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**GOVERNMENT SECRETARIAT  
HOME AFFAIRS BUREAU**

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12 November 2018

OUR REF : (3) in LM 226/2018 to HAB/C 21/17 Pt. 5  
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Ms Joanne Mak  
Clerk to Panel  
Legislative Council  
Legislative Council Complex  
1 Legislative Council Road  
Central  
Hong Kong

Dear Ms Mak,

**Panel on Home Affairs  
Letter from Hon MA Fung-kwok**

I refer to Hon. MA Fung-kwok's letter of 15 October 2018 to the Panel of Home Affairs suggesting the Panel to discuss the policy on street performances. You have requested us to provide a written response.

At the Legislative Council meeting held on 7 November 2018, the Hon. MA Fung-kwok raised a question on the policy of street performances. We have already issued a written reply, and please refer to **Annex**. The Government would continue to pay attention to the related discussion of this subject in the society.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Kesson Lee', written over a white background.

( Kesson Lee )

for Secretary for Home Affairs

**LEGCO QUESTION NO. 3**

(Written Reply)

Asked by: Hon MA Fung-kwok

Date of meeting: 7 November 2018

Replied by: Secretary for Home Affairs

**Question:**

It has been reported that since the abolition of the pedestrian precinct in Mong Kok in August this year, people who frequently staged street performances in the pedestrian precinct in the past have run into problems on all sides when trying to move to other areas. Some performers moving to Tsim Sha Tsui Pier have clashed with those performers who have all along been based there. Last month, the court granted an interim injunction to the management company of Times Square banning street performers from staging performance in the public space of Times Square. On the other hand, the “Open Stage” scheme administered by the Leisure and Cultural Services Department (“LCSD”) has remained unpopular due to excessive restrictions on performers. Regarding the regulation and promotion of street performances, will the Government inform this Council:

- (1) of the respective numbers of complaints about street performances in various pedestrian precincts and public spaces received by the Government since the abolition of the Mong Kok pedestrian precinct, and how such numbers compare with the relevant numbers for the same period last year;
- (2) whether it has assessed the impacts of the street performers of the Mong Kok pedestrian precinct moving to other districts; what measures the Government has taken to step up the management of relevant public spaces, with a view to providing space for street performances while not affecting the daily lives of the residents concerned and ensuring smooth pedestrian flows;
- (3) whether measures are in place to encourage private organizations to formulate guidelines or mechanisms to facilitate performers to apply for staging performance in the public spaces under their management; if so, of the details; if not, the reasons for that;
- (4) of the respective numbers of applications for staging performance received, approved and rejected by LCSD under the Open Stage scheme in the past five years, and the number of cases in which the performers whose applications were approved did not show up;

- (5) whether it will review the Open Stage scheme and make improvements (e.g. incorporating more venues into the scheme and reducing user restrictions), with a view to attracting more performers to join the scheme; if so, of the details; if not, the reasons for that; and
- (6) whether it is aware of the policies and measures adopted by cities such as Taipei, Tokyo and Singapore pertaining to street arts performances; whether it will, by making reference to the experience of such cities and the arrangement made by the West Kowloon Cultural District Authority for street performances within the District, introduce a licensing system for street performances; if so, of the details; if not, the reasons for that?

**Reply :**

- (1) The Yau Tsim Mong District Council passed a motion to request the Government to terminate the “pilot scheme of the pedestrian precinct at Sai Yeung Choi Street in Mong Kok” in May 2018. The number of complaints about street performances received by the Government from May 2018 to 30 September 2018, and that of the same period in 2017, are tabulated below\*:

	May to September (2018)	May to September (2017)
General street performances <sup>#</sup>	46	25
Leisure and Cultural Services Department (LCSD) <sup>@</sup>	246	282

\* Some residents might have complained to more than one Government department. Hence, the figures in the table may involve repeated cases.

<sup>#</sup> These numbers are consolidated from figures provided by four major relevant Government departments, including Home Affairs Department/District Offices, Environmental Protection Department (EPD), Food and Environmental Hygiene Department (FEHB), and the Lands Department. The Police do not keep record on the number of complaints relating to street performances.

<sup>@</sup> The number has included all venues under management of LCSD, such as parks, the piazza outside the Hong Kong Cultural Centre, etc.

- (2) & (6) The Government respects the freedom of expression, including arts performances. At present, the Government and residents are in general taking a tolerant attitude towards street performances that are not causing complaints over noise, environmental hygiene, street obstruction, or public order. As long as there is no contravention of the law, there is no regulation of the content and artistic level of the performances. Indeed, the matters relating to street performances are subjected to the prevailing laws in Hong Kong such as Summary Offences Ordinance (Cap. 228), Noise Control Ordinance (Cap. 400), and Crimes Ordinance (Cap. 200).

The original intent of designating the Mong Kok pedestrian precinct was to deal with the rising pedestrian flow back then. After the Transport Department abolished the Sai Yeung Choi Street South pedestrian precinct in Mong Kok on 4 August 2018, some have suggested that street performance should be regulated by means of a licensing mechanism. Our study reveals that places outside Hong Kong have different registration / licensing regimes for street performers. Around the world, not every major city manages street performance through a registration / licensing mechanism.

