI Chi-fung had not put forward this resolution, the Government would not have taken any actions at all. I of course also observe that Mr HUI Chi-fung has actually been prompted to put forward this resolution by the double-decker accident in Tai Po in February this year. This accident caused 19 deaths, and he noticed that these cases necessitated the invocation of the Ordinance, because for historical reasons, the Kowloon Motor Bus Company (1933) Limited is exempt from taking out any insurance. The family members of the deceased may thus need to invoke the Ordinance.

So, I think there is indeed a point to incorporate the proposal which the Hong Kong Bar Association and The Law Society of Hong Kong put forward in 2014. Our society has been progressing, and our economic affluence has attained world-class levels. So, the Government must seriously consider whether we should still use this relatively small bereavement sum to quantify the loss of a human life—you see, the sum is just $150,000 now, and even after the passage of the resolution today, it will still be very small, merely $220,000. Suppose the Government thinks that any sustained quantification of this factor is
not possible, can it consider the idea of incorporating this factor just once, for the sole purpose of raising the sum this time around? And, besides following the established practice of making a biennial increase based on the Consumer Price Index (A), is it possible to make available an extra amount of money, so as to brush the bereavement sum up to the present economic and social standards? But the Government of course has not considered all this. The amendment today, like many of the changes made by the Government in the past, are just better nothing. If we do not take it, we will have nothing at all. We will of course support this amendment, but I also hope that the Administration can consider the proposal of the two legal professional bodies years ago.

In April this year, when Mr HUI Chi-fung voiced his intention of moving this resolution, the Government told the Legislative Council that the proposed resolution would have a charging effect, so it was not appropriate to put it before the Legislative Council. This actually involves the contravention of Article 74 of the Basic Law, which provides that Members are not permitted to put forward any bills with charging effect. This argument shows that the Government is simply unwilling to take any actions, and it even wants to stop Members from exercising their very power under the Ordinance to move a resolution to amend the bereavement sum. I must therefore express my regret at the Government's actions.

I know that Members wishing to move an amendment, whether in the form of a resolution or a bill, must first consult the relevant panel. Actually, the relevant panel has already discussed and handled the issue. But I observe that the Government has been very in-cooperative throughout the whole process, even to the extent of trying to stop the whole thing. Had it not for Mr HUI Chi-fung's insistence, honestly, we would not have been able to see this resolution today. I therefore hope that the Government can reconsider its attitude. When Members put forward any sensible legislative amendments, the authorities should not treat the amendments as coming from their "enemies". Rather, they should consider the pros and cons of the amendment proposals themselves. If the amendments are worth taking forward, the Government should go ahead as early as possible. It should always maintain useful and positive communications with the Members concerned.

President, we all know from history that the Government will never permit Members to put forward any Members' Bills which will produce substantial impact on public policies. Even if the Government happens to buy any such
bills, it will always seek to put them forward itself. We have seen this repeatedly over the years. For example, there were cases in which a bill was initially put forward by the Administration. Following deliberation by the Panel on Administration of Justice and Legal Services, the Government somehow accepted the amendments proposed by Members and the community, but then it insisted on moving these amendments in its own name. When Members insisted on moving the amendments they themselves proposed, the Government simply said that it would withdraw the bill altogether in that case. I certainly do not encourage such authoritarianism and unwarranted pride. I do not think there is any need for such behaviour. I therefore support Mr HUI Chi-fung's action of moving an identical resolution today. I can understand why he chooses to do so.

I hope all Members can support this resolution. And, the Government should reflect on and review what I have just said. I so submit.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I now first call upon Mr HUI Chi-fung to speak again, and then the Solicitor General will reply. Then, the debate will come to a close.

MR HUI CHI-FUNG (in Cantonese): Thank you, Mr LEUNG. Before I deliver my speech, I wish to remind President that Mr Andrew WAN has placed some props, including a black whistle and a red card, on the table. In respect of the rule on interruptions, it is stipulated in Rule 39 of the Rules of Procedure ("RoP") that a Member shall not interrupt another Member except to seek elucidation, and if the Member speaking is willing to give way and resume his seat. I am not going to slide into a "mud wrestling" with the President. Can I ask you to respect RoP and not to interrupt me anymore?

Many Members have tried to find out the differences between the moving of the respective resolutions under the Fatal Accidents Ordinance by me and by the Department of Justice ("DoJ") today. There is actually no difference at all. Perhaps, the only difference is if I did not propose this resolution, I am afraid the
Administration would not do so either. My only desire is to get the amendment passed expeditiously to raise the bereavement sum from $150,000 to $220,000. This seems to be a very minor amendment to make just a small monetary adjustment, but this bigger sum can provide substantial assistance to relatives of the deceased who are in deep water and great grief to cope with the payments for lawsuits, lawyers' fees, and burial expenses. The Kowloon Motor Bus crash in Tai Po and the Lamma Island accident are two of the examples. The amendment to raise the bereavement sum should really be helpful to the relatives. I just wish to get this proposed resolution passed and implemented as soon as possible.

However, it is most disappointing and appalling to find that DoJ has looked at my proposed resolution with deep hostility. It has even attempted to persuade me to drop the plan in favour of the resolution to be moved by the Government. This makes me feel that the Government is very afraid of losing face. The Government may find it more important to save face than to take care of relatives of the deceased in deep water to enable them to be awarded the bereavement payment in court. I think it is terribly wrong for the Government to do so.

Besides, there was no explanation from the Government for not conducting review on the bereavement sum over the past 21 years. Nor has it apologized for the procrastination, acting as if nothing happened. Hence, this debate is not only on the amended bereavement sum under the legislative exercise but also about the governance of DoJ and of the Government as a whole. When the Council found that the Government has committed mistakes, the Government was reluctant to accept it has been at fault. Instead, it employed administrative measures and made use of the power of the President to procrastinate. It did not move the resolution until almost on the last day of the current legislative session in July. Fortunately, the Council could still deliberate on the resolution in time. Actually, which one is more important to the Government: the prestige of the Government or upward adjustment of the bereavement sum for the benefit of relatives of the deceased?

Mr Holden CHOW has made a wonderful remark. I know he has already come back to the Chamber. Mr Holden CHOW has described me as jumping the gun. This "jump-the-gun" remark really deserves our deeper thought. When the Government has not proposed any legislative amendment until 21 years later, I was said to have jumped the gun by proposing the resolution ahead of the
Government. Likewise, I am not going to slide into a "mud wrestling" with him. But I call on the Government and the public to ponder on the logic behind his remark. He has also said the resolution proposed by me is essentially identical to the Government's version. This is absurd. It is actually the Government which put forward a resolution which is identical to mine in terms of the methodology, amount, and drafting. I have to reiterate that I am not afraid of the Government copying from me, nor do I mind it overshadowing me in this legislative exercise. My only fear is that the Government is slow in taking forward the amendment.

I hereby give an account of the chronology of the incident since March. I found that there was a problem with the bereavement sum in March and studied the legal aspect of it. I concluded that the sum should be adjusted upward, and hence put forward this proposed resolution. On knowing my intention to move this resolution, the Government suggested that I should let the Government take up the mover role and pledged that it should submit the resolution to the Council as soon as possible. I asked the Government to give me an exact timing instead. But the Government could not do so, only saying that it would submit the proposal to the Panel on Administration of Justice and Legal Services at its coming second or third meeting. I said no to this. As the Government could not promise to make a time for the submission of the resolution, I preferred to do it myself. In similar legislative exercises in the past, the resolutions were not even discussed by the relevant Panel because of the minor amendment involved. Hence, I preferred to get the amendment through faster. However, the Government counteracted by procrastinating, causing my proposed resolution to be put on hold by the President for some time. You have your own logic, but you should not interrupt me. To me, this is an abuse of power and a means to "wait for DoJ".

Never mind, I just want to make the public understand why I insist on proposing this resolution. This is sort of political gesture to tell Hong Kong people that there are really negligence and delay on the part of the Government. My proposed resolution is actually a fallback, as I am really not sure whether DoJ could withdraw its resolution at any time due to whatever reasons. One example is the legislative exercise on paternity leave. On hearing that some Members intended to propose amendments, the Government suddenly requested the Members to withdraw their amendments, citing the lack of consensus and the need to wait for the discussion of the Labour Advisory Board. Today, even though the Government suddenly withdraws its proposed resolution, I can at least
move my proposed resolution as a fallback proposal. In this respect, my speech and my proposed resolution are of dual significance.

Before I stop, I wish to raise one more point. As many Members have mentioned, this amendment seeks to increase the bereavement sum by only $70,000 from $150,000 to $220,000. The bereavement sum is a mere $220,000 after the amendment comes into effect. When compared with the exorbitant property prices which casually cost us over $10 million, is the bereavement sum at $220,000 too low in this affluent Hong Kong society? When the public seeks to rely on the legal system and wishes to seek justice by taking lawsuits to court, they will find the thresholds for filing lawsuits too high for them. In this respect, the increase in the bereavement sum by $70,000 to $220,000 may just be meager.

The Law Society of Hong Kong and the Hong Kong Bar Association also raised this point in response to the review on the bereavement sum conducted by the Government in 2014. In the subcommittee meeting to discuss the amendment, along with some other members, I have also pointed out that the proposed increase should take into account not only inflation but also changing social and economic conditions of Hong Kong. We should also consider the high property prices, the difficulties in filing lawsuits, and the legal aids level as well. However, the Solicitor General's speech says he has no idea how such a review can be conducted and is unsure if there are objective indicators for the review. I hope that the Government would reconsider if the adjustment should also take into account property prices, employment situation, salary levels, spending power, and the overall economic condition. I also hope that the Government would keep its words this time and really carry out routine reviews every two years, instead of waiting for another 21 years. Apart from reviewing the bereavement sum according to inflation or deflation rates, the review should also look into changing social and economic conditions of Hong Kong in order to consider further increasing the current sum at $220,000.

My proposed resolution can ultimately be moved in the Council along with the one proposed by DoJ on the last meeting day of this legislative session, despite having been put on hold by administrative measures and the President's ruling. To me, what matters most is the passage of the proposed resolution, irrespective of who is the mover. Although it is the Solicitor General, not the Secretary for Justice, who is here today, I hope he will pledge, on behalf of the Secretary, that DoJ will learn from the lesson of the delay and come back to the Council to review the sum after implementation of the amendment for detailed
study and in-depth discussion. At last, I wish to remind DoJ of the need to honour its promise and not to break its promise anymore. I so submit.

**PRESIDENT** (in Cantonese): Mr HUI Chi-fung, the President speaks pursuant to his power to preside Council meetings. Regarding the placement of the black whistle props on the table in front of you, you may ask the Member concerned to remove the props. In the capacity of the President, I ultimately approved your proposed resolution after examining if the resolution would have a charging effect in accordance with the established practice. This is despite the fact that DoJ has indicated, in its letter to me, that your proposed resolution would have the charging effect.

**PRESIDENT** (in Cantonese): Members, I have set out in detail the relevant facts and justifications in two written replies to Mr HUI to explain our handling of his proposed resolution. The letters, dated 27 April and 8 June respectively, have been uploaded onto the Legislative Council website. I call on Members to respect the facts and the established mechanism of the Legislative Council.

Mr HUI, I would also like to draw your attention to the fact that according to past practice, in case the Government adopts legislative proposals put forward by Members and promises to move relevant motions, Members concerned will not propose other identical motions on their own. It is also unnecessary for them to do so. Despite this, I have ultimately approved our proposed resolution.

I now call upon the Solicitor General to reply.

**SOLICITOR GENERAL** (in Cantonese): President, I am happy to see and also grateful for the support expressed by Members for the resolution. Instead of replying to Members' views point by point, I will give a brief response.

I have mentioned in my first speech that, as a prudent and stringent approach, it is important to consult the Panel on Administration of Justice and Legal Services ("AJLS"). It is also a correct decision for the Government to take up the role of the mover of the resolution, which has drawn support from both the AJLS Panel and the subcommittee on the proposed resolution. The rate of increase can also be quantified objectively and is lenient.
As I have said in my earlier speech, the purpose of this resolution is to increase the sum of damages for bereavement under section 4(3) of the Fatal Accidents Ordinance (Cap. 22) to $220,000 according to the Consumer Price Index (A) ("CPI(A)"). In the future, the Government will also conduct routine reviews every two years by making reference to CPI(A) and move a motion to adjust the bereavement sum if necessary.

