

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 29 September 2021

The Council met at Eleven o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

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

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

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

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

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

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

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

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

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

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

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

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

THE HONOURABLE KWOK WAI-KEUNG, J.P.

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

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

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

THE HONOURABLE CHUNG KWOK-PAN

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

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

THE HONOURABLE HOLDEN CHOW HO-DING

THE HONOURABLE SHIU KA-FAI, J.P.

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

THE HONOURABLE YUNG HOI-YAN, J.P.

DR THE HONOURABLE PIERRE CHAN

THE HONOURABLE CHAN CHUN-YING, J.P.

THE HONOURABLE CHEUNG KWOK-KWAN, J.P.

THE HONOURABLE LUK CHUNG-HUNG, J.P.

THE HONOURABLE LAU KWOK-FAN, M.H., J.P.

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

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

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

PUBLIC OFFICERS ATTENDING:

THE HONOURABLE JOHN LEE KA-CHIU, S.B.S., P.D.S.M., J.P.
CHIEF SECRETARY FOR ADMINISTRATION

THE HONOURABLE TERESA CHENG YEUK-WAH, G.B.M., G.B.S., S.C.,
J.P.
SECRETARY FOR JUSTICE

DR THE HONOURABLE LAW CHI-KWONG, G.B.S., J.P.
SECRETARY FOR LABOUR AND WELFARE

THE HONOURABLE FRANK CHAN FAN, J.P.
SECRETARY FOR TRANSPORT AND HOUSING

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

THE HONOURABLE ERICK TSANG KWOK-WAI, I.D.S.M., J.P.
SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS

THE HONOURABLE TANG PING-KEUNG, P.D.S.M., J.P.
SECRETARY FOR SECURITY

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

CLERKS IN ATTENDANCE:

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

MS DORA WAI, DEPUTY SECRETARY GENERAL

MS MIRANDA HON, ASSISTANT SECRETARY GENERAL

MR MATTHEW LOO, ASSISTANT SECRETARY GENERAL

LAYING OF PAPERS ON THE TABLE OF THE COUNCIL

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

Papers

Report of changes made to the approved Estimates of Expenditure during the first quarter of 2021-22

Public Finance Ordinance: Section 8(8)(b)

Urban Renewal Authority

Annual Report 2020-21 (including Independent Auditor's Report and Financial Statements)

Sir Murray MacLehose Trust Fund

Trustee's Report on the administration of the Fund, Financial Statements and Report of the Director of Audit for the year ended 31 March 2021

The Government Minute in response to the Report of the Public Accounts Committee No. 76 of July 2021

Report No. 29/20-21 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

Report of the Bills Committee on Sale of Goods (United Nations Convention) Bill

Report of the Bills Committee on National Flag and National Emblem (Amendment) Bill 2021

Report of the Bills Committee on Personal Data (Privacy) (Amendment) Bill 2021

Report of the Bills Committee on Limited Partnership Fund and Business Registration Legislation (Amendment) Bill 2021

Report of the Bills Committee on Crimes (Amendment) Bill 2021

ADDRESS

PRESIDENT (in Cantonese): Address. The Chief Secretary for Administration will address the Council on "The Government Minute in response to the Report of the Public Accounts Committee No. 76".

The Government Minute in response to the Report of the Public Accounts Committee No. 76 of July 2021

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): President, laid on the table today is the Government Minute responding to Report No. 76 of the Public Accounts Committee ("PAC") presented to the Legislative Council on 14 July 2021.

I welcome the Report of PAC and am grateful for the time and efforts devoted by the Chairman, Mr Abraham SHEK, and members of PAC on it. The Government accepts PAC's various recommendations and sets out in detail in the Government Minute the specific responses of the relevant bureaux and departments ("B/Ds"). The Report of PAC provides recommendations on areas in relation to the following seven chapters in the Director of Audit's Report No. 76:

- (a) management of birth, death and marriage registrations;
- (b) education support measures for non-Chinese speaking ("NCS") students;
- (c) control of trade in endangered species by the Agriculture, Fisheries and Conservation Department ("AFCD")
- (d) Innovation and Technology Commission ("ITC"): efforts in promoting internationally accepted standards and conformity assessment services;
- (e) management of government vehicle fleet by the Government Logistics Department ("GLD")

- (f) site formation and associated infrastructure works for development near Choi Wan Road and Jordan Valley; and
- (g) upgrading and operation of Pillar Point Sewage Treatment Works ("PPSTW").

I would like to highlight the key measures taken and progress made by the relevant B/Ds in response to PAC's recommendations.

In respect of the management of birth, death and marriage registrations, the Immigration Department ("ImmD") has taken various measures to actively implement the recommendations of the Audit Commission. With regard to the management of birth registration, ImmD will continue to review the manpower and services of its births registries from time to time. One-stop application services for the Hong Kong Special Administrative Region passport will be introduced at some births registries, with a view to providing greater convenience to the public and enhancing operational efficiency. Moreover, ImmD will continue to actively follow up on the unregistered birth cases by enhancing the monitoring of case investigation progress and formulating a more effective strategy to identify the whereabouts of the parents concerned.

With regard to the management of death registration, ImmD has put up notice on its website and updated the guidance note to remind members of the public of the legal requirement of registering deaths from natural causes within 24 hours. ImmD will require informants who fail to make registration of deaths within the statutory time limit to provide reasons for late registration, so as to enhance the monitoring of relevant cases and to follow up on cases without reasonable grounds. Moreover, the Security Bureau and ImmD are conducting a review on whether to extend the statutory time limit for registration of deaths. Subject to the outcome of the review, the Government will propose necessary legislative amendments as early as practicable.

With regard to the management of marriage registration, ImmD will continue to closely monitor service demand at its marriage registries and increase the quotas for conducting marriage ceremonies on popular dates. ImmD has also adopted measures, including to verify the eligibility of Civil Celebrants of

Marriages by checking against the information on the websites of the Law Society of Hong Kong and Hong Kong Society of Notaries on a daily basis, to ensure that persons on the list of Civil Celebrants of Marriages meet the eligibility criteria prescribed in the Marriage Ordinance. Should any irregularity be identified, ImmD will take follow-up actions as appropriate. Moreover, ImmD has strengthened the training for Civil Celebrants of Marriages, including arranging those who have not provided any marriage solemnization service in the previous term to attend a refresher course. ImmD will continue to strengthen its follow-up on suspected bogus marriage cases by flexibly redeploying manpower to tackle the outstanding cases, enhancing the monitoring of case investigation progress and adopting various measures to identify the whereabouts of the suspects.

With regard to the implementation of the Next Generation Application and Investigation Easy Systems, ImmD will continue to closely monitor the progress and spending position of the project through the multi-tier project governance structure. ImmD will also ensure that the system will support the Government's "iAM Smart" Platform and bring better services and greater convenience to users.

In respect of the education support measures for NCS students, the Government is committed to encouraging and supporting the integration of NCS students into the community, including facilitating their early adaptation to the local education system and mastery of the Chinese language. Starting from the 2014-2015 school year, the Education Bureau ("EDB") has implemented a series of support measures to further enhance the assistance rendered to NCS students for their learning of the Chinese language and the creation of an inclusive learning environment in schools. These measures include increasing the additional funding to schools and providing schools with teaching resources, teacher training and professional support. In the light of the Audit Commission's recommendations, EDB has put in place measures with a view to ensuring that schools can further maximize the use of the relevant funding in a timely manner as well as monitoring and supporting more effectively schools' utilization of the funding. Starting from the 2021-2022 school year, such measures include requiring primary, secondary and special schools as well as kindergartens with a relatively high surplus level of funding to provide EDB with an improvement plan, and further following up on schools with late submission of plans and reports in a more timely manner.

With a view to enhancing the professional capacity of Chinese Language teachers in teaching NCS students, EDB has been providing diversified professional development opportunities for teachers. As regards the suggestion of considering whether to set teacher training requirements for primary, secondary and special schools admitting NCS students, EDB will review the matter having regard to school-based circumstances and teachers' professional development needs. EDB has commenced the engagement with the school sector and language experts to gather views for the development of feasible options from the school management and professional perspectives.

AFCD regulates international trade in and possession of endangered species through a licensing system. To enhance the effectiveness of the regulatory work, AFCD has reviewed the relevant procedures for regulating the trade in endangered species, including the issue and inspection of licence, case investigation and prosecution, and the handling of seized specimens. Based on the results of the review, the department has updated the internal guidelines as appropriate, such as setting the inspection ratio as a mandatory field for inspection reports and increasing the frequency of random checking of inspection reports so as to step up supervision of frontline staff. AFCD has also reviewed the computer system which supports licensing and enforcement and is enhancing the system functions so as to facilitate a more effective discharge of the regulatory work. AFCD will continue to keep abreast of the latest developments and applications of forensic technologies for identification of scheduled species and other technologies to enhance work effectiveness through innovative technologies.

In light of the findings made by the Audit Commission on efforts in promoting internationally accepted standards and conformity assessment services, ITC will proactively promote the service of the Hong Kong Accreditation Service ("HKAS") under its purview and that of HKAS accredited organizations. HKAS will continue to conduct thorough market surveys and consult key stakeholders to ascertain market demand when implementing new accreditation programmes. HKAS will, via different means, encourage public and private sectors as well as B/Ds to use the testing and certification services offered by accredited organizations. Since January 2021, HKAS has been conducting remote assessments (i.e. assessments conducted via video conferencing) for assessing organizations that require reassessments, thereby minimizing the impact of the epidemic and its associated travel restrictions on reassessment work.

Regarding the management of government vehicle fleet by GLD, in order to enhance the management of government vehicle fleet, GLD will, when selecting B/Ds for conducting in-depth departmental transport reviews, consider whether their vehicles have repeatedly been captured in vehicle utilization exception reports. GLD has flexibly deployed existing manpower and arranged designated staff to follow through a review until its completion, with a view to expediting the review progress.

To facilitate timely procurement of vehicles, GLD has advanced the invitation and examination of requests from B/Ds for vehicle replacement taking into account the time required by suppliers for vehicle delivery. GLD will continue to explore measures to enhance the management of the government vehicle fleet based on the recommendations in the Director of Audit's Report.

In light of the findings on site formation and associated infrastructure works for development near Choi Wan Road and Jordan Valley in the Director of Audit's Report, the Civil and Engineering Development Department ("CEDD") will continue to implement measures at multiple management levels throughout different stages of a project for better forward planning and management of the generation and demand of fill materials. In addition, CEDD will continue to explore and apply new technologies and digital tools, such as geophysical survey and topographical survey, in order to complete site investigation works effectively before tendering of the works projects.