Hong Kong is a small place with a high population, and is one of the most densely-populated cities in the world. There may be far fewer suitable locations for street performance as compared to other places. Even if a registration / licensing mechanism is introduced, the public may hold different views on designating performance space in densely-populated areas or streets (such as pedestrian precincts). In fact, regulation of street performance involves a wide range of complicated issues relating to content of the performance, coverage, standard as well as its implementation. It involves territory-wide considerations as well as the actual situation in districts and legal considerations.

Furthermore, the Government understands the community's request for the provision of additional performance venues in Hong Kong and is striving to explore new venues. At present, LCSD has 16 performance venues of varying sizes and capacities situated at accessible locations all over the territory. In order to continuously upgrade our cultural hardware, the Government has set aside \$20 billion for the improvement and development of cultural facilities in the coming ten years. Currently, the cultural and performance facilities under planning and construction by the Government include the construction of the East Kowloon Cultural Centre in Ngau Tau Kok, the implementation of pre-construction activities of the proposed New Territories East Cultural Centre, the planning of the development of Yau Ma Tei Theatre (Phase II), the planning of the expansion of the Hong Kong City Hall, and the renovation of the Hong Kong Cultural Centre, etc. It is expected that the construction of the East Kowloon Cultural Centre will be completed by 2020.

At present, some outdoor venues in Hong Kong are available for public performance. For example, the West Kowloon Cultural District (WKCD), located in Yau Tsim Mong District, launched the "Street Performance Scheme" in 2015 to encourage street entertainment within WKCD so that the general public may enjoy art performances in its shared public space. However, this type of arrangement might not be suitable for other places in Hong Kong. Several arts and cultural facilities in WKCD will successively come on stream in

the next few years. The first performing arts venue, Xiqu Centre, will come into operation in late 2018. The Art Park has begun to open by phases for public enjoyment since early this year. Located in the centre of the Art Park, Freespace, comprising a black box theatre and an outdoor stage, will open in 2019. The construction works of the Lyric Theatre Complex is also progressing in full speed.

- (3) “Public Open Space in Private Developments” (POSPDs) are open spaces in private developments under private management where the general public are entitled to access, use and enjoy such spaces. POSPDs can generally accommodate a wide range of passive and active activities to cater for the diverse needs and interests of different users. In 2011, the Development Bureau promulgated the “Public Open Space in Private Developments Design and Management Guidelines” (the Guidelines). The Guidelines are advisory in nature, and aim to strike a reasonable balance between the owners’ obligations and responsibility under the lease conditions or the terms of the Deed of Dedication and the public use and enjoyment of the public space, and to provide a set of good practices. According to the Guidelines, owners may choose to permit non-commercial activities, such as musical performances, entertainment performances, and / or charitable activities, on the POSPD on a voluntary basis and subject to the provisions in the contractual documents. The Guidelines also lay out advice regarding the management of such non-commercial and charitable activities. For instance, the owners / management companies should state clearly the procedure of applications and the rules and regulations for conducting such activities in the POSPD, and the potential users should submit applications to the owners / management companies of the POSPD for approval. If the non-commercial or charitable activities do not comply with the lease conditions or the terms of the Deed of Dedication, the owners should first approach the Lands Department for a waiver under the lease and / or the Buildings Department for the necessary permission under the Deed of Dedication (as the case may be). The owners / management companies also have the right to set site-specific rules and requirements on matters such as the appropriateness of conducting such activity on the site, installation of temporary structures, the use of equipment, duration of the exhibition, and crowd control measures, etc.
- (4&5) The “Open Stage” is an outdoor performance scheme at Sha Tin Town Hall of LCSD. Applicants are only required to pass an audition to become eligible for registration of performance session(s). The audition panel includes representatives of the cultural sector, Sha Tin District Council, and Sha Tin Town Hall. Eligible performers need not attend any audition again.

The statistics required are tabulated as follows –

	2013	2014	2015	2016	2017	Total
Applications received	4	11	13	8	26	62
Applicants passing the audition to become eligible performers / groups*	2	8	9	6	7	32
Applicants failing to pass the audition*	0	2	1	1	11	15
Eligible performers / groups failing to register for performance after qualification <sup>#</sup>	0	1	3	0	1	5

\* Some applicants did not show up for audition under the “Open Stage”

<sup>#</sup> Some eligible performers / groups did not register for performance after audition due to subsequent change of their members’ composition or the content / format of their performance(s).

Performances under the “Open Stage” are publicised at LCSD’s website and in the vicinity of Sha Tin Town Hall. LCSD will continue to look for appropriate publicity channels to make known the scheme to more performers. The rules and regulations for use of the venue now applicable to the “Open Stage” scheme are set to the minimum to facilitate the needs of the performers. For example, performers and the content of their performances shall be similar to what have been auditioned, performers may accept but cannot actively solicit any donations in appreciation of their performances. With respect to noise control, performers are only required to observe the requirements set out at the Noise Control Guidelines for Holding Open Air Entertainment Activities issued by EPD. While there is no plan for LCSD to extend the scheme to other venues, it will consider such an opportunity should there be suitable venues in the future.

Apart from the “Open Stage”, LCSD has from time to time put up cultural activities such as concerts, Cantonese operas and dance performances at the plaza of its performance venues, bringing arts to the community.