In respect of other factors other than inflation, DoJ welcomes and is happy to consider any views to be submitted by The Law Society of Hong Kong and other stakeholders. Meanwhile, I wish Members can understand that in addition to bereavement damages, dependants may claim compensation for pecuniary loss, including funeral expenses, loss of dependency, and loss of accumulation of wealth under an action arising from fatal accidents. Other concerns raised by Members are mostly outside the scope of this resolution.

I so submit. Thank you, President.

PRESIDENT (in Cantonese): Before I put to you the question on the Solicitor General's motion, I wish to remind Members that irrespective of whether the Solicitor General's motion is passed or not, Mr HUI Chi-fung may not move his motion.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by the Solicitor General 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 CHAN Chi-chuen rose to claim a division.
PRESIDENT (in Cantonese): Mr CHAN Chi-chuen 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.

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, Mr Paul TSE, Ms Claudia MO, 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 Kenneth LEUNG, Ms Alice MAK, Dr KWOK Ka-ki, Mr KWOK Wai-keung, Mr Dennis KWOK, Mr Christopher CHEUNG, Dr Fernando CHEUNG, Dr Helena WONG, Mr IP Kin-yuen, Dr Elizabeth QUAT, Mr POON Siu-ping, Dr CHIANG Lai-wan, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan, 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, Mr CHAN Chun-ying, Ms Tanya CHAN, Mr CHEUNG Kwok-kwan, Mr HUI Chi-fung, 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 59 Members present and 58 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. Proposed resolution under the Interpretation and General Clauses Ordinance to extend the period for amending the Employment (Amendment) (No. 2) Ordinance 2018 (Commencement) Notice, which was laid on the Table of this Council on 13 June 2018.

I call upon Mr WONG Ting-kwong to speak and move the motion.

PROPOSED RESOLUTION UNDER SECTION 34(4) OF THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MR WONG TING-KWONG (in Cantonese): President, in my capacity as Chairman of the Subcommittee, I move that the motion under my name, as printed on the Agenda, be passed.

At the House Committee meeting on 19 June 2018, Members agreed to form a subcommittee to study the Employment (Amendment) (No. 2) Ordinance 2018 (Commencement) Notice laid on the table of the Legislative Council on 13 June 2018. To allow sufficient time for the Subcommittee to prepare a report detailing its deliberations for the House Committee, members agreed that a motion be moved by me to extend the scrutiny period of the subsidiary legislation to the first sitting of the next session of the Legislative Council.

With these remarks, President, I urge Members to support this motion.

Mr WONG Ting-kwong moved the following motion:

"RESOLVED that in relation to the Employment (Amendment) (No. 2) Ordinance 2018 (Commencement) Notice, published in the Gazette as Legal Notice No. 116 of 2018, and laid on the table of the Legislative Council on 13 June 2018, the period for amending subsidiary legislation referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) be extended under section 34(4) of that Ordinance to the first sitting (within the meaning of section 34(6) of that Ordinance) of the next session of the Legislative Council."
PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr WONG Ting-kwong be passed.

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 motion moved by Mr WONG Ting-kwong be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Two proposed resolutions under section 34(2) of the Interpretation and General Clauses Ordinance in relation to the Securities and Futures (Professional Investor) (Amendment) Rules 2018 ("the Rules").

Mr James TO will move two motions: the first motion seeks to repeal the Rules; and the second motion seeks to amend the commencement date of the Rules.

This Council will now proceed to a joint debate on the two motions. I will first call upon Mr James TO to speak and move his first motion.

After the joint debate has come to a close, this Council will first vote on Mr James TO's first motion. If Mr James TO's first motion is passed, he may not move his second motion.
PRESIDENT (in Cantonese): 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 Mr James TO to speak and move his first motion.

TWO PROPOSED RESOLUTIONS UNDER SECTION 34(2) OF THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MR JAMES TO (in Cantonese): President, I move that my first motion as printed on the Agenda be passed.

President, the proposed resolution is about the Securities and Futures (Professional Investor) (Amendment) Rules 2018 ("the Amendment Rules"), a piece of subsidiary legislation concerning professional investors ("PIs"), but what is the meaning of "professional investor"? Perhaps let me first talk about the two proposed resolutions. The first resolution seeks to repeal the Amendment Rules which are made to relax the PI regime. In other words, in order to make things easier for financial institutions which wish to do more businesses, the Government proposes to expand the types of individuals and corporations that are to be regarded as PIs, but I consider it necessary to repeal the Amendment Rules because a review is yet to be conducted on some basic issues.

The aim of the second resolution is to specify that the Amendment Rules under discussion will come into operation on 1 January 2020, provided that the Government has genuinely completed a review of the PI regime, such as reviewing in a year's time the many issues concerning this regime, especially the issues which I will talk about later on whether assets should include real property, and how should total assets be calculated. I actually have no strong views on the making of the Amendment Rules to relax the PI regime, but the Government should amend the basic definition of "professional investor".

President, what is the meaning of "professional investor"? In order to make things clearer for members of the public or reporters who are listening to our speeches, let me explain a bit here. In fact, everything is originated from the Lehman Incident which occurred during the global financial crisis in 2008, and as we all know, the Lehman Brothers minibonds had put the global economy in great trouble. Due to the sudden demise of the Lehman Brothers in the United States, the United States Government decided not to grant it any assistance, and
the effect had reached as far as Hong Kong and Southeast Asia, causing huge losses to tens of millions of investors. Bluntly speaking, these products named "minibonds" are basically not bonds. Having learnt the lesson, and given that such financial instruments as minibonds are actually allowing small investors to serve as bookmakers and provide guarantee for the execution of certain contracts, and that investors have in fact played the role of insurance companies of a small size and the investments concerned should instead be made by PIs, the Government enacted the Securities and Futures (Professional Investor) Rules ("the PI Rules").

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

Under the existing PI Rules, the Government provides the first guarantee by prescribing some monetary thresholds of assets and setting out a definition of "professional investor". For any individual, a person having a portfolio of not less than $8 million will be regarded as a PI, and no real property is included in this amount. With regard to a corporation, we should first bear in mind that a corporation does not necessarily refer to a corporate PI, but can also be a limited company set up by a couple for the purpose of acquiring a commercial premise for running a clinic, and the corporation or company so set up can then be used for acquiring residential properties, motor vehicles, and of course for making investments. Corporations or companies of this kind are actually not corporate PIs in the general sense, but as long as they have total assets of not less than $40 million, they meet the first monetary threshold as PIs, and under such a definition, total assets of corporations do include real property. We should bear in mind that the PI Rules were enacted in 2011.

When deliberating on the PI Rules back then, we did consider it a very rough approach to provide the first guarantee by purely prescribing monetary thresholds of assets for PIs, instead of determining whether an individual should be regarded as a PI by his/her knowledge, exposure and professional experiences. However, as there was an urgent need to enact the PI Rules back then, we all agreed that investors with a certain aggregated amount of assets should generally and theoretically be more careful. Subsequently, other conditions have also been prescribed, such as suitability of products, desirability of investing in too many different kinds of products, and so on, but assets have been adopted back then as the first threshold to be met.
During deliberation, many fellow colleagues from different political parties and groups across the political spectrum share the same views that consideration should be given by the Government to the issue. For example, some veteran investors have accumulated decades of experiences in making investments, and have come across many very complicated investment products, but they may only have a portfolio of $6 million. It is possible that they have started with a portfolio of hundreds of thousands of dollars only, but the assets keep accumulating to $6 million, which is in fact quite an achievement. However, under the existing PI Rules, individuals not having a portfolio of $8 million cannot be regarded as PIs, and financial institutions are not allowed to promote certain products to them.

On the contrary, if a couple has set up a company to hold a property, and given the surging property prices at present, especially when figures of the Rating and Valuation Department reveal that the property index of Hong Kong has recorded a rise of over 100% in the period from 2011 to the first quarter of 2018, that property together with just a small amount of liquid cash on hand will make it very easy for the total assets held by the corporation to exceed the threshold of $40 million. Deputy President, when I say that it would be very easy for the total assets of a corporation to exceed the prescribed threshold, I am not referring to my own case, and I do not have that amount of assets under my name, but I know many colleagues present here may have such a fortune.

Nevertheless, we should all bear in mind that the monetary threshold of $40 million was prescribed in 2011, but it is now 2018 and property prices have recorded a surge of nearly 100%, and shall we give some thoughts to the question to determine whether we should maintain a monetary threshold of $40 million for assets held by corporate PIs? Take one extreme case as an example. If the value of a property owned by a couple has appreciated from below $20 million in the past to almost $40 million at present, a mere sum of $1 million to $2 million of liquid cash on hand will be sufficient to make the total assets they have meet the monetary threshold of $40 million, and if they are willing to give consent, the company under their name will be regarded as a corporate PI.

Some fellow colleagues might point out that they could simply refuse to give such a consent, but we should bear in mind that the whole process for doing so can indeed be quite simple, and why do the authorities wish to relax the relevant regime? What it seeks to relax are not the monetary thresholds of assets but other requirements, and in his capacity as Chairman of the Subcommittee,
Mr Holden CHOW will make a report in this respect later. We see no problem with those technical amendments, and as for those areas about which I have reservation, the divergence of opinion between the Government and I myself has already been narrowed. As the Government has already adopted some remedial measures, I will also not talk about that part of the Amendment Rules. What I am now talking about is that the Government has still not taken any action to amend the first threshold, thus rendering it possible for financial institutions to promote complicated investment products to a large number of corporations, and try to persuade them to invest in such products which should only be sold to PIs.

I will never preclude the possibility that a certain person is really an experienced investor who is well aware of the potential risks involved, and it may be possible to review and relax the relevant definition although he/she does not have many assets. For example, someone may have enrolled in a number of certificate courses offered by various financial institutions, and has obtained a pass or even excellent results in examinations held for some of these courses, thus proving that he/she has been accumulating wealth in the whole process, and has no difficulty at all in making investments in even very complicated products. Under such circumstances, shall we forbid the participation of that person in investment activities simply because he/she does not have many assets?

However, a review has to be undertaken on the entire regulatory regime currently in place. A requirement was prescribed in 2011 to adopt $40 million as a monetary threshold, but property prices have risen by 100% all these years, and the threshold of having total assets of $40 million should no longer be used as a determining factor. This will lead to a situation in which banks and financial institutions can promote certain products to their clients when the value of their property has appreciated, and lobby them to make an investment of several millions and even 10 millions of dollars, while this is actually not proportionate to the current assets held by them, as the investment is purely recommended on account of their property assets. These rich people who have total assets of $40 million will of course not be rendered homeless even though they have suffered an investment loss and only $20 million is left of their assets. Similarly, in the demise of Lehman Brothers back in those years, not every one of the victims of the incident had suffered a huge loss and were left penniless.

The problem is that when the PI Rules were enacted in 2011, the Government considered it necessary to adopt the minimum threshold of $40 million for corporate PIs, and we had asked the Government then for the
reasons why it considered appropriate to adopt a more lenient approach for corporate assets and allow the inclusion of real property. According to the reply given by the Government back then, corporations were taken or regarded as corporate PIs because they had good corporate governance, a board of directors, an investment manager and a risk management structure. We then realized that this is the Government's impression of corporations, but this is actually not the case for many corporations which have total assets, including real property, of $40 million.

Therefore, these corporations should not be included as corporate PIs unless the Securities and Futures Commission and the Hong Kong Monetary Authority dare to issue a notice to the effect that all corporations will be regarded as corporate PIs by the Government, and hence a monetary threshold of $40 million is adopted. However, this is not the reply given to us by the Government. In other words, the Government is of the view that under the existing requirements, financial institutions can indeed be allowed to promote certain products to a couple when the value of the property owned by them has appreciated, and together with other current assets, they have total assets of $40 million or above.

Dr CHIANG Lai-wan keeps nodding her head. Fairly speaking, it was her who has alerted us of the issue when she raised a question at the final meeting of the Subcommittee to enquire if real property was included under the definition of total assets of $40 million. It does not matter what she is going to say in her speech later and whether she will support my proposed resolutions, and I have to thank her because her request for an exact answer to the question has made me feel that the whole issue should be reviewed afresh.

Dr CHIANG has given us many vivid examples in the course of deliberation by the Subcommittee, and it would be better for us to listen to her own elaboration later. The total assets held by her should of course exceed the threshold of $40 million, and she is therefore often a target for the promotion of many investment products with very peculiar features. She has many interesting experiences to share, and Members will have a clearer picture after listening to her descriptions. Frankly speaking, there is of course no need for me to worry about Dr CHIANG, whose assets will still amount to several hundreds of millions of dollars even though she has suffered an investment loss of half of her assets, but things are really difficult to say when general investors are under constant lobbying from financial institutions. Certainly, every person has the right to
refuse to become a PI, and avoid sustaining a total loss of assets by merely holding money deposits and making small investments in the stock market, while financial institutions will also not promote such products as accumulator to them.