The upgrading and operation of PPSTW was the Drainage Services Department ("DSD")'s first sewage treatment work project that has adopted the design-build-operate procurement arrangement. The objective is to leverage the public-private partnership model to enable contractors to engage in the design, construction and subsequent operation stages throughout the project life-cycle. This can drive the industry to adopt innovative or worldwide patent technologies in optimizing the sewage treatment process for achieving higher operational efficiency.

In the light of the results of the review by PAC and the Audit Report on the upgrading works of PPSTW, DSD has implemented various improvement measures. They include strengthening the monitoring of the performance of

concrete protective coatings and working with a local university to carry out an investigation to identify the root cause of the failure of concrete protective coatings. DSD has also put in place additional monitoring measures to ensure the compliance of the contractor with the contractual requirements relating to materials for equipment and facilities. DSD has also enhanced the coordination and liaison between the construction and operation teams to ensure timely completion of the correction works on the defects.

As far as the operation of PPSTW is concerned, DSD has adopted various measures, including making use of the Key Performance Indicators' compliance level to supervise the contractor. The contractor's performance will also be duly recorded and reflected in the quarterly performance report. Furthermore, DSD has issued internal guidelines on conducting surprise checks on effluent quality to specify the procedures and monitoring requirement of effluent quality. It has also upgraded the Computerised Maintenance Management System to ensure timely completion of the corrective and preventive maintenance works.

DSD has drawn on the experience gained from the PPSTW project and is committed to making continuous improvement. Having regard to the Audit Commission's recommendations, DSD will strengthen the communication and coordination with the operating team and enhance monitoring measures with a view to achieving higher operational efficiency. DSD will continue to make good use of advanced technology, such as the Supervisory Control and Data Acquisition System and the Computerised Maintenance Management System, to effectively manage the operation and maintenance tasks. DSD will also strengthen communication with other relevant departments to improve the efficiency and effectiveness of the management and maintenance of sewage treatment works.

President, I would like to thank the Chairman and members of PAC again for their efforts and suggestions. The concerned B/Ds will strictly adhere to their responses and implement improvement measures as set out in the Government Minute.

Thank you, President.

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Flying the national flag in public places

1. **MR WONG KWOK-KIN** (in Cantonese): *President, it is learnt that two days before the National Day on 1 October last year and the anniversary of reunification of Hong Kong on 1 July this year, some members' offices set up in public housing estates flew the national flag outside their entrances to celebrate the occasions. However, the Housing Department ("HD"), on account of having received complaints, ordered such offices to remove the national flag. Regarding the issue of flying the national flag in public places, will the Government inform this Council:*

- (1) *given that the aforesaid members' offices originally planned to fly the national flag for two to three days only and that the national flag flown posed no safety issues, of the justifications for HD to disallow the flying of the national flag by such offices;*
- (2) *whether it will draw up guidelines to stipulate that members of the public may fly the national flag in designated public places within a short period of time before and after the days of national celebrations, so that they have rules to follow; and*
- (3) *whether it will implement measures to encourage members of the public to fly the national flag in public places on major festive days to express their support and respect for the country; if so, of the details; if not, the reasons for that?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): *President, the national flag is the symbol and sign of the country, representing the authority and dignity of the country. It also serves as an important means for members of the public to express their patriotic feelings and strengthen their national sense. The Government of the Hong Kong Special Administrative Region ("HKSAR") has the responsibility to safeguard the proper use of the national flag and national emblem in order to preserve their dignity, and*

at the same time, to encourage the public to use the national flag and its design on appropriate occasions to express their patriotic feelings. Currently under the scrutiny of the Legislative Council, the National Flag and National Emblem (Amendment) Bill 2021 ("Amendment Bill") has set out in section 2 of its preamble that "all individuals and organizations should respect and cherish the national flag and national emblem, and use the national flag and its design on appropriate occasions".

Having consulted the Transport and Housing Bureau, the Home Affairs Bureau, the Education Bureau ("EDB") and the Administration Wing, my consolidated reply to the question raised by the Member is as follows:

- (1) The Hong Kong Housing Authority ("HKHA") has all along been following the rules and relevant guidelines of display of the national flags under the National Flag and National Emblem Ordinance ("the Ordinance") in handling applications submitted by councillors or organizations for display of the national flags in public rental housing ("PRH") estates. One of the important consideration factors is public safety under which flags displayed in PRH estates should be firmly fastened and should not cause nuisance or danger to the residents or passengers in the areas.

As regards the incident as mentioned in the question, according to HKHA's record, HKHA received an enquiry from a resident in late-June 2021 concerning the planned display of national flag and regional flag at the upper edge of the eave outside the ward office of a council member. As the concerned location is quite close to the residential units, the flag pole installed could have possibly imposed safety risks. Therefore, for the sake of safety, the staff of HKHA and the ward office reached a consensus after deliberation, and agreed to hang the flags outside the ward office. The matter had been properly settled.

- (2) and (3)

The HKSAR Government has been encouraging members of the public to use the national flag and its design properly on appropriate occasions, with a view to expressing their patriotic feelings. Any person who wish to use the national flag and its design must ensure that such use is in accordance with the relevant requirements in the

Ordinance, and the stipulations made by the Chief Executive pursuant to sections 3 and 6 of the Ordinance, including securing relevant approval when necessary. Application for use of the national flag and its designs should be addressed to the Administration Wing. Relevant application details are available at the website of the Protocol Division Government Secretariat.

To strengthen the national sense of the members of the public and promote patriotism, the HKSAR Government has taken forward publicity and educational work of national flag, national emblem and national anthem in a proactive manner, as well as made use of different channels and media to publicize relevant messages. For instance, announcements in the public interest on television and radio for promoting the knowledge of these national symbols and signs and the related rules of usage will be produced, in order to educate members of the public to properly display or use the national flag and the national emblem. In addition, schools are obliged in education to enhance students' understanding and respect for national flag, national emblem and national anthem, and cultivate in them the national sense. Knowledge about national flag, national emblem and national anthem has been incorporated into different subjects at primary and secondary levels, as well as life-wide learning activities related to moral, civic and national education. Upon the passage of the Amendment Bill, EDB will give directions to schools on matters relating to education in national flag and national emblem, including the daily display of the national flag and the weekly conduct of national flag raising ceremony, with a view to facilitating schools to implement relevant requirements to strengthen students' knowledge on national flag and national emblem, as well as foster students' national sense and sense of national identity. Besides, EDB has all along been providing relevant resources and support to schools, including producing various learning and teaching resources, and organizing events like seminars to support the school sector in capitalizing on the existing foundation to enable students to learn about and respect the national flag, and encouraging teachers to make good use of learning and teaching resources in teaching.

Members of the public who wish to display the national flag or regional flag in public places or inside Government buildings shall

first submit applications to the departments concerned and comply with the requirements stipulated in relevant regulations and ordinances. In order to enhance festive atmosphere, District Offices ("DOs") will demonstrate on the National Day this year, on a pilot basis, how to display the national flag and the regional flag, as well as banners and vertical banners with such designs in a proper, safe and orderly manner at 48 venues mainly managed by DOs (most of which are community centres or community halls).

Moreover, as local organizations may wish to display festive banners in celebration of the National Day and the HKSAR Establishment Day, the Home Affairs Department and the Lands Department have reviewed the existing arrangements and formulated relevant procedures for handling applications by local or community organizations for displaying banners at designated spots under the Management Scheme for the Display of Roadside Non-commercial Publicity Materials. The two aforementioned arrangements aim to, on one hand, encourage local or community organizations and the public to celebrate these two important days, i.e. the National Day and the HKSAR Establishment Day, together, and express their patriotic feelings that are premised on the respect for the national flag, regional flag and their design; on the other hand, it can ensure that the activities are carried out in a lawful, orderly and safe manner (especially for road users). If members of the public or organizations would like to know more about the details of the two arrangements mentioned above, they are welcome to contact DOs for enquiries. The HKSAR Government also strongly encourages members of the public to actively participate in the said arrangements to together celebrate the major festive days of the country and of HKSAR.

MR WONG KWOK-KIN (in Cantonese): *President, first of all, I am puzzled that it is Secretary Erick TSANG who is responding to this question today, because my question is very clear and it is about the Housing Department ("HD"). I ask this question because HD has received not only one case as mentioned in the question, but many cases, and a lot of cases have been accumulated, and I hope that HD will give a clear answer. However, I have no idea why Secretary Erick TSANG would respond to it.*

Of course, if it is about a general situation, I accept a reply by Secretary Erick TSANG. However, the flying of the national flag in public housing estates is basically a long-standing tradition. Around the world, on New Year's Day or National Day, many streets are filled with national flags. It is important to know the attitude of the Government, whether the Government is encouraging and supporting the flying of the national flag, or whether the Government thinks it is an obstruction or hindrance.

I think that the information of the case pointed out in the main reply is not accurate either. First of all, the office concerned is facing an open space where there are no residential units, nor are there any residential units to the left or right of it, nor is the location a busy passageway or posing a safety concern. The flying of the national flag has been the practice of that office for over a decade. Since this has been the practice for over a decade, why were there complaints only in the past two years? There were complaints because of the political atmosphere in these two years and the fact that some people find the national flag an eyesore after the "black-clad violence". However, since we do not have formal guidelines, some frontline management personnel of HD may find it difficult to handle such complaints. Therefore, I am actually asking HD to give a reply: Will it draw up any guidelines—this is a supplementary question—to allow certain organizations or people to fly the national flag in public housing estates for a short period of time, for example, two or three days, around certain festivals when they think it is necessary, so as to prevent causing disputes at the front line?

PRESIDENT (in Cantonese): Which public officer will give a reply? Secretary for Constitutional and Mainland Affairs, please reply.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I thank Mr WONG Kwok-kin for his supplementary question. As to the specific circumstances of the incident and whether HKHA will provide further guidance, perhaps I will ask my colleague from the Transport and Housing Bureau to provide additional information.

PRESIDENT (in Cantonese): Under Secretary for Transport and Housing, please reply.

UNDER SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I thank Mr WONG Kwok-kin for his supplementary question. As the Secretary mentioned in the main reply, "the national flag is the symbol and sign of the country, representing the authority and dignity of the country. It also serves as an important means for members of the public to express their patriotic feelings and strengthen their national sense." Therefore, we will strongly encourage and help organizations or council members to apply for flying the national flag and regional flag.

Under normal circumstances, HKHA will approve applications for flying the national flag or regional flag in the common areas of public housing estates. However, as the Secretary mentioned earlier, in order to ensure public safety, the flag displayed within the public housing estate must be firmly fastened and should not pose any danger to people in the estate. And the council member or organization must submit an application to HKHA and comply with the Government's rules and guidelines on the display of the national flag under the Ordinance. According to our record, HKHA received the just mentioned enquiry concerning the flying of the national flag and regional flag in late-June 2021. Since the location was really close to the residential units and the weather condition was unstable at that time, for the sake of safety, our staff and the staff of the ward office reached a consensus and agreed to hang the flags outside the ward office. The matter had been smoothly settled.