Yet, the problem is that we will very likely be faced with a low-interest-rate environment, especially a few years later, because we have already witnessed some increases in interest rates now. Moreover, with the cooling down of the Lehman Incident, people tend to forget the many bitter lessons they have learnt from the Incident after several years. I hope we can all understand that the Lehman Incident has already faded out of people's mind, and as the stock market is scaling new heights and the property market is flourishing, people have accumulated some wealth. Investors may have sustained some losses, but investment gains will be derived again, and their vigilance will then become relaxed. Under such circumstances, some people may be invited to become PIs when the value of the property they own has appreciated, and new products can always be found in the market, while financial institutions will always advise investors that it will give very good value for money to invest in such products.

I have indirectly received some WhatsApp messages recently and learnt that with an investment of $1.5 million in institutional bond, a credit line of $2.7 million will be offered for rollover and investment in related products, which will ultimately bring about a profit margin of over 10%. It will not be difficult to attract a large number of investors if these financial products are nicely packaged. Frankly speaking, although the number of people to be affected cannot compare with that of the Lehman Incident, since a monetary threshold of $40 million has after all been prescribed, I consider the potential risks do exist.

Hence, by proposing these two resolutions, I hope the Government will be made to undertake a comprehensive review of the issue.

Mr James TO moved the following motion:

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the first motion moved by Mr James TO be passed.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Deputy President, I would like to thank Mr Holden CHOW, Chairman of the Subcommittee, and other members, as well as the Legislative Council Secretariat and the legal adviser. Their assistance has facilitated the completion of the scrutiny of the Securities and Futures (Professional Investor) (Amendment) Rules 2018 ("the Amendment Rules").

The Securities and Futures (Professional Investor) Rules ("the PI Rules"), promulgated in 2003 pursuant to section 397 of the Securities and Futures Ordinance ("SFO"), prescribe certain categories of persons as professional investors, in addition to those falling within the definition of professional investor in the SFO. According to the existing PI Rules, an individual having a portfolio of not less than $8 million or a corporation having total assets of not less than $40 million or a portfolio of not less than $8 million can be regarded as a professional investor. Under the professional investor regime, certain requirements of SFO imposed on intermediaries may be disapplied when intermediaries are serving professional investors. Nonetheless, it must be emphasized that even if a client is a professional investor, an intermediary is still required to comply with certain requirements such as completing know-your-client procedures, suitability assessment, etc. The client's investment objectives, investment horizon, investment knowledge and experience, risk tolerance, and financial situation are among the factors that an intermediary has to take into account in assessing whether the characteristics and risk exposures of a recommended product are suitable for a client. As for products, there can be a wider choice of products for professional investors, but, as required, intermediaries should ensure that the recommended product is suitable for their clients (professional investors included) under all circumstances.

The Amendment Rules submitted to the Legislative Council for scrutiny seek to standardize the modifications granted by the Securities and Futures Commission ("SFC") pursuant to section 134 of SFO on request by individual intermediaries, and to include these modifications in the PI Rules. In this way, consistent application of the PI Rules can be ensured and an environment conducive to fair competition and transparency will be created in the market.
The Amendment Rules cover the following three areas: first, allowing the aggregation of certain assets by individuals towards satisfying the criteria to qualify as professional investors; second, expanding the definition of corporations as professional investors; and third, allowing the use of alternative forms of evidence to substantiate the qualification as professional investors.

The Amendment Rules will not change any of the safeguards for investors (including those for professional investors) nor involve the monetary thresholds for professional investors.

In March last year, SFC consulted the public on the amendments and obtained positive responses in general. The Amendment Rules, aiming to ensure consistency and transparency in the application of the PI Rules, will enable the market to operate in a fairer environment, so we hope that the Amendment Rules will be implemented as soon as possible, and SFC has already specified 13 July (i.e. this Friday) as the commencement date of the Amendment Rules.

While the Subcommittee was scrutinizing the Amendment Rules, we appreciated that members generally had no strong view about the specific details of the Amendment Rules. We also fully understand members' concerns about the professional investor regime, particularly the monetary thresholds, and their comments that these thresholds should be reviewed. During the scrutiny, Dr CHIANG Lai-wan issued a letter to the Government. She requested that the monetary thresholds for corporation and individual professional investors be reviewed and revised as soon as possible, so as to keep up with market changes and continue to protect investors. A number of members also expressed relevant views on this issue. As far as we understand, Mr James TO hopes that SFC will review the monetary thresholds at the earliest opportunity.

In view of the concerns expressed by the Council, we replied to the Chairman of the Subcommittee on 29 June, undertaking that SFC would commence a review of the monetary thresholds under the professional investor regime in 2019. In accordance with the established practice, SFC will properly consult the stakeholders on the proposals resulting from the review to avoid causing chaos in the market because of any hasty change, and compromising the protection for investors as a result.
As we explained in the Subcommittee, the monetary thresholds, which play an integral part in the professional investor regime, provide a simple and easy-to-interpret method for defining whether an individual or a corporation is a professional investor. Moreover, market participants are very familiar with the way these thresholds work. As such, if we are to revise the monetary thresholds, it will be necessary for us to conduct a comprehensive review in advance. And in doing so, we must conduct careful studies, consider transitional implementation and carry out consultation before we have grounds for proposing any amendments. In fact, SFC always pays close attention to the operation of the professional investor regime, conducting regular reviews on various areas under the regime (including the monetary thresholds relevant to the qualification of professional investors) and carrying out public consultations in due course. In the public consultations in 2009 and 2014, the respondents all agreed that there was no need to change the monetary thresholds.

The purpose of the present Amendment Rules is to standardize the modifications granted by SFC pursuant to section 134 of SFO on request by individual intermediaries. The previous public consultation merely centres on the proposal to standardize these modifications. In order to avoid causing chaos in the market because of any hasty change, we consider it inappropriate to modify the monetary thresholds under the Amendment Rules on this occasion.

Mr TO has proposed two resolutions, one being the repeal of the Amendment Rules and the other the deferral of the commencement date to 1 January 2020. Both of them are not in the interests of the market. As I pointed out earlier, the Amendment Rules, with the aim of creating an environment conducive to fair competition and transparency in the market, should be implemented as soon as possible. Further, repealing the Amendment Rules will not bring any change to the existing monetary thresholds. Conversely, after the previous consultation on standardization, any temporary alteration or change may confuse the market, and may arouse some unnecessary confusion and worries in the industry and among investors. For this reason, we urge Members to oppose these two resolutions. Please support the Amendment Rules instead, thus enabling them to be implemented soon.

Thank you, Deputy President.
MR HOLDEN CHOW (in Cantonese): Deputy President, in my capacity as Chairman of the Subcommittee on Securities and Futures (Professional Investor) (Amendment) Rules 2018 ("the Amendment Rules"), I now report on the deliberations of the Subcommittee.

The Amendment Rules aim at updating the Securities and Futures (Professional Investor) Rules ("the PI Rules") to incorporate about 40 modifications that the Securities and Futures Commission ("SFC") has granted over the years in response to requests made by individual intermediaries, so as to make the relevant modifications universally applicable, for the sake of ensuring consistency in the Rules' application and providing a level playing field for all intermediaries. The purpose of the relevant amendments is to expand the types of individuals and corporations that are to be regarded as professional investors, and the records which may be considered in ascertaining whether an individual or corporation is a professional investor.

The Subcommittee has held three meetings with the Administration and SFC to discuss the following issues:

(a) ascertaining the criteria for an individual or a corporation to qualify as a professional investor;

(b) the circumstances under which holding companies and their subsidiaries qualify as professional investors;

(c) the choice of investment products available to professional and non-professional investors; and

(d) protective measures tailored to professional investors and non-professional investors.

In view of the escalating property prices in recent years, some members have noted the monetary thresholds for qualifying as professional investor under the prevailing PI Rules, that is an individual having a portfolio of not less than $8 million or a corporation having a portfolio of not less than $8 million or total assets of not less than $40 million, are too low. A number of less than sophisticated investors who lack investment experience or knowledge in more complicated investment products are hence counted as professional investors and made to face greater investment risks. Members hold that the monetary
thresholds have been in place for over 10 years, the Government and SFC should expeditiously review and revise them upwards, to ensure the levels can keep up with market changes. A member suggests SFC step up investor education, to deepen the public's understanding of the rights and risks of becoming a professional investor.

Furthermore, some members hold that one's investment experience and knowledge in different investment products should be taken into account when determining the qualification of individual professional investor, such that people with in-depth knowledge and rich investment experience can be qualified as professional investors despite their not meeting the monetary threshold of $8 million. Some members have suggested SFC strengthen its work on approving investment products, including rating investment products based on their risk levels and advising on the suitability of products for various investors in a bid to boost investor protection.

SFC has indicated that monetary threshold is an easy-to-understand method for evaluating whether an individual or corporation qualifies as a professional investor. Yet, intermediaries have to conduct the know-your-client procedures to ensure the professional investor qualification of their clients. When providing service for professional investors, intermediaries should carry out due diligence and comply with the suitability requirement. They should also exercise professional judgment to assess whether the products they recommend are suitable for their clients after taking into account the clients' relevant circumstances, such as their investment objectives, investment horizon, investment knowledge and experience, risk tolerance, and financial situation.

With regard to members' comments on reviewing the levels of monetary threshold under the PI Rules and on the protective measures for professional investors and non-professional investors, the Administration and SFC have advised that they will actively study the issues. However, as any alterations to the existing regime will have considerable impact on investors and the operation of the industry, they must be considered in a holistic manner and raised after a due consultation process. As the Amendment Rules aim to standardize the modifications granted previously by SFC to individual intermediaries, the Administration and SFC hold that the relevant amendment proposals should be realized first.
In view of the lack of a clear commitment from the Administration and SFC to conduct a review on the monetary thresholds adopted under the professional investor regime and provide a timetable, Mr James TO has indicated that he will give notice to move a motion to repeal the Amendment Rules.

The Administration wrote to the Subcommittee subsequently on 29 June 2018, advising that SFC would review the levels of monetary threshold under the professional investor regime in 2019. The relevant correspondence was then circulated to all members and other Members on the same day for their information.

It is suggested in the Amendment Rules that if a holding company wholly owns a subsidiary which has met the total asset level of $40 million, the holding company itself will also qualify as a professional investor. With regard to this, a member has expressed concern that as shareholders of the holding company may not know that the company would become a professional investor under the Amendment Rules, the suggestion might bring risk to shareholders of the holding company. Furthermore, members have also asked how the shareholders of the holding company can know if the company has qualified as a professional investor, and how intermediaries can confirm that these shareholders have been informed of the company's status as professional investor.

SFC has explained that, as a holding company has control over the assets or portfolios held by a wholly-owned subsidiary, a holding company which wholly owns another corporation meeting the relevant monetary threshold should also be regarded as having met the relevant monetary threshold to qualify as a professional investor. SFC reminds directors and shareholders of a corporation to review the corporate governance structure to ensure that the shareholders of a corporation are properly informed and aware of the implications when the corporation becomes a professional investor pursuant to the Amendment Rules.

SFC will additionally issue a circular which requires intermediaries to obtain confirmation from the authorized person(s) of the holding company of a corporate professional investor that the shareholders of that holding company have been informed of its corporate professional investor status, prior to providing services to the holding company.

Deputy President, below is my personal opinion on the Amendment Rules.
Deputy President, regarding the Amendment Rules, I may have to spend some time on their background to allow for an easier understanding. Let us start from the very beginning, professional investors, as we can imagine, may indeed have more chances to buy or invest in different products, some of which may be more complicated. In other words, he or she can have more choices. The delineation of professional investors and non-professional investors has in fact been laid down expressly in the rules concerned. Then, what is the purpose of raising the amendments in question? Over the years, there have been a number of intermediaries, banks and dealers who asked SFC for approving them or their clients to become professional investors under various circumstances. Empowered by the regulations, SFC exercised its discretion and accepted such applications. With time, a good number of flexible modifications have been generated by discretion. When these modifications accumulate to a certain amount, it is high time we worked on their documentation. We all understand the strength of documentation: it brings about standardization and eliminates disputes. It is something as simple as this. Simply put, even if the Amendment Rules are not brought up today, such applications can still be dealt with by SFC's discretion as what have been done before. This essentially is the case. What we are doing today is just documentation, standardization and clarification for providing some degree of certainty.

During the discussion, many Subcommittee members have indeed made use of the chance to express a lot of valuable comments, including those on a worrying scenario where non-professional investors become professional investors all of a sudden because of the Amendment Rules in question, and thus suffer from a reduction in protection. Dr CHIANG Lai-wan, in particular, has expressly delivered a rather strong opinion. She has stated that the present-day $8 million and $40 million thresholds, which have been put in place for many years, are now outdated. Hence, she has asked for a comprehensive review. Deputy President, about the $8 million threshold for individual investors, in fact we can easily understand it as cash or personal investment portfolio. Of course, we also doubt if the amount includes insurance as many insurance policies in the market contain certain investment elements. However, the Government has told us that insurance is not counted towards the monetary threshold, nor is property included. This indeed has to be clarified. But then, Dr CHIANG Lai-wan has also raised an important point and that is, property is included in the $40 million threshold for corporation. Given the escalation of property prices in recent years, an opinion has it that the level of threshold should be adjusted.
Of course, I have listened to a lot of valuable comments made by Mr James TO. His opinions probably agree with those of Dr CHIANG Lai-wan, and especially the views on the protection measures for professional investors and non-professional investors. I have also pointed out clearly in the meetings that SFC should be more proactive in strengthening the approval of various investment products, and it is particularly important to protect non-professional investors. Meanwhile, in connection with professional investors, SFC should not fail to reinforce the regulation of various products and risk evaluation, as it is insufficient to rely solely on the intermediaries' conduct of the know-your-client procedure.

Deputy President, after the conclusion of the Subcommittee, the Government has written to Dr CHIANG Lai-wan and the other members, pledging explicitly to carry out a review of the asset amount in 2019. I believe this is the Government's response to the demand made by Dr CHIANG Lai-wan, Mr James TO or some other members and the review is probably welcomed by all of us. Therefore, I personally find this undertaking very important. If the Government will certainly conduct a comprehensive review in 2019, I believe we can safely support the amendments today.

As for the two amendments raised by Mr James TO, including the repeal of the Amendment Rules and the deferral of their effective date for two years, I have the following views: frankly, as I have said, the previous practices will continue to be adopted if the Amendment Rules are not moved today. But the amendment this time facilitates documentation and standardization which is desirable. Secondly, we have to be extremely prudent with regard to all changes that concern financial measures, and special care should be given to those which may give rise to market speculation or fluctuation. Exactly one month ago, the Hang Seng Index stood at 31 103 points, and the Index has fallen two to three thousand points in a month to 28 300 points when the market closes today. Basically, I want to point out that the market has been quite unstable recently, it is not rising continually all along. Donald TRUMP has meanwhile launched the Sino-US trade war. Given the instability of the market now, honestly it is a big concern of me that any change in financial measure may convey to the market a message of uncertainty and rock the market further. I do not think this is appropriate. Therefore, I would like to ask all of us to pay attention to the impact in this respect. I speak in support of the Amendment Rules put forth by the Government and in opposition of the two amendments raised by Mr James TO, for the reasons stated above. I so submit.
MR CHAN CHUN-YING (in Cantonese): Deputy President, I must first make a declaration concerning this proposed resolution. I am working in a commercial bank which is one of the many categories of intermediaries. Stock brokers, investment banks, fund managers, investment consultants and so on are also intermediaries. That means financial institutions are not the only intermediaries.

In the Subcommittee—you know, I am one of its members—many members are very concerned about one question, the question of whether the Financial Services and the Treasury Bureau and also the Securities and Futures Commission ("SFC") will still review the existing definition of liquid assets applicable to individual and corporate professional investors, and consider raising the defined level after the passage of this proposed resolution. As pointed out earlier by Mr Holden CHOW, Chairman of the Subcommittee, the Administration has undertaken to conduct a review in 2019. In fact, at one Subcommittee meeting, I also pointed out this issue. You see, due to soaring property prices, a property owner may easily own over HK$8 million in liquid assets if he has sold an un-mortgaged small apartment on Hong Kong Island but is yet to buy a new one. Moreover, the inflation over the years also calls for timely actions to review the existing definition of "professional investor". At the Subcommittee meetings, some members mentioned various problems that may possibly arise from the existing definition. For example, an investor possessing properties worth tens of millions of dollars cannot possibly be treated as a "professional investor" if he holds less than HK$8 million worth of liquid assets. Another case we can imagine is that even a person having over 50 years of investment experience cannot possibly be treated as a "professional investor" if he holds only $7 million in liquid assets. So, we must carefully study all these problems, so as to ascertain whether the existing definition needs any further fine-tuning.

That said, should we say that before the completion of such a review, the Legislative Council should reject these legislative amendments? To answer this question, we need to look at what these amendments are about. As Subcommittee Chairman Mr Holden CHOW stated earlier, SFC has approved a number of modifications based on the requests of various intermediaries over the years. The amendments now under discussion are simply meant to codify and standardize these modifications. In other words, certain intermediaries have long since been using the definition set out in the proposed legislative amendments to determine whether a client is to be classified as a professional investor. The voting down of the present amendment proposals will mean the
persistence of inconsistent definitions adopted by different intermediaries in the market. Is this what we want to see? Please judge for yourselves.

In the course of scrutiny, some members referred to the fact that the holding company of a corporation is to be automatically qualified as a professional investor. According to them, certain risks will result if the status of the subsidiary as a professional investor will make the holding company automatically so qualified. They thus think that the Government should put in place a confirmation arrangement. The Administration is willing to heed good advice and has hastened to incorporate an appropriate arrangement. I therefore wish to take this opportunity to commend those officials of the Financial Services and the Treasury Bureau and SFC who are responsible for the legislative amendments. Actually, the amendments are not complicated, but they still consulted the market players, spending long hours on briefing Members and answering all their questions well beforehand. They also responded promptly to all sensible proposals raised by members at the meetings. The amendments contained in this proposed resolution are meant only to resolve the absence of any consensus on the review of the asset threshold for professional investors. I therefore do not support any changes to the proposed amendments, nor do I agree to deferring the commencement date of the amendment rules.

Also, I wish to make it very clear that I do not buy the points raised by certain members at the meetings. They believe that if the threshold remains unchanged, intermediaries will use it as a convenient tool to sell products to investors indiscriminately. In fact, I immediately pointed out back then that the asset threshold for professional investors should only be taken as an indication of their greater ability to bear potential losses, and that qualifying as a professional investor will only give an investor greater freedom in choosing investment products.

Since the Lehman Brothers incident, the regulatory authorities and intermediaries have jointly introduced many measures to protect investor interests. These measures include the requirements for intermediaries to understand investors' risk appetites, to rate all products meticulously, and to assess the suitability of the products for the clients. Since June last year, the requirement of suitability assessment has become—I am speaking on behalf of the banking sector—a clause in the account opening document between a bank and its client, carrying legal effect. Banks are also required to record in detail
the transactions conducted, for example, by making audio recording, and to
disclose the commission for the intermediary. As for sales staff appraisal,
compliance is also included. The investor protection measures are now very
different from those in the past.

Our discussion focuses on the definition of a professional investor. It is
only about adopting a benchmark to determine whether certain people may
qualify as professional investors. Therefore, it is not necessary for us to assume
that an investor will definitely be misled if such qualification is granted to him.
Some Members fear that something similar to the Lehman Brothers incident may
happen to professional investors, or that some people may be misled to become
professional investors. I dare not say that these situations will not happen in the
future, and in order to avoid these risks, the authorities must make effective
publicity and education efforts, just as I repeatedly emphasized to the
Administration at the Subcommittee meetings. This is to help the public know
and understand that they have to be aware of various risks which they may need
to bear when they enjoy the right to a wider choice of products upon reaching the
assets threshold for professional investors, and that they themselves must make
correct choices. This is the view I expressed in the Subcommittee and I wish to
reiterate this point today so that the Members present in this Chamber will know
about it.

Deputy President, I so submit.

MR KENNETH LEUNG (in Cantonese): Deputy President, we are now
discussing the two resolutions proposed by Mr James TO in relation to the
Securities and Futures (Professional Investor) (Amendment) Rules 2018 ("the
Amendment Rules").

The Amendment Rules are quite simple, in the sense that they just seek to
incorporate some practical suggestions raised by intermediaries over the past few
years into the Securities and Futures (Professional Investor) Rules ("the PI
Rules"). Mainly, the amendments aim to expand the types of individuals and
corporations that are to be regarded as professional investors. The thresholds of
having a portfolio of over $8 million or total assets of not less than $40 million
will remain unchanged. The major change lies in the requirement for
corporations. For instance, under the existing rules, a corporation will qualify as
a professional investor only if its sole business is investment. But with the
present amendments to the PI Rules, a corporation will qualify as a professional investor as long as one of its principal businesses is investment. Of course, corporations must also meet the other thresholds in relation to investment amounts.

At the three meetings of the Subcommittee, many members queried the need to amend the PI Rules from different perspectives. As for me, I have just one fundamental question. When we regard certain people as professional investors under the Rules, are we in fact giving them a kind of burden, or plunging them into more risks? Mr Holden CHOW has just explained that if a person is qualified as a professional investor, an intermediary selling investment products to him may just concentrate on products that require no authorization from the Securities and Futures Commission ("SFC"). Such products include complex derivative products and unauthorized debentures, etc.

In fact, it is not at all scientific to assess a person's risk tolerance on the basis of his investment amount or aggregate asset value. We of course do know that apart from issuing the PI Rules, SFC has also published other guidelines, requiring intermediaries to consider the investment experience, education level and risk tolerance of an investor before selling any high-risk products to him.

Actually, to be fair, if my client is a professional investor, I am very likely to think, at the very beginning, that I can sell some high-risk products to him. But this is not entirely true, because SFC expressly requires that even if a client is a professional investor, the intermediary concerned (be it a bank or a broker) must still follow the due diligence procedure of asking the client to answer a series of questions in a detailed questionnaire on his previous investment experience and the products he invested in. But how is such a questionnaire completed in reality?

Deputy President, I do not know if you have ever seen the movie "Life Without Principle", which was screened several years ago and starred by LO Hoi-pang and SOH Hang-suen. SOH Hang-suen plays a victim in the movie, and in one scene, an intermediary is doing the due diligence procedure with her. The whole process is tape-recorded, and the intermediary, which is a bank, also asks her questions about her previous investment experience. But the point is that there are as many as 50 to 60 questions, and she has only a few seconds to answer each one before the intermediary ticks a box. When the procedure is
handled that way, a person cannot possibly understand what kind of procedure is going on or the consequences of the procedure, even if he has several million dollars or even an investment portfolio of $10 million.

Actually, a look at the Lehman Brothers incident or even the sub-prime mortgage crisis in the United States can tell us that some products in the market simply should not be sold to any investors. The reason is that they are nothing but gambling products, products involving contracts for gambling. In other words, such products must not be sold under any circumstances to any investors, professional or otherwise.

I know a definition of "professional investor" is also found in many other jurisdictions, and I think if we are to review our own definition, SFC may need to reconsider whether we should continue to rely on this strategy, this definition, as a means of protecting investor interests. Or, as also asked by some Members, should we instead seek to protect investor interests by defining the nature of different investment products? Actually, there is nothing so complicated about this approach. Drawing up a simple definition to classify certain investment products as high-risk will already suffice. In this way, I think whenever an intermediary sells any such products to any investors, professional or otherwise, it must explain clearly to them that the products concerned are high-risk ones, and they are making the investments of their own free will.

Obviously, we should not rely solely on this approach, because very often, intermediaries do not have much time to conduct detailed risk assessments, and also, no institutions can possibly assess the risks of all market investment products requiring no authorization from SFC. So, this tactic should just be one of the solutions. We must still step up investor education in the meantime. You know, being a professional investor does not give a person any exclusive right as such, and the status is in a way just an indication that such investors can withstand higher risks. So, people who are qualified as professional investors must not be complacent, thinking that they are very capable. The status will only give people opportunities to invest in some investment products which are of high risks or may plummet below the initial prices.

I think SFC must make publicity efforts to tell investors in general that the status as a "professional investor" is itself not a professional qualification as such,
and that it just serves to let the person concerned know that some people may sell some high-risk products to him. In the end, the person may have his fingers burnt, or lose his principal, even.