DR CHIANG LAI-WAN (in Cantonese): *President, in fact, in countries all over the world, on the few days before and after the National Day, the public will celebrate extensively and display the national flags all over the places. I have never heard of a citizen having to apply to the government for displaying the national flag. Of course, I think it is reasonable for the Secretary to say that if people want to display the national flag in a public place, they must apply for it. However, if a citizen is only flying the national flag for his own celebration, and the flag is beyond his flat, does he have to apply for it? For example, if he opens the window and ties the flag to the window frame at home, is that all right? If people are required to submit applications, I believe it is basically impossible for the general public to complete the application forms required by the Government, right?*

Mr WONG Kwok-kin is only asking for a relaxation of the restriction to allow the public to display the national flag in celebration on a certain few days within the areas managed by HKHA, which I think is a very humble request. In fact, I think the restriction should be relaxed to the whole territory in those two or three days, and that should be the case. The Secretary mentioned public safety, but I really have not heard that the display of the flag would have a significant impact on safety. There is one thing that the Secretary has not specified. If the flag belongs to a certain person and anything happens, the person who displays the flag will have to take the responsibility and bear the insurance compensation or consequences. That is it, right? I really have not heard of any crushing death or accident caused by the display of a national flag. I am asking HKHA whether it can, as a first step, fully open the common areas of the public housing estates on the few days around the National Day.

PRESIDENT (in Cantonese): Which public officer will give a reply? Under Secretary for Transport and Housing, please reply.

UNDER SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): I thank Dr CHIANG Lai-wan for her supplementary question. In fact, HKHA has all along been following the Government's rules and guidelines on the display of the national flags under the Ordinance in handling applications submitted by councillors or organizations for display of the national flags in PRH estates on festive days. I would like to emphasize that this refers to the public areas of PRH estates. If it is a private place, there is absolutely no need for people to submit applications for the display of the national flag in their own flats, so Dr CHIANG Lai-wan can rest assured that people do not need to fill in many forms. HKHA will not set any other rules specifically for the display of national flags.

Councillors or organizations wishing to organize activities in public housing estates during festive days can apply to HKHA and follow the Government's rules and guidelines on the flying of the national flag under the Ordinance. Hence, in this regard, we will try our best to facilitate this. Thank you, President and Dr CHIANG Lai-wan.

MR STEVEN HO (in Cantonese): *In fact, we often display the national flag on the National Day and even on the anniversary of reunification of Hong Kong. We have repeatedly reminded the Government that the most important thing in dealing with the national flag is to take into account our intention of flying the national flag. The case particularly mentioned by Mr WONG Kwok-kin gives us an impression that the HKSAR Government has removed the national flag from the citizens as if it were garbage. In fact, is it possible for the Government to set up a task force to study the handling of the removed national flags in a special way? We have tried displaying the national flag at the corner of a bend in the road in the past—I am referring to a traffic issue—and the Government removed it because of traffic safety concern. However, if the Government had respect for the flag and moved it to a storage area, a sea of national flags could have been created and people would not have blamed the Government. However, the HKSAR Government is rigid in handling this matter, just like the vote counting process, and there should be flexibility in this regard. Hence, will the HKSAR Government set up a task force to study how different departments, such as HKHA, the Food and Environmental Hygiene Department, etc., should handle the issue of showing respect for the national flag? Can the HKSAR Government give a response?*

PRESIDENT (in Cantonese): Which public officer will give a reply? Secretary for Constitutional and Mainland Affairs, please reply.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): I thank Mr Steven HO for his supplementary question. First of all, I would like to emphasize again that, as Members know, the Second Reading of the Bill will resume this afternoon. We have been stressing that the national flag and national emblem are the symbols and signs of the country. We need to regulate their proper use on the one hand, and encourage the public to use the national flag properly on the other, so that we can express our feelings for our country. I always emphasize that we must integrate with the general development of the country, and thus when the public wants to do so, we hope we can facilitate their efforts as much as possible.

Regarding the arrangements of various departments, my Bureau will issue guidelines to various government departments in the future, with a view to reminding them to exercise discretion and flexibility, especially on festive days, to encourage the public and facilitate the use or display of the national flag. At the

same time, each government department should of course handle the matter in accordance with a set of standards and make discretionary arrangements according to the actual situation and operational needs of the department.

As for Mr Steven HO's suggestion that we could set up a task force to review this matter, I can look into that after the meeting. We welcome Mr Steven HO's suggestion.

MR MA FUNG-KWOK (in Cantonese): *President, the national flag is a very important national symbol and all governments around the world want to make people respect it, not necessarily through laws, but through education and by raising their sense of national identity. Therefore, in every place, on major festivals, the people are very active in flying the national flags in celebration on their own accord. Since I was a child, I have a deep impression that many people in the community would display the national flags in their homes and offices, especially before the reunification when Hong Kong was still under British rule. But after the reunification, I feel—I hope I am wrong—that fewer people have done this of their own volition. What is the reason for this? I am not sure myself. After the reunification, I have observed that only some community organizations and some state-run organizations continue to do so actively and positively, but in terms of the Government, I can honestly say that I do not feel anything at all.*

What should the Government do about the display of the national flag, other than simply resorting to regulation and law enforcement? In my opinion, it should take the initiative and proactively encourage all people in society to actively face the issue, in the hope that, especially on such major festivals as the National Day, many people will do this on their own accord. Therefore, in foreign countries, even though some people may not fully comply with the law when displaying the national flag, they will still be given some allowance. However, in Hong Kong, I am surprised by the incident mentioned by Mr WONG Kwok-kin in this question, and I think it is really unbelievable.

Therefore, I hope that the Government will give a response. In dealing with this issue, at least in the past 24 years, I do not feel that the Government has done anything to encourage the public to display the national flags in celebration on the National Day. What will the Government do in future? For example, this year I saw for the first time ...

PRESIDENT (in Cantonese): Mr MA Fung-kwok, you have already repeated your supplementary question many times. I now ask the Secretary to give a reply.

MR MA FUNG-KWOK (in Cantonese): *I just want to know what the Government's position is.*

PRESIDENT (in Cantonese): But you have repeated it three times.

Secretary for Constitutional and Mainland Affairs, please reply.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I thank Mr MA Fung-kwok for his views and supplementary question. It is true that over the past years, as Mr MA Fung-kwok has observed in the community and from various aspects, there were many problems and situations in the past, including the interference of external forces and the possible attempts of anti-China and destabilizing forces in Hong Kong to mislead the public with ill intentions. It is true that we are now in the period of restoring Hong Kong's law and order. For those aspects that we might not have done well in the past, we now hope to do them well again, including amending the laws in response to the changes in the national laws of the country. Besides, we also wish to do better on many fronts such as education, community promotion or governance. In the future, as I have just said, we fully agree and hope to encourage the public to use the national flag in a proper manner, with a view to enhancing our sense of national identity and patriotic feelings. After the meeting, we will further remind the relevant government departments to exercise discretion, especially during major festive days, to facilitate the use of the national flag by the public as far as possible without violating the rules, so that people can make relevant arrangements during festive celebrations.

As for other aspects, we hope that apart from the national flag and national emblem, there can also be various arrangements to enhance people's sense of national identity.

PRESIDENT (in Cantonese): Second question.

Pursuing the legal liabilities of the Civil Human Rights Front

2. **DR JUNIUS HO** (in Cantonese): *President, during the riots in 2019, the Civil Human Rights Front ("CHRF") initiated a number of assemblies and processions. It has been reported that despite CHRF's repeated claims that it was organizing such activities under the principle that they should be "peaceful, rational and non-violent", the protesters shouted slogans that advocated violent opposition from time to time during such activities, and there were often protesters committing acts of violent attacks after such activities had ended, leading quite a number of young people astray to break the law. Moreover, CHRF has been suspected of laundering money, colluding with foreign forces and violating the National Security Law for Hong Kong. Following CHRF's announcement of its disbandment on the 15th of last month, the Police issued a statement indicating that they were following up CHRF's suspected offences of violating the Societies Ordinance, and would continue to pursue whether any organization and person had violated the National Security Law for Hong Kong and other Hong Kong laws. In this connection, will the Government inform this Council:*

- (1) *regarding CHRF's suspected illegal acts, how the law enforcement agencies will pursue the relevant legal liabilities of its former successive convenors and office-bearers as well as its member organizations;*
- (2) *whether the law enforcement agencies will step up efforts to pursue, in accordance with the law, the liabilities of the aforesaid organizations and persons that advocated violence; and*
- (3) *whether the law enforcement agencies will undertake to expedite the handling of those cases on the illegal acts relating to the activities organized by CHRF, lest the suspects concerned abscond overseas and escape justice?*

SECRETARY FOR SECURITY (in Cantonese): *President, Hong Kong is a society that upholds the rule of law. Every person or organization must abide by the law. During the serious violence in 2019, there were a lot of unlawful acts advocating "Hong Kong independence" and violence. The saboteurs wantonly vandalized shops, MTR stations and other public facilities, hurled a large number of petrol bombs, set fires, stormed and vandalized the Legislative Council,*

damaged government offices and buildings, and wilfully assaulted people holding different views. Shameless individuals willingly served as puppets of foreign forces, begging foreign countries for sanctions against China and the Hong Kong Special Administrative Region ("HKSAR") in an attempt to achieve "mutual destruction". Some even plotted subversion against state power, posing grave threat to national security. The saboteurs' behaviours showed a total disregard of the law, threatening public order and public safety, trampling on the rule of law in Hong Kong, and seriously challenged the baseline of "one country, two systems".

Everyone should be responsible for his or her own behaviour. If any person or organization is suspected of violating the laws of Hong Kong, law enforcement agencies will hold the person or organization concerned responsible in accordance with the law along the principle that "laws are observed and strictly enforced, and offenders are brought to book".

The reply to the question raised by Dr HO is as follows:

- (1) The long-standing position of the HKSAR Government is to act in accordance with the law. Should any individual organization or its members be suspected of engaging in illegal activities, the law enforcement agencies will definitely pursue their legal liabilities, and will not allow them to remain at large.

In respect of the Civil Human Rights Front ("CHRF") and relevant persons, as Members are aware, in April this year, the Societies Officer requested CHRF to submit information on its members, activities, fund, etc. under section 15 of the Societies Ordinance. However, the organization failed to submit the requested information to the Societies Officer within the specified period. The Police are now actively taking follow-up action on the organization's suspected violation of the Societies Ordinance. In order not to affect the investigation or possible enforcement action in future, we are not in a position to disclose further details.