Speaking of the issue of reviewing the PI Rules, I must say that though SFC has undertaken to do so in 2019, it has not yet given us any information about the direction and scope of the review. Mr James TO has proposed these two resolutions, and I must say I support both their spirit and underlying principle, because the existing Rules are far too outdated and operate solely on the very simplistic basis of allowing a person to buy such high-risk products as long as he is a professional investor. I know that very often, when intermediaries do the due diligence procedure, they do not … I am not saying all intermediaries are like this. In fact, many intermediaries do follow the procedure whole-heartedly and dutifully. But the thing is that if a handful of intermediaries are not like this, the rights and interests of investors will be adversely affected. Some investors may even lose all their pensions.

I certainly think that the underlying principle and practicability of the two amendments proposed by Mr James TO are both worthy of consideration, but I have nonetheless decided to abstain from voting on them for reasons of one question. Can the situation be any better if there is no such modification? I do not think so. True, I do not agree with those people who see the Rules as time-tested. But there is not yet any compromise solution. So, I have no alternative but to abstain from voting on this resolution.

Deputy President, I so submit.

DR CHIANG LAI-WAN (in Cantonese): Deputy President, today's discussion involves the Securities and Futures (Professional Investor) (Amendment) Rules 2018 ("the Amendment Rules"). I found the principal Amendment Rules somewhat slipshod, which were probably enacted following the occurrence of the Lehman Brothers minibond incident in answer to people's call for better protection for non-professional investors by introducing legislative amendments then. Today's discussion has something to do with the principal Amendment Rules.
Actually, I share the various views raised by Mr James TO at the meeting of the Subcommittee on Securities and Futures (Professional Investor) (Amendment) Rules 2018 ("the Subcommittee") except for that he finds it unacceptable if the Government refuses to withdraw or repeal the Legal Notice in question. Yet, we think the opposite upon critical examination of the situation. In the first place, we opine that the current amendment will not have any impacts on individual investors as it seeks to expand the definition of corporations as professional investors instead.

I wrote to the authorities and received their reply in which they expressed the willingness to review in full the legislation next year (i.e. 2019). I do have some expectations in this connection, hoping that the authorities will review meticulously in full the legislation when introducing legislative amendments next year. As numerous Members have pointed out in their speeches just now, an individual only needs to have total assets of $8 million falls within the definition of "professional investor" while a corporation as a professional investor only needs to have total assets of $40 million to qualify as a professional investor.

Immediately it crossed my mind back then that an average family may, having regard for the fairly exorbitant property prices but not knowing what the future market trend will be like, proceed to sell the only housing flat it owns. Suppose the family's savings account balance happens to stand at $8.01 million after the flat is sold and the account holder becomes a qualified professional investor then. In this case, all banks, intermediaries, securities firms, deposit-taking companies, etc. may promote their products to the account holder. Yet, as we all know, the financial market is highly volatile. People are happy when the market booms, but the majority of investors may not be able to withstand the impacts once the market situation reverses. Thus, I insist that the authorities must review afresh the definition of "professional investor" as a professional class as prescribed in relevant legislation and the lower limit of an individual professional investor's assets which is set at $8 million.

In fact, the amount itself is quite ridiculous since the value of the properties owned by individual professional investors may easily exceed $8 million or even $10 million. Suppose those investors have $2 million in cash in addition to the properties, will they qualify as professional investors then and be allowed to purchase certain professional investment products? This has posed a question here as it is unreasonable if they are barred from purchase of those products
simply because they hold less than $8 million in cash. The current home of Mr James TO, for instance, may worth $20 million but Mr TO only has several million dollars of cash on hand. In this case, is Mr TO deemed unqualified to purchase those products? This is so unfair indeed. Therefore, having regard for this respect alone, we consider a review necessary.

(THE PRESIDENT resumed the Chair)

Besides, the conduct of two kinds of assessments are generally required in promoting investment products to investors. The first one is the assessment on an investor's risk tolerance level which is rather crucial, and the second being the assessment on the risk exposures of a recommended product. Nevertheless, I find it unfair that both assessments are currently done by intermediaries. As regards the assessment on the risk tolerance level of the investor, it is easy to some extent for the intermediary and the bank to make assessment based on the value of the investor's assets. But the point is, this may give rise to the issue of the intermediary speaking favourably of the recommended product of which the risk exposures is also assessed by the intermediary himself.

Naturally, the product must be deemed fine by the intermediary, or it will not be recommended to the investor at all. Thus, I am still of the view that the assessment on the risk exposures of investment products should be carried out by the Securities and Futures Commission ("SFC") with the products' risk rating specified so as to provide investors with more information. That way, investors will be informed of which products are suitable for them. Mr Christopher CHEUNG had also raised similar views who opined that the SFC should make clear for public reference as to which products are suitable for investors in general and which are only suitable for purchase by professional investors. This will be much better and I hope the authorities will comprehensively examine in depth matters in this regard when reviewing the legislation in 2019.

Regardless that a lot of my opinions voiced today are very similar to Mr James TO's views, there is still difference between us mainly in terms of political affiliation: Pro-establishment camp versus opposition camp. First, individual investors will not be affected by the current amendment which seeks to
expand the definition of corporations as professional investors since the lower limit of asset value for individual investors remains unchanged at $8 million. Moreover, only until 2020 will the Legal Notice come into effect, where the asset threshold for them still remains at $8 million. Therefore, it makes no difference whether or not the Legal Notice is withdrawn. Second, the authorities has already undertaken to conduct a review in 2019.

Hence, as I have said, Mr James TO, there is still difference between pro-establishment Members and opposition Members despite the similarities in our various views because we will first negotiate with the authorities before taking other steps. Given that the authorities have vowed to conduct a review ion 2019, I trust that they will never dare to lie to me even though they may lie to the whole world. How dare they lie to DAB (Democratic Alliance for the Betterment and Progress of Hong Kong) after all? Nevertheless, according to the opposition/pan-democratic Members, the entire Legal Notice has to be repealed if the required asset value remains unchanged. And I think they have indeed suggested making an impulsive move.

For the time being, I think repealing the Legal Notice will not do any good to the expanding of the definition of corporations as professional investors or enhancing of flexibility in business operation for corporations as professional investors. Hence, I support the amendments moved by the Government but oppose Mr James TO's motion which proposes to repeal the gazetted Legal Notice.

I so submit.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now call upon the Secretary for Financial Services and the Treasury to speak.
SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I thank Members for giving different views on the Securities and Futures (Professional Investor) (Amendment) Rules 2018 ("the Amendment Rules"). I will give a consolidated response to their views. Some Members have questioned why the monetary thresholds could not be amended right away at this stage. According to the Securities and Futures Commission, any alterations to the existing regime, including raising or amending the existing monetary thresholds, will have considerable impact on investors and the operation of the industry. The Amendment Rules that we have tabled for the Legislative Council's scrutiny is to standardize the modifications granted by SFC to individual intermediaries under section 134 of the Securities and Futures Ordinance ("the Ordinance") over the years by incorporating such modifications into the Securities and Futures (Professional Investor) Rules ("the PI Rules"). Actually, the public consultation conducted last year and the consultation conclusions released this May, both by SFC, were on the standardization proposal only.

We will need to go through a process of detailed consideration, due consultation, and in-depth study for the formulation of the proposed monetary thresholds.

As Members have heard just now, according to the Government's reply dated 29 June to Chairman of the Subcommittee on the Amendment Rules, in response to members' concern, SFC has pledged to commence a review of the monetary thresholds under the professional investor ("PI") regime in 2019. The review and consultation work will be conducted in high transparency. There is no question of procrastination by SFC.

We know that some Members have questioned the adoption of the monetary thresholds as the only criterion for determining the qualification of an individual or corporation as a PI. There have also been suggestions that investment experience as well as the experience or qualification of investors should also be incorporated into the PI regime. In its 2019 review, SFC will continue to welcome views from the market and the public, and to take full account of the views received.

Some Members think there is a need to protect shareholders of holding companies. Under the Amendment Rules, a holding company will become a PI
as a result of the PI status of its wholly-owned subsidiary. SFC understands the view that shareholders should be duly protected and properly informed if and when a holding company becomes a PI.

In view of this, SFC has committed in the consultation conclusions of May this year to remind directors and shareholders of a corporation to review the corporate governance structure. This is to ensure that shareholders of a corporation are properly informed and are aware of the implications when the corporation becomes a PI pursuant to the Amendment Rules. SFC will also issue a press release to remind the public of the same when the Amendment Rules become effective this Friday, and will provide more investor education in this regard.

SFC has further reviewed the situation in response to Members' views. Apart from the measures mentioned above, SFC will also issue a circular when the Amendment Rules become effective on Friday. Prior to providing services, intermediaries will be required to obtain confirmation from authorized person(s) of a holding corporation that the corporation has informed the shareholders of its corporate PI status by virtue of the PI status of its wholly-owned subsidiary.

President, the Amendment Rules that we have tabled for the Legislative Council's scrutiny is to standardize the modifications granted by SFC to individual intermediaries under section 134 of the Ordinance over the years by incorporated such modifications into the PI Rules. The purpose is to ensure consistency in the application of the PI Rules and provide a level playing field for and increase transparency of the market. I implore Members to oppose the two resolutions and support the Amendment Rules to enable its expeditious implementation.

Thank you, President.

PRESIDENT (in Cantonese): I now call upon Mr James TO to reply. Then, the debate will come to a close.
MR JAMES TO (in Cantonese): President, after listening to the speeches and arguments of a number of Members and the Secretary, especially the points of view of the pro-establishment camp and the opposition camp or the democratic camp as mentioned by Dr CHIANG Lai-wan, I strongly feel that the problem does not lie in the standpoint of the pro-establishment camp and the democratic camp or the opposition camp, but in the viewpoint of individual Members. Not a lot of Members from the democratic camp have spoken anyway.

I have been a Legislative Council Member for over 20 years and have strong feelings towards the legislative amendments proposed in this Council in relation to the financial crises, especially the Lehman Brothers crisis. I believe that if Mr Abraham SHEK is here, he will immediately jump up and say something after listening to what I said just now. But obviously, he does not have any chance now. People may now think that in this flamboyant property market with excessive selling of properties—we have to bear in mind that a flat worth $10 million-odd is already considered as "the poor men's favourite"—if you sell a flat worth a few million dollars, someone can persuade you to consider being a professional investor, and the simple reason is that he has got some worthwhile investment for you.

I know that after the Lehman Brothers incident, a few more procedures, which I can repeat from memory, were added in the sale of investment products. Of course, the China-United States trade war will have an impact on the present investment environment which we can all feel. If you ask the market players, they will also tell you that the market can actually be very volatile. The International Monetary Fund also calls upon us to be very careful in investment. At this moment when the property prices have attained such a high level and the China-United States trade war is just around the corner, we should review the Securities and Futures (Professional Investor) Rules ("the PI Rules") without delay. In fact, I only hope that the Government can be more concerned about this issue. Even though the Government has undertaken to start reviewing the PI Rules in 2019, this will not do any help. If there is a consensus from people across the political spectrum in support of a review, should the Government conduct a review immediately?

The mentality of the Government is that priority should be given to doing business, although it is not the Government but the financial institutions which will do business first. Let us think about it. It is another set of logic to let them
do business first. After selling a housing unit, a person will have over $8 million in cash, and the Government's mentality is to let those financial institutions do business before reviewing the PI Rules in 2019. However, it will be 2020 when the Government has finished the review. At that time, will the market be collapsing? It is surely fine if no one has been persuaded to become a professional investor who would then purchase some investment products that can only be purchased by professional investors. However, we have to learn the lesson.

I know that Mr CHAN Chun-yung from the financial sector is a conscientious person, but the problem is that there are many licensed financial institutions in the market. In fact, back then in the banks selling Lehman Brothers products, many managers and frontline staff involved in the selling process also felt very guilty. They did not want to deceive the clients. They were only arranged by their supervisors to attend two lessons during which they had seen 14 slides, for example, before they were instructed to sell the products to clients. They were asked to say that the products were very safe with stable returns, and then a lot of clients purchased the products. That was the process. The staff will tell a client that there are some worthwhile investments or brand new products. But the staff will say, "Excuse me, madam, I can only continue if you are a professional investor. I really cannot talk about the products anymore unless you have become a professional investor by signing a document." The process afterwards can be arguable. For example, what is meant by "suitability" of a product for investment to a customer? Under current practice, products are not assessed by the Securities and Futures Commission ("SFC") but by the banks. Hence, the last part of the procedures may not be so hard and fast, and we can still argue about the meaning of "suitability" of a product for investment to a customer.