In addition, during the serious violence, CHRF organized or took part in a number of unauthorized assemblies. The Police have been actively conducting investigation into these illegal acts and taking enforcement actions in this regard. For instance, a key member of CHRF was prosecuted by the Police for organizing and inciting others

to take part in an unauthorized assembly in Kowloon in October 2019 and was subsequently convicted and sentenced to imprisonment by the court. On 1 July 2020, some members of CHRF ignored the letter of objection issued by the Police and were prosecuted for holding unauthorized assemblies on Hong Kong Island. The judicial proceedings of the case concerned are ongoing. The Police will continue to actively investigate into other relevant cases, and make arrests and initiate prosecutions at suitable junctures.

As regards CHRF's earlier announcement of its disbandment, I must reiterate that an organization and its members shall remain criminally liable for the offences they have committed, notwithstanding its disbandment or the resignation of its members. The Police will continue to spare no efforts in investigating if any organization and person has violated the Hong Kong National Security Law ("HKNSL") or other laws of Hong Kong.

- (2) In Hong Kong, every person or organization must abide by the laws of Hong Kong, including HKNSL. No one is above the law, or has the privilege to break the law without facing legal consequences. The HKSAR Government has always acted in accordance with the law, handling matters related to the conduct or operation of local organizations according to the law.

During the serious violence in 2019, there were a lot of unlawful acts advocating "Hong Kong independence" and violence. Such acts not only endangered public safety, but also threatened national security. Acts and activities that endanger national security can lead to very serious consequences. Hence, actions must be taken to prevent and suppress such acts and activities. Recently, we have taken a series of actions against some persons and organizations which are suspected of endangering national security in accordance with the law, and some organizations have announced their disbandment or cessation of operation one after another. Nevertheless, as I have mentioned before, the offences committed by these persons or organizations will not disappear just because of their disbandment, cessation of operation or resignation. We will not allow them to evade from the liabilities by such means.

We will continue to take actions against those persons and organizations which are suspected of endangering national security. We will take enforcement actions in accordance with the law when there is evidence, so that they will not have a chance to endanger national security.

- (3) The HKSAR Government fully understands the concern of the Hong Kong community as to how the criminal liabilities of those suspected of breaking the law during the serious violence should be dealt with.

As regards the illegal acts relating to the serious violence in 2019, as at 31 July 2021, the Police arrested a total of 10 265 persons and 2 684 persons had been prosecuted. Among the 1 527 persons who have completed the judicial proceedings, 1 197 persons have to bear legal consequences (including 905 who have been convicted).

In fact, the Police and the Department of Justice ("DoJ") have all along been actively following up on the criminal cases relating to the serious violence, with a view to handling the cases in an impartial, professional and swift manner and bringing the persons concerned to justice. The Police and DoJ will continue with the relevant work.

As regards that some persons involved in the case(s) have absconded overseas, the HKSAR Government strongly condemns anyone seeking to evade legal liabilities. Absconding to avoid legal liabilities is a shameful act. Fearing of facing justice after breaking the law, choosing to run away by jumping bail, using various excuses such as so-called "exile" to avoid one's responsibility, and making false statements and making up excuses before the court to apply for bail are shameful, hypocritical and coward acts.

The HKSAR Government strongly condemns any person who supports or harbours these absconders. These persons have turned a blind eye to the serious offences which the absconders are suspected to have committed, and have instead attempted to beautify these shameful acts of evading legal liabilities. They only see political dividends in disregard for justice and in contempt for the rule of law.

All persons who are wanted for prosecution of offences and have absconded from Hong Kong are fugitive offenders. The HKSAR

Government will definitely pursue their criminal liabilities and make them face the sanctions of the law. The Police will, in light of the circumstances of each case, track down the whereabouts of the fugitive offenders through various means in accordance with the law and pursue them.

DR JUNIUS HO (in Cantonese): *I thank the Secretary for Security for giving us the main reply just now, but with regard to the reply to part (3) of the main question, I would like to ask the Secretary: Apart from the cases involving 2 684 arrested persons which the authorities have already handled, what is the rough timetable for completing the handling of the cases involving the remaining 7 581 persons arrested? The Secretary said that they would strengthen cooperation with the Department of Justice, but the authorities have given me the impression that the past track records in this respect were not very satisfactory before the Secretary took up his present post of the Secretary for Security. Take the 1 030 cases arising from the Occupy Central movement as examples. Records show that in 2017, the handling of 230 cases among them was already completed, but the number has remained at the same level since then without any increase. In other words, over 700 cases remain outstanding since 2017, and the situation has remained unchanged up till today in 2021.*

In this connection, I am concerned that with regard to the remaining cases involving 7 000 odd persons arrested, what exactly will, first of all, be the timetable for handling them and will these cases be dragged on for too long? Secondly, will such cases be left unsettled like the remaining Occupy Central cases? I hope the Secretary will give us a reply.

SECRETARY FOR SECURITY (in Cantonese): President, we are still investigating into the cases involving the remaining 7 000 odd persons arrested. As far as each individual case is concerned, the evidence at hand or the investigation progress will definitely be affected under different circumstances, and it is therefore indeed possible that we may not be able to institute prosecutions in respect of some of the cases involving the remaining 7 000 odd persons arrested. However, I would like to emphasize that in the entire investigation process, law enforcement agencies have all along been working in perfect harmony with DoJ, and will do their very best to gather evidence as far as practicable.

MR WONG TING-KWONG (in Cantonese): *President, as pointed out by the Secretary, all organizations which oppose China and disrupt Hong Kong will not be allowed to evade from their liabilities just because of their disbandment. Apart from their concern about the early handling of all offence cases involving such organizations before their disbandment, Hong Kong people are even more worried about the possibility that these organizations would break up into small organizations and continue to operate in a concealed manner, or use other names to set up new organizations for infiltration in various trades and industries and different social strata, thereby secretly promoting different kinds of anti-China social movements and political activities, creating social conflicts, and causing Hong Kong people's distrust towards the Central Authorities. In this connection, will the authorities conduct a review on the relevant legislation currently in force, including the Companies Ordinance and the Societies Ordinance, with a view to making it impossible for anyone to take advantage of the loopholes in the existing law and hatch plots to oppose China and disrupt Hong Kong?*

SECRETARY FOR SECURITY (in Cantonese): President, we will pay great attention to the situation described by Mr WONG. We understand that after the disbandment of some organizations, it will indeed still be possible for individual persons to keep engaging in illegal activities or acts that endanger national security through other means. Hence, actions targeting such illegal activities or acts that endanger national security will not be discontinued just because of the cessation of operation of any organizations. If it is still possible for any persons to continue endangering national security after the cessation of operation of such organizations, we will keep paying attention to their actions and conducting intelligence-gathering work, and take further actions on the basis of the evidence at hand.

We also understand that under the overall international geopolitical environment nowadays, some foreign powers which are against the development of our country will use Hong Kong as a tool to endanger the security of the State or Hong Kong, and I believe such a situation will continue to exist in the days to come. Therefore, we will definitely remain vigilant in this respect.

As for the second point raised about the legislation currently in force, and the question on whether the authorities will conduct a review on the Companies Ordinance or the Societies Ordinance, we will surely do that. In particular, foreign political organizations or political organizations of Taiwan are involved under the Societies Ordinance, and this will definitely be a matter for detailed

examination when we take forward the legislating work on Article 23 of the Basic Law in the future.

Besides, with regard to the Companies Ordinance, the authorities have recently invoked section 360C of the Companies (Winding Up and Miscellaneous Provisions) Ordinance to take certain actions against an organization which has been registered as a company. We will of course examine the effects of such actions, thereby exploring the need for enhancing the legislation concerned.

MR CHAN HAK-KAN (in Cantonese): *President, I absolutely believe that HKNSL can effectively combat organizations and persons that oppose China and disrupt Hong Kong, especially those who commit the offences of secession, subversion, etc. CHRF has committed countless offences indeed, but with regard to the illegal act of allegedly receiving funds provided by external forces, I am conversely concerned that we may not be able to deal with it completely under the existing HKNSL. This has thus highlighted the necessity of legislating for the implementation of Article 23 of the Basic Law, because only by enacting the relevant legislation can we achieve further enhancement of the entire system of the existing legal framework for safeguarding national security.*

Secretary, I have heard that you did indicate to the media that you would take forward the legislating for Article 23 of the Basic Law within your term of office, and such being the case, can you tell us what is the planned timetable you now have in this respect? This will give the public an idea that you can accomplish during your tenure the mission entrusted to you by us and by the country to protect national security.

SECRETARY FOR SECURITY (in Cantonese): President, let me first clarify that I have only indicated my wish to have the relevant legislative work completed within the next term of the Legislative Council, but have never said that I would like to accomplish the task within my term of office, because I do not even know when will my tenure end.

However, Mr CHAN has put it very correctly just now that although HKNSL can now tackle four types of offence rather effectively, we still have to rely on the legislation enacted by the authorities for the implementation of Article 23 of the Basic Law to combat other acts, such as those involving foreign political

organizations, so as to further enhance our statutory regime in this respect. Legislating for Article 23 of the Basic Law is a constitutional obligation we must fulfil under both the Basic Law and HKNSL, and the matter should be handled as soon as possible.

Nevertheless, given the relatively complicated nature of the statutory requirements involved, apart from adopting the proposed provisions put forward in the legislative exercise in 2003 as a starting point, a detailed examination of the issue should also be made in the light of past incidents, especially those which occurred in these two years. We should also examine the judgments handed down on certain cases after HKNSL has come into force for the points of concern to us and the loopholes or gaps that need to be plugged through legislating for the implementation of Article 23 of the Basic Law, and there is also a need for the authorities to do explanation and consultation properly. The matter should therefore not be taken lightly, but I can promise here that we will definitely take forward the legislative exercise as expeditiously as possible.

MR STEVEN HO (in Cantonese): *President, the Ministry of Foreign Affairs has issued earlier a fact sheet that sets out the host of acts of the United States in interfering in Hong Kong affairs and supporting anti-China, destabilizing forces, and we all know that the opposition camp launched in 2014, under the instruction of some foreign forces, the illegal Occupy Central movement initiated by Benny TAI. The movement was subsequently decentralized with the absence of a command centre, students were incited to break the law, and the whole campaign ultimately ended up in failure. These people switched to another mode then in 2019 by making CHRF the organizer that initiated a number of activities, but referring the related legal liabilities as personal acts of each individual protestor, thus making CHRF have nothing to do with all violent acts. We must of course hold the organization accountable in this respect.*

Although HKNSL can effectively address problems in the past and provide a basis for handling such issues in the future, this does not imply that it can definitely cope with the changes in strategy by the forces that oppose China and disrupt Hong Kong in the future. There are thus a large number of organizations in online platforms nowadays, and instead of following the practice mentioned just now to register themselves with their actual names, they have broken up into small organizations and hidden in dark corners, including some online discussion fora.

Very unfortunately, a female police officer in the Marine Police died earlier while on duty but in response to her bravery, some netizens have gone so far as to create a song called "墮海唔好搵" ("Do not look for those who have fallen into the sea"), thereby inciting hatred towards the Police Force, and even inciting hatred towards the HKSAR Government and stirring up conflicts during the process. Can the existing HKNSL combat acts in this regard? How should the SAR Government invoke law in this area to suppress acts of instigating hatred against the Police and the SAR Government? I consider this a proper approach to resolve the problem.

SECRETARY FOR SECURITY (in Cantonese): President, Mr HO has put it correctly that acts of inciting hatred as mentioned just now are not included in the four types of offence covered by the existing HKNSL. However, sections 9 and 10 of the existing Crimes Ordinance have already provided for the handling of acts with a seditious intention. I think when examining the enactment of legislation on Article 23 of the Basic Law, one of the approaches to be studied proactively is to make further enhancement to the provisions related to such offences under the Crimes Ordinance, and include them in the proposed legislation to implement Article 23 of the Basic Law.

MR PAUL TSE (in Cantonese): *President, I believe no one, at least no one in this legislature, will doubt the determination, decisiveness and performance of the Secretary in performing his duties and enforcing the law, especially after he has assumed his current post. However, as the Secretary is representing the entire Government, I am afraid that he should be held accountable for any past failure or underperformance of the departments concerned in executing their duties.*

I would like to know that as far as the organization in question is concerned, have the requirements under the Societies Ordinance been strictly followed to register the organization legally over all these years? Has the person-in-charge acted in accordance with the law and informed the relevant authorities of the changes in office-bearers of the organization? If the answers are in the negative, although the Security Bureau has now repeatedly claimed that everyone should be responsible for the offences he/she has committed, no one would be allowed to evade from his/her liabilities just because of the cessation of operation of any organizations, and even though all of these remarks are correct in principle, would past delay and the authorities' omission in taking appropriate actions really make it possible, in the sense of law enforcement, evidential support as well as the

necessary following-up, for the incumbent office-bearer of the organization to be ultimately relieved from the liabilities despite the fact that Hong Kong society has on the whole suffered a lot?

SECRETARY FOR SECURITY (in Cantonese): President, ChRF is not a registered society, and certain enforcement actions are therefore under consideration and will be taken. As for the current enforcement efforts made against different organizations that were in operation previously, we should first review the present situation faced by society, and then determine the enforcement priority through risk assessment and on the basis of our consideration in this respect.

DR JUNIUS HO (in Cantonese): *President, thank you for giving me an opportunity to follow up on my question again. The Secretary mentioned just now that when legislating for the implementation of Article 23 of the Basic Law, consideration would be given to enhancing the provisions concerning offences relating to acts with a seditious intention under section 10 of the Crimes Ordinance, but are there any difficulties in law enforcement at present? In fact, it has come to our attention that quite a number of online discussion fora are "crying up wine but selling vinegar", and inciting hatred by distorting the principle of freedom of speech. I have also noticed that prosecutions were actually initiated before by the Police on the existing legal basis, and would it thus be possible to enforce the provisions vigorously now and legislate in this respect? This will definitely be better than having the matter reviewed while legislating for the implementation of Article 23 of the Basic Law. Can a timely and effective remedy be provided in this respect?*

SECRETARY FOR SECURITY (in Cantonese): President, with regard to such inciting acts found online, we do face some challenges in investigation or evidence collection. For example, some of the websites concerned are perhaps located overseas, and it may not be easy for us to obtain the relevant evidence. It is believed that when legislating later for Article 23 of the Basic Law, we will examine possible ways to make enhancement in this regard.

PRESIDENT (in Cantonese): Third question.

Alienation of Home Ownership Scheme flats

3. **MR KWOK WAI-KEUNG** (in Cantonese): *President, upon the expiry of the alienation restriction period of Home Ownership Scheme ("HOS") flats, the owners concerned may sell their flats in the open market after paying a premium to the Hong Kong Housing Authority ("HA"), and they may also sell their flats in the HOS Secondary Market without paying a premium. On the other hand, the findings of a study released at the end of last year show that the transaction prices of second-hand HOS flats have risen by more than one-fold over the preceding seven years, representing a rate of increase higher than that in the private residential market during the same period. In addition, cases of record-breaking transaction prices in the HOS Secondary Market have frequently occurred in recent months. Regarding the alienation of HOS flats, will the Government inform this Council:*

- (1) of the respective numbers of applications received in each of the past five years by HA from HOS flat owners for selling their flats in the HOS Secondary market in the first two years and within the period from the third to the fifth year upon purchase;*
- (2) whether HA will formulate measures to prevent HOS flats from becoming a property investment tool, such as extending the validity period of the requirement under which flat owners may only sell their flats in the HOS Secondary Market at a price not higher than the purchase price from two to five years; and*
- (3) whether HA will require that those HOS flats HA offers for sale in future may not be sold in the open market, so as to clearly segregate the subsidized housing market from the private residential market, and to prevent HOS flats from becoming a property investment tool; if so, of the details; if not, the reasons for that?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): *President, the Hong Kong Housing Authority ("HA") introduced the Home Ownership Scheme ("HOS") in 1978 to meet the home ownership needs of low- to middle-*

income families. To facilitate the circulation of subsidized sale flats ("SSFs") and enrich the housing ladder, HA introduced the HOS Secondary Market Scheme ("the Secondary Market") in 1997, which enables SSF owners to sell their flats to Green Formers with premium unpaid. To further address the home ownership aspirations of low- to middle-income families, HA subsequently launched the White Form Secondary Market Scheme ("WSM") to expand the scope of eligible buyers of the Secondary Market to include White Formers and regularized WSM in 2017.

In order to prevent SSF owners from speculating on SSFs to make gains in the short term, HA also imposed alienation restrictions of HOS upon its introduction in 1978 and established the key principles for considering the duration of the restriction period: prevent speculative activities on the one hand, and avoid unduly undermining the attractiveness of the flats and lowering the applicants' desire to purchase on the other hand. Since the introduction of HOS in 1978, HA has been reviewing and revising the relevant alienation restrictions as appropriate from time to time in accordance with the aforementioned principles.

My consolidated reply to the question raised by Mr KWOK Wai-keung is as follows:

- (1) Owners of HA's HOS flats who wish to resell their flats with premium unpaid in the Secondary Market must first apply for a Certificate of Availability for Sale ("CAS") from HA. In the past five years (i.e. from 2017 to end June 2021), HA has issued a total of around 12 600 CAS to HOS flat owners, of which 0 and around 240 were issued respectively in the first two years and from the third to the fifth year since the first assignment of the flat. HOS flat owners who have been issued with CAS may not necessarily put up their flats for sale. Members please refer to the Annex for details.

(2) and (3)

HA has been monitoring the property market closely, reviewing from time to time and revising as appropriate the alienation restrictions of SSFs. In late 2018, HA further tightened the alienation restrictions

of the newly launched SSFs, including HOS and Green Form Subsidised Home Ownership Scheme flats. For SSFs launched in 2019 and beyond, owners are only allowed to resell their flats in the open market upon payment of premium 10 years after first assignment; and for the Secondary Market where payment of the premium is not necessary, owners may resell their flats to buyers specified by HA at not more than the original price within the first two years since first assignment or at a freely negotiated price from the third year onward since first assignment.

When HA revised the alienation restrictions, it had already balanced the calls from the public for tightening the alienation restrictions and the need to enable circulation of SSFs in the market, especially in the Secondary Market.

For the open market, according to the prevailing alienation restrictions as mentioned above, owners can only resell their flats in the open market upon payment of premium from the eleventh year onward since first assignment, which is sufficient to prevent owners from making monetary gains through short-term speculative activities in the open market. If we impose further restrictions to prohibit sale in the open market and segregate the markets of SSFs and private residential flats completely, the supply of SSFs will be adversely affected. Furthermore, that SSFs are sold at a discount of the assessed market value and owners are required to pay premium to lift the alienation restrictions is a well-established arrangement which is widely accepted by society. It would be a major policy change if owners are barred from reselling their flats in the open market, for which further discussion and consultation would be necessary. There is currently no public consensus on the relevant suggestion.

As for the Secondary Market, there were a total of around 8 000 transactions in the Secondary Market in the past five years, of which 0 and 133 transactions were made respectively in the first two years from first assignment and between the third to the fifth year from first assignment of the flat, accounting for only 1.6% of total transactions.

Thus, it is not common for SSF owners to sell their flats within the first five years of purchase. Hence, extending the restriction period of reselling at not more than the original price in the Secondary Market from two years to five years will not have much effect on the number of transactions. On the contrary, further tightening the restrictions will inevitably reduce the supply of SSFs with premium unpaid in the Secondary Market, thereby driving up the prices in the Secondary Market. This will counteract the intention of curbing price increase, which goes against the objective of addressing the home ownership aspirations of low- to middle-income families.

We appreciate Mr KWOK's question and goodwill. However, we appeal for your understanding that the Government has already given due consideration to the arrangement for the sale and alienation of SSFs, and has also addressed the calls from society.

Annex

Figures⁽¹⁾ of CAS Issued to HOS Flat Owners by HA

<i>Year</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021 (as at end June)</i>	<i>Total</i>
Number of CAS issued	2 500	2 200	2 500	3 300	2 200	12 600
- Flats within the first two years from first assignment	0	0	0	0	0	0
- Flats between the third to the fifth year from first assignment	16	7	10	110	101	240

Note:

(1) Individual items may not add up to the total numbers due to rounding.

MR KWOK WAI-KEUNG (in Cantonese): *President, our country leaders have said that housing is used for living and not for speculation. But now that speculative activities have entered the subsidized housing market, and the SAR Government has done nothing, I wonder if the Government is turning a deaf ear to their words.*

According to the Annex to the main reply, 240 HOS flats were resold between the third to the fifth year from first assignment, of which 210 transactions occurred in 2020 and 2021, representing a nearly 10-fold increase over the preceding three years. The present situation is that people who have successfully acquired subsidized housing resell their flat at a second-hand price within the third to the fifth year from first assignment. Here is an example of an SSF acquired at a large discounted price under the Green Form Subsidised Home Ownership Scheme which is subject to the same alienation restrictions. The owner purchased the SSF at \$2.88 million and held the flat for only four years and then resold it at \$5.72 million, making a net profit of \$2.8 million. He made a net profit of \$2.8 million in just four years. Of course, the Government will still insist stubbornly that by reselling his flat, the flat owner is able to obtain asset appreciation, which will allow him to leave subsidized housing and move up the housing ladder to enter the private residential market and buy private property. However, based on our calculation, even if the profit made by the flat owner is enough for him to make a down payment on a private residential flat, the area of the flat he can afford is actually smaller and not bigger. So, can we consider this an upward movement in the housing ladder?