Besides, in the sound recording of the process, the client might sound very persistent. But in fact, before the recording started, the sales manager could have already persuaded or explained to the client that what he needed to do during the recording was to sound persistent, and if he did so, he could become a professional investor. The staff might not viciously intend to deceive the clients. They are only trained under a regime and then need to take up a quota of the products. Within a period of time, they have to work very hard in selling a certain kind of products to clients. They even have to tell the clients that although they will get a very handsome commission for successfully selling this
kind of products, the products will also bring generous reward to the clients, thus
constituting a win-win situation. During this period of time, if many people
have got some money by disposing of their housing units, some of them might be
persuaded to become professional investors who can purchase some products that
only professional investors can purchase.

Nevertheless, we have to know that the first threshold is basically hard and
fast, as it specifies that a professional investor needs to have a cash flow of at
least $8 million or the total assets, including properties, of at least $40 million.
One cannot cheat about that, because if the client can meet the criteria, he is
qualified, if not, he is not qualified. In case the client can meet the criteria, he
can pass this threshold. But once he has entered this zone, there will be some
leeway.

I do not mean that all frontline staff are evil and intended to harm the
clients, although there are also such banks and the Government is also aware of
their existence. When we look back at the Lehman Brothers incident, many of
the banks involved were sizable with good reputation. I do not want to mention
their names, otherwise each bank will have to send its representative to attend and
be questioned in the inquiry sessions convened pursuant to the Legislative
Council (Powers and Privileges) Ordinance. The frontline staff of these banks
were not thieves. They were only required under a regime to sell the products to
clients but many clients were victimized as a result. The present situation will
surely not turn out to be as disastrous as the last incident. In the Lehman
Brothers incident, one could purchase the products only if he had $200,000 or
$300,000. In fact, Jacky CHEUNG has lost a large amount of money. Let us
consider the example of a doctor who had been working very hard throughout the
day. He and his wife were in possession of two flats, while the second flat was
for rental purpose. Seeing that the property prices had risen, they sold one flat.
When they had a cash flow of $8 million, the bank could sell the investment
products to them and they then became professional investors.

I hope colleagues can understand that this actually concerns one's mentality
or whether you are serious or anxious to protect investors. Of course, based on
your experience and knowledge, you may really think that losing $6 million is not
a big deal to him as he originally had an asset of over $10 million and he will not
become homeless. If you have that mentality, you will not find this amendment
so important. When hearing what I said, even some reporters or people will not
sympathize with the person who has lost $10 million out of his total assets of $10 million to $20 million. They do not understand why I am so concerned about it.

If this amendment is passed, will there be any loss on the part of the general public? The only effect is the reduction in opportunities to sell those products by financial institutions. No matter how we respond, the Government still speaks with restraint. The Secretary is different from Mr Holden CHOW who was imprudent enough to say earlier that the market would fluctuate if the measures could not be implemented after consultation, and that other people would think there were problems with Hong Kong. My friends, this can scare those who are not familiar with this aspect. The Government did not bring out this argument. And please remember that the Government will not bring out this argument. Today, I will use "careful, cautious and to the point" to describe the Secretary. He will not criticize me or say that the market will fluctuate if the amendment is not endorsed, because this situation will actually not happen.

President, the problem is that my amendment does not go far enough. I was supposed to threaten the Government, but the Government says that even if my amendment is really passed, financial institutions will only lose out some opportunities. Why? Because the Government just said that financial institutions are granted permission to submit applications to SFC, and all the measures mentioned today are already in progress. My friends, under the circumstances, how can there be market fluctuations?

Besides, financial institutions will only have slight troubles, as individual institutions need to submit their own applications to SFC. If the subsidiary company is a professional investor, SFC will also allow the parent company to become a professional investor. The application can be submitted if a few conditions are met. Hence, if the PI Rules are amended, financial institutions will not lose out in their opportunities to do business.

My amendment today does not go far enough. But in fact, I am taking this opportunity to deliver my speech and point out the existing problems. I also hope that there will be coverage in the press, no matter as tiny as the size of a stamp. If it happens that a few thousand people are listening live broadcast of this discussion or our arguments in the meeting through the Legislative Council website, they may somehow be warned, and this is actually my objective.
Nonetheless, through this amendment, we can also see the anxiousness of a Member about whether the public will be cheated. I reiterate that I am not saying that banks will cheat the public. This is definitely not what I mean. In the whole system, if we adopt the existing threshold concerning professional investors, the frontline colleagues under a sectional framework will promote the products to clients while the account managers of the institutions will check the assets and property value of clients. If the manager is having a meal or chatting with a client who just sold his property, the manager will invite him to be a professional investor. The supervisor may require 10 managers to assist in promoting a certain product to clients. For example, there are 50 accumulator contracts and each manager is required to sell this product to five clients.

Of course, when promoting the product, the manager does not want the client to lose money. He finds that this product is suitable for a certain client and so he will tell the client that it is time to invest and be a bit aggressive. But the manager always bears in mind of securing stable returns while being aggressive. He does not want his client to lose money. If his client suffers any loss, he will also lose that client. However, even if his client suffers any loss, he could not do anything as he is required to find five clients by his supervisor. Having experienced the Lehman Brothers incident and participated in the deliberation of one or two legislative amendments concerned, I feel that a storm is brewing. Therefore, I hope that the Secretary can really understand the urgency in reviewing the PI Rules instead of waiting till 2019, because by the end of 2019, the market may have already collapsed.

President, I also want to take this opportunity to respond to one scenario concerning this amendment, as I did not mention it during my first speech of 15 minutes. In my view, this amendment is generally acceptable. If the subsidiary company is a professional investor, the parent company will automatically become a professional investor, and this is unrelated to most of the public. However, based on my experience in handling such cases, I can tell you that some families may be maintaining a small or large number of family trusts, ranging from a few hundred million to a few hundred billion dollars. Please listen, the subsidiary company, which is a professional investor, may involve the family branch of a grandson or a great-great-grandson. Sometimes a parent company is the family company. For instance, an old man has a number of branches in his family and he will not distribute his wealth. Many disputes over the estate have similar background, which I am not going to mention in detail. It may be no big deal if the subsidiary company, which is a professional investor,
has lost a few hundred million dollars in his investments. However, if a subsidiary company is a professional investor, the parent company will automatically become a professional investor. If this is not made known to each shareholder or each member of every family branch, the family assets in the amount of a few hundred million or even a few hundred billion dollars may be lost by the parent company of the senior branch of the family. The member from the senior branch of the family does not want to lose the money. He does not intend to do harm to the entire family. But someone told him that this was a reasonable investment and he made the same judgment.

PRESIDENT (in Cantonese): Before I put to you the question on Mr James TO's first motion, I wish to remind Members that if Mr James TO's first motion has been passed, he may not move his second motion.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the first motion moved by Mr James TO be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

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 Charles Peter MOK, Mr IP Kin-yuen, Mr SHIU Ka-chun and Mr KWONG Chun-yu voted for the motion.

Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Kin-por, Mr Steven HO, 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 CHUNG Kwok-pan, Mr Holden CHOW, Mr SHIU Ka-fai, Mr CHAN Chun-ying, Mr LUK Chung-hung, Mr LAU Kwok-fan and Mr Tony TSE voted against the motion.

Prof Joseph LEE and Mr Kenneth LEUNG 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 Alvin YEUNG, Mr Andrew WAN, Mr CHU Hoi-dick, Mr LAM Cheuk-ting, Dr CHENG Chung-tai, Mr Jeremy TAM, Mr Gary FAN and Mr AU Nok-hin voted for the motion.

Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mrs Regina IP, Mr Paul TSE, Mr Michael TIEN, Mr CHAN Han-pan, Ms Alice MAK, Mr KWOK Wai-keung, Dr Elizabeth QUAT, Dr CHIANG Lai-wan, Dr Junius HO, Mr Wilson OR, Ms YUNG Hoi-yan, Mr CHEUNG Kwok-kwan and Mr Vincent CHENG voted against the motion.
THE PRESIDENT announced that among the Members returned by functional constituencies, 28 were present, 5 were in favour of the motion, 20 against it and 2 abstained; while among the Members returned by geographical constituencies through direct elections, 29 were present, 13 were in favour of the motion and 16 against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.

PRESIDENT (in Cantonese): Mr James TO, you may now move your second motion.

MR JAMES TO (in Cantonese): President, I move that my second motion which seeks to amend the date of commencement of the Rules to 1 January 2020, as printed on the Agenda, be passed.

Mr James TO moved the following motion:


Schedule

Amendment to Securities and Futures (Professional Investor) (Amendment) Rules 2018

1. Section 1 substituted
   Section 1—
   Repeal the section
   Substitute

"1. Commencement
   These Rules come into operation on 1 January 2020.""

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the second motion moved by Mr James TO 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 Charles Peter MOK, Mr IP Kin-yuen, Mr SHIU Ka-chun and Mr KWONG Chun-yu voted for the motion.

Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Kin-por, Mr Steven HO, 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 CHUNG Kwok-pan, Mr Holden CHOW, Mr SHIU Ka-fai, Mr CHAN Chun-ying, Mr LUK Chung-hung, Mr LAU Kwok-fan and Mr Tony TSE voted against the motion.
Prof Joseph LEE and Mr Kenneth LEUNG 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 Alvin YEUNG, Mr Andrew WAN, Mr CHU Hoi-dick, Mr LAM Cheuk-ting, Dr CHENG Chung-tai, Mr Jeremy TAM, Mr Gary FAN and Mr AU Nok-hin voted for the motion.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 28 were present, 5 were in favour of the motion, 20 against it and 2 abstained; while among the Members returned by geographical constituencies through direct elections, 30 were present, 13 were in favour of the motion and 17 against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.

PRESIDENT (in Cantonese): 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 Mr LAM Cheuk-ting to speak and move the motion.
MOTION UNDER THE LEGISLATIVE COUNCIL (POWERS AND PRIVILEGES) ORDINANCE

MR LAM CHEUK-TING (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed, so that the House Committee ("HC") be authorized under the Legislative Council (Powers and Privileges) Ordinance ("the Ordinance") to order the MTR Corporation Limited ("MTRCL") to produce before HC on or before the date of the first HC meeting after the passage of this motion all the documents, photos, related records of meetings and correspondences and all other relevant documents and information presented to MTRCL by China Technology Corporation Limited ("China Technology"), Fang Sheung Construction Company ("Fang Sheung") and Leighton Contractors (Asia) Limited ("Leighton") in relation to the quality of the extension works of Hung Hom station of the Shatin to Central Link ("SCL").

President, why do I have to bring up the subject of SCL again and request an investigation into this incident with the power of the Ordinance? Members should remember that separate attempts by Dr CHENG Chung-tai and Ms Claudia MO earlier to invoke the power of the Ordinance to investigate into related subjects have been rejected by this Council, mainly the pro-establishment Members. In HC, a request by a pro-establishment Member Mr Michael TIEN to invoke the power of the Ordinance for HC to investigate into the construction quality of Hung Hom Station and To Kwa Wan Station was again rejected.

On this occasion, I propose to invoke the power of the Ordinance to request MTRCL to produce the relevant information and documents of the three companies mainly because the MTRCL-conducted internal investigation and the investigation report, which is open to the public, have completely omitted the statements made by a very critical company, China Technology. I think this is a very big loophole and will prevent the Legislative Council and the public from fully understanding the details of the allegations made by China Technology.

The bulk of the MTRCL report is made up of recollections of its related engineering staff. This is unimaginable to the professional engineering sector. MTRCL always emphasizes how professional and prudent it is in monitoring the construction quality. But then why is there no black-and-white documentation but only recollections of frontline MTRCL staff to recount the scandal of shortened steel bars and other non-compliant works?
President, the so-called investigation conducted by MTRCL is ridiculous. We all know that China Technology is one of the complainants. But in the investigation interview arranged by MTRCL for China Technology to recount the incident, legal representatives of Leighton were also present as observers. What were they observing? The representative of China Technology was complaining Leighton. The complaint is not about simple construction disputes, but about allegations concerning non-compliant works, or even criminal liabilities, of Leighton. MTRCL showed up with legal representatives of Leighton at the investigation interview to observe what the representative of China Technology had to say and then used the so-called confidentiality undertaking to stop China Technology from making further statements. What does this mean?

As the saying goes, "Big brother is watching you". But in this case, you are not being watched through CCTV, but by your superior, the contractor. They are here watching what their subordinate, the sub-contractor, has to say, warning him not to say anything casually; otherwise, he will sue for breaching the confidentiality undertaking. Can we call this a fair investigation? Does MTRCL actually want China Technology to disclose what they know without fear for MTRCL to conduct an investigation? Or, does it want to intimidate the complainant, China Technology, to stop talking through the legal representatives of Leighton?

MTRCL failed to stop China Technology from talking, so it concealed the part on China Technology in its report. According to MTRCL, oral statements made by the representative of China Technology in the interview contradict assurances given to it by Leighton. Following the interview which was observed by two Leighton representatives, Leighton strenuously denied such allegations. MTRCL has not seen any documentation or records which substantiates the allegations, and emphasizes that it does not form any opinion on the credibility or reliability of the allegations. Bearing in mind the nature of the statements, the inevitable limitations on the investigation to date and taking into consideration legal advice, MTRCL will pass the information relating to the statements to the Government separately.

In other words, MTRCL does not know the credibility of the statements made by China Technology. Since it does not know their credibility, it does not
include the statements in its report. But this is very strange. If MTRCL does not know the credibility of the statements, so it does not include them in the report, then how does it know that the statements made by Leighton are credible? According to Leighton, all of their construction works are done in compliance with contract requirements and are absence of any quality issues. Given that MTRCL also does not know the credibility of Leighton's statements, why does it list their statements in the report? Why does it even include in its report the denial of Leighton to the statements made by China Technology?

That is to say, MTRCL believes the statements made by Leighton and Fang Sheung. The statements made by China Technology contain grave allegations, and the complainant is a well-known figure in the engineering sector, especially among major subcontractors specializing in concrete construction. This person is brave enough to level allegations at his superior, the contractor, and even at Dr Philco WONG Nai-keung, the highest man taking charge of MTRCL projects, of integrity issues, serious monitoring problems and non-compliant issues. The complainant has made traceable allegations. I dare not say whether his allegations are the truth or the whole part of the truth, but at least he has stepped forward bravely, revealed his name and levelled allegations at them. He has to bear a big risk, a risk of libel. If his allegations are later proven wrong or untrue, it will be difficult for him to hold any footing in the engineering sector, and it will ruin his relationship with the most powerful and influential company (i.e. MTRCL) in Hong Kong.

If someone is brave enough to bet on his company and his reputation to make the allegations, his allegations are at least worth further studying and investigation. But MTRCL has completely covered up his allegations. Is it because his allegations are too hard to accept and too powerful that MTRCL dare not disclose them?

Fellow Members, we now at least have China Technology which is brave enough to step out. This at least has given us reasonable doubts and sufficient basic information to initiate a detailed investigation. This can be a criminal investigation, an investigation initiated by the Legislative Council or an investigation conducted by an independent commission of inquiry set up by the
Government. But regrettably, the Legislative Council has given up our due duty and responsibility to look into this matter.

Perhaps some Members are of the view that with an independent inquiry already initiated by the Government, our insistence on seeking the documents for our own investigation will affect the Government's inquiry. Fellow Members, I do not have this worry at all. If we manage to get this motion passed and obtain the related documents for an investigation, and even if this will affect the independent inquiry of the Government, the information we have obtained, including communication, records of meetings and investigations and correspondence between the three companies and MTRCL, will definitely be helpful to the Legislative Council and the public in having an accurate understanding of the incident, especially the allegations made the complainant and the defence made by the companies being complained.

We notice that Leighton and Fang Sheung have avoided responding to the incident and refused to come to the Legislative Council or meet with the media. I notice the Subcommittee on Matters Relating to Railways will invite the two companies to attend a meeting on the following Friday, but they have turned down the invitation. I do not know if the two companies will change their mind in the end, but the way they have embraced this crisis of major public interests is very irresponsible. Should the Legislative Council not at least make a humble request and ask MTRCL to produce all documents and information related to these companies?

President, to date, MTRCL is unwilling to dig open the problematic parts and take random sampling on the concrete to see the extent of the shoddy steel bars. MTRCL defended itself that the steel bars had undergone load tests. But according to several professionals, a load test cannot assess how shoddy the shoddy steel fixing works are and it can only assess the present status of the steel bars. It cannot predict how the status of the steel bars will deteriorate in 10, 20 or 30 years' time, and the platform is designed to support an useful life of 120 years. MTRCL is not only using the concrete to bury the non-compliant steel bars, but also bury the truth and its professional conducts and conscience. I am only making a very humble request with the power of the Ordinance to ask MTRCL to make public the related documents. This is a power and responsibility the Legislative Council should discharge.
President, a band in Hong Kong named Beyond has a famous song called *Changcheng* (Great Wall). The lyrics are about the Mainland Government hiding the truth of the "4 June Incident". In 2047, perhaps we should rewrite the lyrics of the song into the following:

"Carriage after carriage, rattling into Hong Kong afar,
The ancient wall in shatters;
Past glory, turning into a tragedy,
Countless steel bars in discontinuity;
Enclose the ageing tunnel, hide the truth,
Conceal the biased report, lay integrity and vision to rest."

President, we do not want to bury the truth any longer, nor do we want to keep our eyes and ears closed. The station is an important public works. It is the interchange station for the SCL and the Tuen Ma Line. There will be hundred thousand passengers passing through it every day. Why is MTRCL still unwilling to face up to the truth and find out the extent of the shoddy works done on the steel bars? Why are the companies and the related persons still unwilling to come out and face the public and the Legislative Council? How far and deep is their dark side? How many steel bars have been cut short? How long is the useful life of the platform? The lives of the people are not something to be made fun of. Which of the two, the lives of hundred thousand passengers each day or the reputation of some individuals and companies, is more important? I believe the answer is more than clear.

I call on all pro-establishment Members here to revive their long-buried conscience and support this important motion of mine. I hope we can at least do our part to find out the truth about this corner-cutting incident of the SCL. I so submit.

Mr LAM Cheuk-ting moved the following motion:

"That the House Committee ("HC") 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 to order the MTR Corporation Limited ("MTRCL") to attend before HC on or before the date of the first HC meeting after the passage of this motion to produce all the documents, photos, related records of meetings and
correspondences and all other relevant documents and information presented to MTRCL by China Technology Corporation Limited, Fang Sheung Construction Company and Leighton Contractors (Asia) Limited in relation to the quality of the extension works of Hung Hom station of the Shatin to Central Link."

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

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, the Shatin to Central Link ("SCL") is a territory-wide strategic railway project with a total length of 17 km. It consists of 10 stations and two sections, namely the Tai Wai to Hung Hom Section and the Hung Hom to Admiralty Section. After the commissioning of the Tai Wai to Hung Hom Section, it will link up the existing Ma On Shan Line and West Rail Line. A convenient railway service will be provided for passengers commuting between the East New Territories and West New Territories as no interchange is required. Moreover, the Tai Wai to Hung Hom Section will provide railway service to various districts such as Hin Keng, Kai Tak, Sung Wong Toi and To Kwa Wan which are not covered by railway network for the time being. It is anticipated that after the commissioning of the Tai Wai to Hung Hom Section, more than 20% of south-bound commuters who take the East Rail will switch to travel to Kowloon via the Tai Wai to Hung Hom Section. This will ease the current burden of the Tai Wai-Kowloon Tong Section of the East Rail, reduce the reliance on other modes of ground transportation and improve the traffic congestion problem. After the commissioning of the Hung Hom to Admiralty Section, the capacity of the cross-harbour railway will be increased with a view to alleviating the burden of the Cross Harbour Tunnel in Hung Hom and relieving the traffic congestion problem and reducing the vehicle emission problem in the existing road networks.

The SCL project is wholly owned by the Government and implemented under "a service concession" approach. The MTR Corporation Limited ("MTRCL") was entrusted by the Government to the design, construction and commissioning of the SCL project. The Government assumes the "check the checker" role to monitor and verify MTRCL's implementation of the SCL project. According to the Entrustment Agreement signed between the MTRCL and the
Government, the 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. MTRCL is responsible for the overall management of the SCL project whereas the Highways Department has been closely monitoring the work of MTRCL through a 3-tier monitoring mechanism in addition to engaging a Monitoring and Verification ("M&V") Consultant to assist in the monitoring work.

When the SCL 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. Furthermore, the Highways Department in collaboration with the M&V Consultant and relevant government departments will participate the pre-handing over inspection of the MTRCL before the relevant works are handed over to the Government.

The Government has been working in an open and transparent manner to deal with the SCL project, which is just like other railway projects. Since June 2014, the Government and MTRCL have submitted quarterly reports on the works progress to the Subcommittee on Matters Relating to Railways of the Legislative Council, and attended the subcommittee's meetings in response to queries from the Members. In the past, we had also reported in detail the problems we have encountered during the construction works in the quarterly reports, such as the discovery of archaeological artefacts in Sung Wong Toi Station, the delay in the Wan Chai site handing over schedule, the problem in removing the pipe piles at Wan Chai North site, as well as construction problems in the Hung Hom North Approach Tunnels, so as to allow Members and the public to know the works progress and all forms of challenges in the SCL project. The Government has been working in an open and transparent manner in the SCL project.

The expansion works of Hung Hom Station under the SCL project is carried out under Works Contract No. 1112 signed by the MTRCL and Leighton Contractors (Asia) Limited ("Leighton"). The works commenced in March 2013. As the project manager, MTRCL is required 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. In general, MTRCL should report to the Highways Department matters relating to the progress of works, the cost of works
as well as safety concerns. Moreover, MTRCL should also report various incidents to the Highways Department according to their severity, such as injuries of personnel and incidents which may cause public or media concerns. The Highways Department and the M&V Consultant will visit the sites of the SCL project 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.

The Government is very concerned about the steel reinforcement fixing works and other works in respect of the diaphragm wall and platform slab construction works at the Hung Hom Station Extension under the SCL project. As soon as the media covered the incident on 30 May this year, the Highways Department sent its staff to conduct a site inspection at Hung Hom Station in collaboration with the M&V Consultant. The Director of Highways met with senior MTRCL staff on 31 May and requested MTRCL to submit a report of the incident. Moreover, MTRCL agreed to employ an independent third-party expert to carry out load tests in order to verify the loading capacity and allay the concerns of the public.

As the works incident at the Hung Hom Station Extension under the SCL Project has aroused wide public concerns, the Chief Executive announced on 12 June this year that the Government appointed Judge Michael HARTMANN as Chairman and Commissioner of a Commission of Inquiry under the Commissions of Inquiry Ordinance (Cap. 86) to conduct an independent and comprehensive investigation in the Hung Hom Station incident. As soon as the Highways Department received on 15 June the incident report submitted by MTRCL as well as the relevant information, the matter was referred to the Police for follow-up as the Highways Department considered the incident might involve criminal elements.

Meanwhile, the Highways Department has set up a working group on 19 June led by the Director of Highways to review the Government's monitoring mechanism over the SCL project and to provide short-term and long-term recommendations on improvement measures. It is anticipated that the short-term recommendations could be drawn up in about three months. On the other hand, MTRCL announced on 21 June that the Capital Works Committee under the board of directors would review the management process and procedure of the SCL project with the aid of the MTRCL's project management system. MTRCL would engage a consultant to assist the Capital Works Committee to
conduct the relevant review. The board of directors have also directed the management of MTRCL to immediately enhance its monitoring and oversight of all contracts of the SCL project.

I believe Members know that the Chief Executive-in-Council has appointed a Commission of Inquiry to investigate construction problems at Hung Hom Station on SCL on 10 July under the Commissions of Inquiry Ordinance. The Chief Executive appointed Judge Michael HARTMANN as the commission's Chairman and Commissioner and Professor of Construction and Infrastructure Policy at University College London, Prof Peter HANSFORD, as Commissioner. The subject of the commission's inquiry will be firmly focused on the problems exposed in respect of the diaphragm wall and platform slab construction works at the Hung Hom Station Extension under the SCL Project. The inquiry will also be evidence-based to ascertain the facts and circumstances of specified construction works carried out at the Hung Hom Station Extension. In addition, the commission will also comprehensively review the relevant aspects of MTRCL's project management and supervision system, quality assurance and quality control system, risk management system, site supervision and control system and processes, system on reporting to Government, system and processes for communication internally and with various stakeholders, and so on. The Commission will also look into the adequacy of the Government's monitoring mechanism as well as the coverage of its regulatory control and the implementation thereof. The inquiry findings will, in turn, form the basis for the Commission to make recommendations on suitable improvement measures with the objective of promoting public safety and assurance on works quality. The Commission will submit a report to the Chief Executive within six months from the date of its appointment or such time as the Chief Executive in Council may allow.

President, the Administration does not support Mr LAM Cheuk-ting's motion. The Legislative Council (Powers and Privileges) Ordinance was enacted in 1985. Up to now, the Legislative Council only invoked the Legislative Council (Powers and Privileges) Ordinance less than 10 times for the setting up of investigation committees. Besides, each time the Legislative Council (Powers and Privileges) Ordinance should only be invoked with an absolute necessity. In the past, with a view to monitoring the Government, effectively summoning witnesses and obtaining information from individuals or organizations, the Legislative Council mainly invoked the Legislative Council (Powers and Privileges) Ordinance to look into incidents of extremely serious
nature, such as fatalities, major economic losses or conflict of interests involving high-ranking public officers.