President, my question is very simple. If the Government will not adopt our proposal to segregate the housing market, that is, separating the private residential market from the subsidized housing market, so as to stop speculative activities entering the subsidized housing market, what other means does the Government have to enable subsidized housing to serve its original purpose of providing homes for living and not speculation, and that these means will not affect the 70:30 public/private split of new housing supply under the Long Term Housing Strategy?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I thank Mr KWOK for his supplementary question. Housing is for living and not speculation. I believe this is the vision we all aspire to. However, in order to solve the housing problems, we have to adopt a multi-pronged approach, and the crux of the solution lies in increasing the housing supply. The housing strategy of the present Government, if Members are aware, has changed. We have changed the 60:40 public/private split of housing supply and increased the public housing portion to 70%, mainly to take care of the housing needs of the low-income families in society. Furthermore, of this 70% public housing, 70% are public rental housing flats and 30% are SSFs.

Since 2017, the number of SSFs offered by the Government for sale has reached over 26 000 units, reflecting that apart from public rental housing, the Government has made an all-out effort to increase the number of SSFs as part of the safety net to take care of the housing needs of low-income families.

We understand their housing needs. And thus, we announced last year in the Long Term Housing Strategy that we had identified 330 hectares of land, enough for building 316 000 public housing flats, of which 70% will be public rental housing flats and 30% will be SSFs. We hold that different families at different social strata will have changing housing needs, different financial and family situations at different times. So, reselling their flats at a certain time does not necessarily mean that it is an act of property speculation for profit.

Of course, I agree with Mr KWOK that we do not rule out the possibility that some, or a small number, of the alienation are for profit, but our data show that the vast majority of the families buying SSFs did so for self-occupation. We will closely monitor the situation and make appropriate adjustments if we find similar cases in the future.

MR CHAN KIN-POR (in Cantonese): *President, as pointed out in the main reply, it is not common for SSF owners to resell their flats within the first five years of purchase. But as Mr KWOK Wai-keung pointed out just now and as can be clearly seen from the Annex, the number in 2020 is 10 times higher than the number*

in 2019; and the number in the first half of 2021 alone is already comparable to that in 2020, meaning that the number this year may double that of 2020.

May I ask the Government whether it has looked into the reason for such a significant increase? Moreover, does this reflect the presence of speculative activities? In other words, are speculative activities becoming common, so much so that the Government should pay attention to this trend and strive to tackle it?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I thank Mr CHAN for his supplementary question. We can refer to the Annex for the number of CAS we issued each year, as well as the CAS issued to flats within the first two years and between the third to the fifth year from first assignment. Certainly, if we refer to the numbers, we find that 110 SSFs were resold between the third to the fifth year after first assignment in 2020. But we need to understand that in the past, 8 000 SSFs were resold in total. So, a relatively small percentage of SSFs have been resold within a short term.

But certainly, we understand Member's point and we will monitor the situation closely. As Mr CHAN Kin-por pointed out just now, if there are signs that people resell their SSFs within a short term for profit, or that there is any deviation from our policy of offering SSFs for sale, we will reconsider the situation as appropriate. However, we have to understand that there has been a period of time, such as in 2019, 2020 or even in 2021 ... frankly, we all know about the "black-clad violence" that plagued Hong Kong in 2019, and then people had a change in attitude towards emigration. So, do these figures somehow reflect the current condition of society? I dare not jump to any conclusion. However, based on these figures, there is indeed a rising trend. The figures did increase. But what could be the reasons behind? I dare not speculate here. But I believe the SSF owners concerned must have made due consideration when they resold their SSFs which they were only entitled to purchase once in their lifetime. I can only respond up to this point.

MS ALICE MAK (in Cantonese): *President, can the Secretary not be so long-winded? Or, many Members will not have the opportunity to put questions.*

Second, the Secretary is truly a Tai Chi master and rowing expert. He has taken us so far beyond the subject. The question is actually very clear, and that is how to prevent SSFs from becoming a tool for speculation. For all that Mr KWOK Wai-keung has just said, he meant only to ask the Secretary how to prevent SSFs from becoming a speculation tool. But then the Secretary talked about the housing supply. As to the supplementary question Mr CHAN Kin-por just asked, the Secretary did not answer it either, and he mentioned emigration instead.

Secretary, in fact, I only have one question, and that is, has the Government studied how to enable SSFs to help genuine users, rather than allowing SSFs to become a speculation tool for some people?

In the penultimate paragraph of parts (2) and (3) of the main reply, the Secretary says that lifting these restrictions will involve a change in policy and thus it needs further discussion and consultation, and there is currently no public consensus on the relevant suggestion. As the Secretary knows that it needs "further discussion and consultation", it means that he knows this needs to be done. If so, when will this be done? Does he have any plan to expeditiously conduct consultation on the alienation restrictions, so as to ensure that SSFs will not become a tool for speculation and that these flats actually help to meet the housing needs of genuine users?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): *President, I thank Ms MAK for her supplementary question.*

Basically, we offer SSFs for sale every year and in the process, we strive to review, as far as possible, the market property prices, the number of flats offered for sale in that year and the discount rate of the SSFs. Besides, we will also briefly review whether there is any special situation that requires adjustments.

Certainly, as I just said, and as Ms MAK also said just now, this is about policy review. In this connection, we review the market price and the alienation situation from time to time. In our past observation, we did not find any short-term speculative activities for profit. The vast majority of the SSFs were resold more than 10 years after first assignment. So, basically, SSFs are generally meant for grass roots and low- to middle-income families with home ownership aspirations. Secondly, they hold their properties for a relatively long time.

So, regarding the situation just mentioned, our view is that it only represents the minority cases and does not affect our fundamental belief behind the introduction of SSFs, which is, first of all, to give low- to middle-income families the opportunity to buy their own home; and second, not to affect the opportunities for the circulation of SSFs in the market. Why? It is because many low- to middle-income families wish to purchase flats for occupation from the Secondary Market. We wish to continue to monitor the current situation with the principles and attitude just mentioned and review the situation at HA when necessary. And certainly, we welcome Members to provide us with their views. We will continue to listen to the views in society and conduct reviews and implement appropriate measures when necessary.

MR LUK CHUNG-HUNG (in Cantonese): *Apparently the Secretary is not only a Tai Chi master and rowing expert, he is also incapable of understanding the question. President, we are referring to the new HOS flats and not the old ones. So, any changes in the policy will not affect the rights and interests of the old HOS flat owners. The Secretary says that it will be a major policy change to prohibit these flat owners to resell their flats at the open market. But the world precisely needs change. In the face of so many problems in Hong Kong, it is necessary to have the determination to change. As the Secretary, however, he does not have the courage for change. Then, what is the point of being the Secretary?*

Secretary, President, HOS flats serve the mixed purposes of self-occupation and investment, meaning that the two are mixed together. That is why there are so many people at the ballot drawing but very few of them will win the ballots. If

he is concerned that the private residential market will be brought down by a huge supply of HOS flats, the best approach is to segregate the two markets. People who wish to make property investment can go to the private residential market and those who wish to acquire property for self-occupation can go to the HOS market. It is as simple as that. I do not understand why the Secretary has to dodge such a simple matter, no wonder Hong Kong's housing policy cannot solve the housing problem.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I thank Mr LUK for his view.

If Members have noticed, in connection with market segregation, we already have a clear segregation when we set the prices of SSFs. First, we delink the prices of SSFs with the market prices of private flats by referencing to the median monthly household income of non-owner occupier households in pricing SSFs and by considering the affordability of low- to middle-income families in pricing HOS flats and Green Form Subsidised Home Ownership Scheme flats. This is market segregation. We have already taken into account the need and affordability of low- to middle-income families.

Just now, in connection with SSF alienation, I pointed out that the vast majority of the SSFs were resold more than 10 years after first assignment. For SSFs which were resold at less than 10 years of ownership, according to Mr KWOK's view, the restriction period for reselling the flats at their original prices should be extended from two years to five years after first assignment. This is the subject of the discussion today, and I have already made detailed response just now to this point.

PRESIDENT (in Cantonese): Fourth question.

Resumption of normal traveller clearance between Hong Kong and the Mainland

4. **MR MICHAEL TIEN** (in Cantonese): *President, it is reported that there has been no local confirmed case of the Coronavirus Disease 2019 ("COVID-19") in Hong Kong with an unknown source of infection for more than a month since mid-August. In addition, in view of the stable epidemic situation on the Mainland, the Government currently allows Hong Kong and Mainland residents to come to Hong Kong from the Mainland under the Return2hk and the Come2hk Schemes respectively, and they are required to undergo multiple virus testing after arriving in Hong Kong. However, it is not known when normal traveller clearance between Hong Kong and the Mainland can be fully resumed. In this connection, will the Government inform this Council:*

- (1) *as a government expert consultant has suggested that people coming to Hong Kong from the Mainland should be required to have completed a COVID-19 vaccination course before they come to Hong Kong, so as to further reduce the risk of importing the epidemic, whether the Government will consider the suggestion;*
- (2) *whether it has discussed with the authorities of the various Mainland provinces and cities (including the Guangdong Province, Shanghai and Beijing) the resumption of normal traveller clearance between the two places; if so, of the progress; and*
- (3) *why the "Hong Kong Health Code" system, the development of which was completed in August last year, has not yet been launched; whether it will discuss with the Guangdong Provincial authorities the implementation of the following measure: if a resident of either place meets four conditions (i.e. having completed a COVID-19 vaccination course, having obtained proof of a positive result of serology antibody test, having no outbound travel history in the past month, and having obtained proof of a negative result of polymerase chain reaction nucleic acid test), he or she may apply for a "Guangdong-Hong Kong health code" which is valid for two weeks, so that he or she will be exempted from entry quarantine when he or she travels between Hong Kong and the designated cities of the Guangdong Province?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, while the global epidemic situation continues to remain severe, the Hong Kong Special Administrative Region ("SAR") Government has all along been adopting the approach of "preventing the importation of cases and the spreading of the virus in the community". Together with the concerted effort of the members of the public, we have successfully controlled the epidemic in the local community. On the prevention of importation of cases, the Government will continue to prevent the virus from slipping into the local community from overseas places through very stringent border control measures and closed-loop management arrangements. In preventing the spreading of the virus in the community, with the vaccination programme and the various surveillance testing, social distancing, and community prevention and control measures, we have recorded over 40 days with no local unlinked cases, and have essentially achieved "zero cases" locally. That said, we cannot afford to let our guard down, and must continue with our efforts in "preventing the importation of cases and the spreading of the virus in the community", as well as in raising our vaccination rate, so as to foster favourable conditions to gradually resume quarantine-free travel with the Mainland.

In consultation with the Constitutional and Mainland Affairs Bureau and the Innovation and Technology Bureau, I reply to the various parts of the question raised by Mr Michael TIEN as follows:

- (1) The Government currently implements corresponding border control measures according to the assessed risks of the relevant origins of the incoming travellers to prevent importation of cases from outside Hong Kong. For example, people who have stayed in high-risk Group A specified places can only board flights for Hong Kong if they are Hong Kong residents ("HKRs") who are fully vaccinated and hold a recognized vaccination record. Non-HKRs who have stayed in medium-risk Group B specified places must also be fully vaccinated in order to board flights for Hong Kong.

As far as low-risk places are concerned, since the risks are relatively low, generally there is no need to introduce vaccination as a requirement for people entering Hong Kong from these relevant places. The Hong Kong SAR Government will closely monitor the epidemic development and maintain communication with the

Mainland. There is no need at this juncture to introduce vaccination as a requirement for people entering Hong Kong from the Mainland.

- (2) Hong Kong SAR representatives led by the Chief Secretary for Administration attended a meeting on the anti-epidemic work of the Mainland and Hong Kong hosted by Deputy Director of the Hong Kong and Macao Affairs Office of the State Council, Mr HUANG Liuquan, in Shenzhen on 26 September 2021. At the meeting, Hong Kong SAR and Mainland representatives had detailed exchanges on the strategies to prevent and fight the virus and studied the resumption of quarantine-free travel between the Mainland and Hong Kong in a gradual and orderly manner. Mainland experts agreed with Hong Kong's determination in fighting the epidemic and reaffirmed the city's present situation of "zero local infections". The two sides explored in detail matters and factors of consideration relating to the resumption of quarantine-free travel in a gradual and orderly manner and candidly exchanged views on and examined the possible risks after resumption of quarantine-free travel. The Chief Secretary for Administration expressed Hong Kong people's eagerness for resumption of quarantine-free travel, and the close correlation of resuming quarantine-free travel with the economy and people's livelihood. The two sides discussed earnestly, provided relevant information and built a solid foundation for creating favourable conditions to take forward the resumption of quarantine-free travel. The two sides will further study the details and strive to hold a second meeting as soon as possible.
- (3) The Government completed the development of the health code conversion system last November. The code conversion system supports eligible persons arriving Hong Kong from Guangdong Province or Macao under the "Return2hk" Scheme, to use the "Yuekang Code" or "Macao Health Code" to directly convert their valid nucleic acid testing results to the electronic Health Declaration Form platform of Hong Kong. The system also supports persons coming to Hong Kong from Guangdong Province and Macao under the "Come2hk" Scheme launched in September this year.

The Office of the Government Chief Information Officer ("OGCIO") has been collaborating with the "Health Code" technical teams of Guangdong Province and Macao on enhancement of the code conversion system with a view to incorporating the vaccination records into the code conversion function and making technical preparations for the gradual resumption of cross-boundary travels among the three places. Citizens of the three places can make use of the health code conversion system to submit the required information in one go for health declaration purpose. The relevant system will be put into service when the related arrangements for cross-boundary travels among the three places are implemented.

The Mainland and the Hong Kong and Macao SARs have all begun vaccination programmes, and there are signs that the epidemic situation is subsiding. The Hong Kong SAR Government will continue to maintain close liaison with the relevant Mainland and Macao authorities to consider the early resumption of cross-boundary quarantine-free flow of passengers amongst the three places having regard to the latest epidemic situation.

MR MICHAEL TIEN (in Cantonese): *I am so glad that the Secretary said "preventing the importation of cases" when she read out the script just now, because I was really shocked to see that her script read "外放" in Chinese, which literally means "releasing outward". The Secretary said that vaccination is not required because the risks are low, but from the perspectives of common knowledge, common sense and science, vaccination must be a condition for full resumption of quarantine-free travel in the future, so how is it possible that there is no such requirement for the current "semi-resumption" of quarantine-free travel? Moreover, these are also the words of a government expert consultant, who has even joined the delegation to the Mainland for an expert dialogue. Secretary, I have noticed for a long time that several expert consultants of the Government often criticize the Government's measures, such as exemptions for members of consular families and international movie stars, as well as the existence of testing loopholes at the airport. What exactly does the Government regard these experts as? It listens to them only when it wants to. Those making pleasant comments are experts. Those making unpleasant comments will become*

losers. Under such circumstances, how can the Government attract talents to work with it?

Dr LO Chung-mau, who is stationed in a Shenzhen hospital, recently uploaded to the Internet a selfie video which roughly said that Shenzhen's health authorities look at not just the result indicated by the number of days of zero local infections, but most importantly also the acts of the SAR Government. He said in the video that the Mainland authorities were deeply shocked by the full quarantine exemption granted to an international movie star who arrived in Hong Kong from Australia, a high-risk place, together with five crew members, so much so that they had lost confidence in Hong Kong's efforts to prevent the importation of cases.

In other words, if the authorities do not really and fully listen to expert advice from today onwards while these experts go to the Mainland for discussions on interfacing with each other, full resumption of quarantine-free travel will definitely remain a distant prospect for Hong Kong. Therefore, my supplementary question is a very simple one: will the Secretary undertake to really adopt a stringent rather than lenient approach and fully listen to expert advice from today onwards? Since the experts are now the ones who do the interfacing, how would the Hong Kong experts reply if the Mainland experts asked whether they agree with the SAR Government's approach? Will the Secretary make this pledge?

PRESIDENT (in Cantonese): Mr Michael TIEN, you have already raised your supplementary question. Please sit down.

Secretary, please reply.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, the SAR Government's anti-epidemic measures have always been stringent. This is the first point. Secondly, we have fully considered all the advice given to us by the experts, and communicated closely with them, so there is no question of whether we follow expert opinion or not. The SAR Government has always been engaging in bilateral communication with the experts, listening to their views and keeping them abreast of the latest measures or ideas introduced by us. In addition, we have adopted a science-based approach. In fact, both expert advice and the

Center for Health Protection's current practice of epidemiological investigations and data analysis form the basis of our anti-epidemic efforts.

As for the prevention of importation of cases, the SAR Government's measures are in fact very stringent, and I believe that Hong Kong is one of the strictest places in the world. In this regard, Members can get themselves informed simply by looking at the measures adopted by other places in the international community for the prevention of importation of cases.

However, as the local situation is now stable with zero local infections but the situation outside remains critical, we must continue to pursue stringent policies and related work against the importation of cases. Moreover, we will adopt a risk-based approach and undergo closed-loop management in each and every aspect of work with a view to effectively preventing the virus from slipping into the local community from overseas.

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

MR MICHAEL TIEN (in Cantonese): *I asked whether she would undertake to fully follow expert advice. She has not responded to my question.*

PRESIDENT (in Cantonese): Mr TIEN, I think the Secretary has fully responded to your supplementary question. Please sit down.

MR POON SIU-PING (in Cantonese): *The public is itching for the resumption of quarantine-free travel and hoping for its prompt fruition. The Secretary mentioned earlier in her reply that just on 26 September 2021 the Chief Secretary for Administration led Hong Kong SAR representatives to attend a meeting on the anti-epidemic work of the Mainland and Hong Kong hosted in Shenzhen by the Deputy Director of the Hong Kong and Macao Affairs Office of the State Council, where the two sides explored in detail matters and factors of consideration relating to the resumption of quarantine-free travel in a gradual and orderly manner, and*

that the two sides would strive to hold a second meeting as soon as possible. I would like to ask the Secretary when the second meeting will be held and whether there is a timetable for the resumption of quarantine-free travel.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, in fact I have said earlier in the main reply that at the last meeting, the delegations from Hong Kong and the Mainland had detailed exchanges on either side's efforts to prevent and fight the virus, and explored in detail matters and factors of consideration relating to the resumption of quarantine-free travel in a gradual and orderly manner. They candidly exchanged views on, certainly, the prevention of importation of cases and spreading of the virus in the community, as well as some risk management work. Thus, at the last meeting, we created favourable conditions to take forward the resumption of quarantine-free travel. The two sides will now further study the details and strive to hold a second meeting as soon as possible.

MR JEFFREY LAM (in Cantonese): *As the local epidemic situation has stabilized, we can now say that everything is ready except the resumption of quarantine-free travel. In my view, the interface with the Mainland's epidemic prevention requirements should be realized as soon as possible. We really need to achieve joint prevention and control with the Mainland and Macao, and be stricter in preventing the importation of cases. Although the Secretary said earlier that Hong Kong is already very strict compared with other places, we can take an even stricter approach. President, regarding the Secretary's earlier response about the health codes, I really do not quite understand why the Secretary is still saying that the Hong Kong Health Code will not be introduced or put into service until the resumption of cross-boundary travels among the three places even though it has been successfully developed, as announced in May last year? By then, would there be mistakes made in haste? If the computer program goes wrong by then, will there be a disaster? I believe the Secretary would not wait until she is hungry to go grocery shopping and cook, would she?*

President, I would like to ask this question: since there are a number of areas for improvement, such as the quarantine procedures for people transiting at the airport and the big loophole where, as we saw a few days ago, a foreigner left the

quarantine hotel without anyone's knowledge and the authorities were even one day late in announcing the news, how can the Government prevent the recurrence of people under quarantine escaping hotel quarantine to enter the community? What can the Government do to step up epidemic prevention?

PRESIDENT (in Cantonese): Mr Jeffrey LAM, you have raised a total of three questions related respectively to the health codes, the prevention of importation of cases, and the occurrence of persons in quarantine or isolation going out without permission.

Secretary, please select one question to answer.

MR JEFFREY LAM (in Cantonese): *President, regarding the health codes ...*

PRESIDENT (in Cantonese): Mr LAM, you have asked three questions. I will now let the Secretary select one to answer.

Secretary, please reply.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, in fact, in the earlier main reply we have already reported on the overall preparatory work for the health code with reference to the information provided by OGCIO. Please rest assured that we will continue to collaborate with the "Health Code" technical teams of Guangdong Province and Macao on enhancement of the code conversion system. Certainly I believe that OGCIO will be very strict in the trial use of the health code or other technical work.

As regards the rigorous prevention of importation of cases, President, in fact we have always been pursuing the objective of preventing any virus from entering Hong Kong and the community. Admittedly, there are visitors coming to Hong Kong every day, thus posing a risk if the situation outside continues to be critical, but we have put up various barriers, including testing. The testing before

departure for Hong Kong, the "test-and-hold" arrangement upon arrival at the airport, and the multiple tests during quarantine are all aimed at identifying any confirmed cases during quarantine or on arrival and then isolating the confirmed patients so as to prevent their entry into the community. Our ongoing efforts can certainly be stepped up or made more stringent. As Members have noticed, for some time past we have been constantly increasing the frequency and enhancing the method of testing, as well as adopting a more stringent approach. In summary, as far as overall risks are concerned, we will make constant assessments and all-out management efforts to fully cover all possibilities.