We consider that we should attach great importance to safety issues. But we disagree that it is necessary to invoke the Legislative Council (Powers and Privileges) Ordinance. First of all, with regards to this incident, the Commission will conduct an independent, in-depth and comprehensive inquiry. It is anticipated that the Commission will examine all the related documents in detail, including documents, photos, relevant records and information submitted to MTRCL by the three parties, namely, China Technology Corporation Limited ("China Technology"), Fang Sheung Construction Company ("Fang Sheung") and Leighton. At the same time, the Police have commenced their investigation, and it is believed that the investigation will also cover the above and other relevant documents. Moreover, MTRCL has already expressed publicly that it would cooperate with the Commission's inquiry work. After considering the above points, it is fundamentally unnecessary for the Legislative Council to invoke the Legislative Council (Powers and Privileges) Ordinance to order MTRCL to provide the relevant documents. As a matter of fact, the hearing of the Commission will be conducted openly, thus the relevant information will be disclosed to the public in due course.

Furthermore, what the motion asks for is only the information submitted to MTRCL by the three parties, not the information the three parties have not submitted to MTRCL. If we compare such information requested by the motion and the information to be obtained by the Commission, the information requested by the motion is incomplete and incomprehensive, thus it may not necessary help Members to understand the incident. It there is any ambiguity or inconsistency in the records or information produced to the Legislative Council, people from China Technology, Fang Sheung and Leighton or other organizations may have to make a clarification or response, which will virtually make it an inquiry into those records and information. That is not only superfluous, it will also lead to the loss of focus or even affect the inquiry of the Commission and the investigation of law enforcement agencies. That cannot help the authorities to find out the truth of the incident, to resolve the issues and to make improvements. We consider the most appropriate and suitable approach is to let the independent Commission to ascertain the facts and make recommendations for future operations.

With these remarks, President, I call upon Members to oppose the motion.
MS CLAUDIA MO (in Cantonese): The Secretary's speech honestly made me laugh. Again, he talked about all the backgrounds leading up to the Shatin to Central Line ("SCL") scandal from the very beginning, such as its total length of 17 km and the discovery of heritage. He had spoken for 8 minutes 30 seconds before mentioning Mr LAM Cheuk-ting's motion. It looks like he regards Mr LAM Cheuk-ting's motion as a science fiction, and his earlier speech was totally irrelevant to it.

Why does Mr LAM Cheuk-ting find it necessary to propose this motion? The reason is that the public (including the Legislative Council) think that the MTR Corporation Limited ("MTRCL"), in particular, has hidden something from us in this regard. The Secretary only kept repeating what he had said last time. For example, he said that we must not casually invoke the Legislative Council (Powers and Privileges) Ordinance ("the Ordinance"), and it should only be invoked in cases with casualties, significant economic losses or conflicts of interest among public officers. Frankly speaking, how can the Secretary possibly say at this moment that no public officer whosoever is involved in conflicts of interest in this incident? Neither should he wait until incidents involving casualties and significant economic losses have occurred before taking actions.

What the Secretary said towards the end of his speech sounded even more baffling. He asserted that the authorities had already set up an independent commission of inquiry to investigate the works problems with the Hung Hom Station, adding that if contradictions were found in the course of inquiry, Fang Sheung Construction Company ("Fang Sheung"), China Technology Corporation Limited ("China Technology") and Leighton Contractors (Asia) Limited ("Leighton") must give clarifications and replies. They will be asked to give replies only when problems are really found. And they will be asked to further clarify other remarks which do not sound alright. But the documents sought by Mr LAM Cheuk-ting now are existing documents on what has happened. He is not seeking any verbal answers. Neither is he requesting anyone to write a composition at home and submit a written passage based on his recollection of the conversation with a certain person on a certain date. The fact is not like this. He is talking about existing records. Please do not blatantly defy the original intention of this motion.
I certainly support Mr Lam Cheuk-ting's motion on invoking the Ordinance. On the ground of public interest and the public right to know, I acknowledge the importance of this motion and give my approval for it. Leighton, China Technology and Fang Sheung are major contractors and subcontractors in the Hung Hom Station project. The authorities will definitely say that the existing photographs and documents we mentioned earlier—Well, there should be no problem with the provision of photographs—that the relevant documents may contain confidential commercial information, and even if they are given to us, some contents will be blacked out as it may be politically inappropriate to do so. That is to say, 8 out of 10 paragraphs may be blacked out. So, it will be meaningless even if they are given to us for our perusal.

Frankly speaking, Hong Kong has not enacted a freedom of information law. People can only rely on the Code on Access to Information in order to obtain information, and they can only use it as there is no other alternative. I have used it once, and that was about the Avenue of Stars. But most contents of the information I obtained were blacked out. Some may ask me, "As you knew the result would be like this long ago, why did you ask for any documents all the same?" Members should really consider one question very carefully. Has this SCL scandal caused any significant economic losses? We have already said that its construction cost is $100 billion. But of course, we must be fair because this sum includes heritage conservation expenses. Some additional money has been spent in this respect. But when it comes to casualties, I do not think the authorities should consider a matter to be serious and in need of an inquiry only after some incidents have really taken place. Who is in a position to define "public interest"? According to mass communication concepts, people have their own standards on "public interest". An incident is serious to a person as long as he thinks so. Besides, it is highly likely that certain public officers are involved in conflicts of interest in this scandal.

Speaking of the public right to know, some will certainly argue that we do not need to know everything. They may even wonder if we have so much time that we even want to care about trivial matters such as sunrise, sunset, and the need to travel long hours to work and to school … Frederick MA has made a well-known remark: "Things are okay as long as we tell you so." That is to say, journalists and people simply need not know what is going on. But the public right to know should not be equated to nosiness. It does not mean that people are purely interested in knowing about something. Instead, it means that people
need to know about it. This is the difference between "want to know" and "need to know". "Want to know" is actually nosiness or a pure interest in something, such as gossips about celebrities. In contrast, "need to know" precisely concerns what they have talked about, such as casualties, economic losses and the involvement or otherwise of high-ranking officials in any conflicts of interest in areas such as monetary gains and also their roles and positions in the course of discharging their public duties. All these are involved in it.

The most funny thing is that when Dr CHENG Chung-tai first proposed to invoke the Ordinance to inquire into the Hung Hom Station scandal, pro-establishment and royalist Members invariably argued that we should not duplicate the efforts and even said that the Government had already set up an independent commission of inquiry. When I proposed to invoke the Ordinance to inquire into the To Kwa Wan Station incident, they again said that we should not duplicate the efforts while also adding that an independent commission of inquiry had been set up. But actually, that independent commission of inquiry is only tasked to investigate the Hung Hom Station incident. When Mr LAM Cheuk-ting proposes a motion this time around, we simply need not listen to the speeches of those pro-establishment "bootlickers" because the earlier speech of the official concerned already argued that efforts would be duplicated. They want to take control over everything. They will let something happen only when it is under their control. They definitely will not allow anyone to draw a crooked line which is supposed to be straight. This is honestly unthinkable.

Certainly, everything must comply with the law. If the documents or records we request come with a confidentiality agreement and contain confidential commercial information, or if it is politically inappropriate to provide them, especially speaking of commercial agreements which must be kept confidential, then the relevant documents or records must not be passed around casually. But in any civilized society today, everything must be sensible and reasonable apart from complying with the law. Even if confidentiality terms and conditions are stipulated in an agreement, it already violates the law if the agreement is one which is about the "selling of oneself", or if the person who signs it do so under intimidation. This is a basic point, and the authorities cannot bar anyone from mentioning anything on the pure ground of "contractual spirit" or "confidentiality agreements". This is impossible. We are now in the middle of 2018.
Carrie LAM often says that the incident differs from others in nature, and the most important of all is public safety. The Hung Hom Station incident is perplexing. She has solicited the help of Michael HARTMANN and Peter HANSFORD, who are a retired judge and a British expert respectively. But I have learnt from MTRCL that even they themselves do not know what has happened. Mr Michael TIEN once said openly that he was not clear about the number of steel bars that had been cut short—whether it was 17, 25 or 5,000. Nobody knows the exact number, and they are merely rough figures. Can I say that the information I have got suggests that the total number is 500? This is one major difficulty at present.

Some suggested, "If they are not clear about how many steel bars are involved, they should break up all the walls for inspection. If they do not do so, they should conduct sample tests." But some engineers nonetheless argued that there were problems with this because the walls would be damaged if they were broken up for steel bar inspection, and the relevant works would have to be conducted all over again. Therefore, they have not broken up the walls but have instead conducted a loading test. But speaking of this test, Mr LAM Cheuk-ting has just pointed out one thing very clearly. And, many people are doubtful about it, saying that it is best to adopt the ratio of 1:1 in such tests. If it is impossible to achieve this ratio, they should instead compute the rate of corrosion and the intensity of train-induced vibration. Have they done any proper computation of all these by now? No. So, people have all sorts of queries. Such a paradoxical situation still persists at present.

We are not asking them to come to the Legislative Council for interrogation and to give us replies and clarifications in case we find any contradictions in their remarks. We purely want to obtain documents, documents which are already in existence. And they will not be summoned all of a sudden to give evidence here. Why are we barred from doing just this? As we have always said, MTRCL is plagued by many structural problems. But regardless of how frequently we have pointed out the problems or how nagging we may sound in doing so, it is conceivable that in the future, they will only say, "Let us do better!" As in the case of the construction works of the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link, after the report had been released, they also said that they would do better. When we construct other railway lines or stations five years later, the notification
mechanism will remain problem-ridden all the same. In that case, can we improve the mechanism? How meaningful is this? We have the right to know. And, this is also in the greatest interest of the public.

Just now, the Secretary gave a speech here. From what he said, we can see that the Government has maintained a withdrawn attitude throughout. It thinks that it is purely responsible for making payments, and its relationship with this incident is not very close. The Government has merely said, "We have commissioned MTRCL to take up the responsibility for everything, including management, design and construction. The Government has awarded the works project to MTRCL. MTRCL must submit regular documents and reports as required. So, if MTRCL fails to submit any report, the Government will be unable to know anything." Secretary Frank CHAN is not present today, or else he would have said that this matter has nothing to do with him at all, just like water off a duck's back.

The SCL incident is simply like a natural calamity to him. And certainly, man-made blunders are also involved. But he can shirk all the responsibility to MTRCL. So, are there any problems with MTRCL itself? Obviously, yes. But the Government's attitude throughout is that it is merely the big boss responsible for paying the manager who is vested with the duty of works supervision, and it knows nothing as the lax manager has not notified it of anything. At present, the biggest boss in Hong Kong is Carrie LAM. She has decided to inquire into this incident. But this is not enough and is unable to restore the confidence of Hong Kong people in SCL.

I can certainly imagine and understand all this. If I were a member of the MTRCL management, I would also think, "After we have won the bid, our contractors will go to the construction sites and take photographs every day. Our people and Highways Department officers have not noticed any problems. We are based on mutual trust. On the whole matter, we do not know who should be held responsible. In that case, we have no other alternative but to set up a commission of inquiry. We have invited some people of high-standing as its members, hoping that the turmoil will subside and the incident will come to a quiet end half a year later because Hong Kong people are forgetful."
In my view, the Government's attitude is unacceptable. In particular, they have adamantly refused to allow the independent commission of inquiry to also look into the problems with the Exhibition Centre Station and the To Kwa Wan Station. They have already admitted that construction waste have been used for the To Kwa Wan Station. We ask, "Are those bags filled with such materials?" They reply, "Yes." We ask, "How will you use them?" They reply, "We have already injected concrete." We ask, "Will the structure become sturdy after concrete is injected?" They reply, "They will be used to fill up the whole space rather than building walls." We have already said that this is not alright. All this has remained a mystery so far. Can they provide any documents and photographs for us to see? By so doing, they can actually save much money and effort which is otherwise required for injecting concrete. I also wish to ask Samsung—Hsin Chong Joint Venture to provide documents and photographs, so that we can ascertain the feasibility of conducting the relevant works this way. Will they agree to come forward only when people have been injured and killed?

SUSPENSION OF MEETING

PRESIDENT (in Cantonese): I now suspend the meeting until 9:00 am tomorrow.

Suspended accordingly at 7:47 pm.