MR CHAN KIN-POR (in Cantonese): *President, there are comments in the community that Hong Kong's failure to resume quarantine-free travel is due to our refusal to use the national health code, but part (3) of the main reply points out that OGCIO has been collaborating with the "Health Code" technical teams of the Mainland on enhancement of the code conversion system, believing that it can be put into service when cross-boundary travels among the three places are resumed. I would like to ask whether the Secretary will confirm that the application of the health code technology is not the main reason why Hong Kong has failed to resume quarantine-free travel.*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, during the meeting on anti-epidemic work in the Mainland, we had an in-depth discussion on all the different work areas and anti-epidemic measures ranging from risk management to prevention of the importation of cases and the spreading of the virus in the community, and both parties had gained understanding of the practices and standards of their counterparts. Despite some differences between the systems, we have fostered deeper mutual understanding.

The health code or code conversion was also one of the subjects for discussion. In this regard, we have also pointed out in the main reply that OGCIO has been collaborating with the "Health Code" technical teams of Guangdong Province and Macao on enhancement of the code conversion system with a view to incorporating the vaccination records into the code conversion function and making technical preparations for the gradual resumption of cross-boundary travels

among the three places when conditions are ripe. This approach will also facilitate the overall arrangement in future. Accordingly, the system will be launched when quarantine-free travel is possible and it is ready to be put into service.

DR PIERRE CHAN (in Cantonese): *President, when it comes to the resumption of quarantine-free travel, what we see at this moment is one-way quarantine-free travel, which only caters to the needs of non-HKRs coming to Hong Kong. In fact, the "Come2hk" Scheme serves non-HKRs. At present, they can receive quarantine exemption and undergo multiple virus tests for free in Hong Kong without being required to get vaccinated, nor install the LeaveHomeSafe mobile app. But by contrast, the opposite is true for Hong Kong people, who cannot travel abroad. More than 60% of the local people have already been vaccinated. Some Hong Kong people even have to pay for their own tests in order to work. There have been no local confirmed cases for umpteen months ... umpteen days and yet the restrictions on group gatherings remain in force. I cannot get my head around it. May I ask why the Government's policy seems to be strict in governing fellow Hong Kong people but lenient in treating non-HKRs? Regarding the prevention of importation of cases and other aspects mentioned by the Secretary, I do not quite understand what exactly the Government's policy direction is. After many days of zero local infections, it has raised the issue of resumption of quarantine-free travel, but now what is being talked about is one-way quarantine-free travel. What about Hong Kong people?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, our direction and measures in fighting the epidemic are clear. As regards the issue of testing mentioned by Dr CHAN, while the Government will bear the costs of any mandatory tests, members of the public who have to go to other places for their own reasons will have to pay for their own tests.

PRESIDENT (in Cantonese): Fifth question.

Immigration quarantine for foreign domestic helpers

5. **MR YIU SI-WING** (in Cantonese): *The Government has, since 30 August, allowed foreign domestic helpers ("FDHs") from Indonesia or the Philippines to enter Hong Kong in an orderly manner. They are required to undergo quarantine at a designated quarantine hotel or the Penny's Bay Quarantine Centre upon entry into Hong Kong. Calculating on the basis that each FDH is subject to quarantine for 21 days, the daily quota for quarantine is 70 on average. It has been reported that as there are currently about 6 000 to 7 000 FDHs waiting to come to Hong Kong, a majority of such FDHs will have to wait for several months before they can enter Hong Kong. In this connection, will the Government inform this Council:*

- (1) *as quite a number of hotels have indicated that they are willing to be designated as quarantine hotels for FDHs, whether the Government will increase the number of quarantine hotels and the quarantine quota for FDHs in the near future, so as to alleviate the shortage of FDHs as soon as possible; if so, of the details; if not, the reasons for that;*
- (2) *as quite a number of families (especially those with young children, the elderly and the sick) urgently need to hire FDHs, whether the Government will take measures to alleviate the pressure on such families' living before their FDHs assume duty, or accord priority to the FDHs hired by such families in being allocated the quarantine quota; and*
- (3) *whether it knows, in the event that FDHs are unable to come to Hong Kong as scheduled due to the Government's invocation of the place-specific flight suspension mechanism, who will bear the expenses in relation to the rooms booked for quarantine of FDHs, and whether any mechanism is currently in place to reduce that party's loss?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, having consulted the Security Bureau and the Immigration Department ("ImmD"), my consolidated response to the Member's question is set out below:

(1) and (2)

Due to the COVID-19 pandemic and international air travel restrictions, the number of foreign domestic helpers ("FDHs") coming to work in Hong Kong has decreased. Families employing FDHs are in face of difficulties and pressure because of the shortage of supply.

To facilitate FDHs to come to work in Hong Kong, the Government implemented new border control measures on 9 August 2021. For FDHs who have been fully vaccinated in Hong Kong before they left Hong Kong, they can come to work in Hong Kong. Starting from 30 August, FDHs who have been fully vaccinated in Indonesia or the Philippines and hold a vaccination record that has been affirmed by the relevant authorities of these two countries may also come to work in Hong Kong. They have to undergo compulsory quarantine in a Designated Quarantine Facility ("DQF") after arriving at Hong Kong.

To prevent imported cases, the Government must resume the admission of FDHs to Hong Kong in a gradual and orderly manner. The first DQF has been in operation since 30 August, providing 409 rooms for quarantine of FDHs. The Government has opened a total of 800 units in Phases 1 and 2 of the Penny's Bay Quarantine Centre ("PBQC") on Lantau Island starting from 20 September for quarantine of FDHs who have been fully vaccinated in Group A specified places (currently the applicable regions are Bangladesh, Brazil, India, Indonesia, Iran, Malaysia, Nepal, Pakistan, the Philippines, Russia, Thailand and the United Arab Emirates). To further address the needs of employers of FDHs, the Government announced on 28 September that an additional 200 units in PBQC will be provided for quarantine of FDHs starting from 22 October.

Families employing FDHs have different needs and it would not be easy to accord priority for making reservations at PBQC, as it would generate controversies and would be complicated administratively. The Government will continue to refine the reservation arrangements for PBQC and will consider the need for further increasing the number of DQFs, having regard to the worldwide and local epidemic situation.

Apart from facilitating FDHs to come to Hong Kong in a gradual and orderly manner, the Government has implemented various flexibility measures since early 2020 to assist FDHs and their employers to cope with the COVID-19 pandemic. The measures include:

- (a) to allow employers to extend the validity period of the contracts with their existing FDHs for a maximum period of three months with the latter's consent. The flexibility arrangement aims to assist those employers whose contracts with their existing FDHs are due to expire soon, but that their newly-hired FDHs cannot fly in to commence the new contract. The above flexibility arrangement applies to FDH contracts expiring on or before 30 September 2021. The Government announced on 28 September 2021, the continuation of this measure. Employers may apply to the ImmD for extension of all FDH contracts that will expire on or before 31 December 2021. The maximum period of extension is lengthened from three months to six months. If the contract with the current FDH has already been extended under the flexibility arrangements announced on 28 June 2021, the employer may also apply for further extension of the validity period of the contract for a maximum period of six months; and
 - (b) under the prevailing mechanism, an FDH on a renewed contract with the same employer, or starting a new contract with a new employer upon the expiry of an existing contract, may apply to the ImmD for deferring return to the place of origin for not more than one year after the existing contract ends, subject to agreement of his/her current employer or new employer. If an FDH is unable to return to his/her place of origin within the aforementioned one-year period, he/she may, upon agreement with his/her employer, apply to the ImmD for a further extension of limit of stay until the end of his/her contract such that he/she may return to the place of origin within that period.
- (3) If a change or cancellation of room booking is required because an FDH is tested COVID-19 positive before arrival in Hong Kong, or because of a change or cancellation of flights by the airline or a

lockdown, DQF will not charge a handling fee for changing the booking, or charge a room fee for cancellation of booking if relevant supporting documents are submitted in advance.

MR YIU SI-WING (in Cantonese): *President, at present, there are several thousand FDHs on the waiting list and it is estimated that the number of FDHs on the waiting list will continue to increase in the future. I wonder if the authorities will use the current daily supply of 1 600 rooms as the basis for calculating how long FDHs will have to wait before they can come to Hong Kong under normal circumstances? According to my calculations, the waiting time is about three months, which is not ideal.*

Therefore, may I ask the Secretary when the Government will examine the possibility of increasing the number of DQF rooms? If so, will consideration be given to increasing the number of designated quarantine hotels in the event that the facilities in Penny's Bay have failed to meet the demand?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): *President, we have been constantly reviewing the development of the epidemic and the number of confirmed cases on a daily basis. As we can see from the latest figures, the percentage of confirmed cases among FDHs coming to Hong Kong from the Philippines is around 4%. This is the figure as of yesterday.*

Just imagine if 8 000 people come to Hong Kong at this rate, then how many of them will be tested positive and how many times the "flight suspension mechanism" will be triggered? Therefore, any move because of impatience to allow more FDHs to come to Hong Kong may have the objective result of fewer FDHs coming to Hong Kong due to the more frequent triggering of the "flight suspension mechanism", hence putting more pressure on Hong Kong employers. Therefore, it is very important for us to proceed in an orderly manner, to keep a careful eye on the situation and make appropriate decisions accordingly.

MR CHAN KIN-POR (in Cantonese): *President, the Secretary stated in the main reply that the Government would only consider the need for further increasing the number of DQFs, having regard to the worldwide and local epidemic situation.*

However, Mr YIU Si-wing, a Member from the tourism sector, has already pointed out that many hotels were willing to serve as quarantine hotels, but the approval process would take a long time to complete.

May I ask the Government whether it will first discuss with the hotels concerned and then enlist them as quarantine hotels in phases on a need basis?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, we are basically still discussing with a number of hotels that are interested and qualified.

MR CHAN CHUN-YING (in Cantonese): *President, regarding the reservation arrangement, I heard the industry say in a live radio programme this morning that the demand was huge when the reservation was open every Monday onwards, but the reservation period was too short and I hoped that reservation can be made 30 days in advance.*

May I ask whether the Administration will extend the reservation period accordingly so that the industry will not have to "rush" to make a reservation every Monday, thereby increasing the uncertainty?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, as ... it is true that the cumulative demand in the community is huge, whether you allow 7 days, 21 days, 30 days or even 60 days in advance for reservation, the places can still be "fully reserved" immediately after reservation is open. The problem is that if there are too many rooms available for reservation on certain days—please don't assume that it's a hotel on a weekday and people can make reservation at any time of the day—the situation is that within half an hour, over 1 000 to 2 000 people may have already made reservation and it is impossible for the applications concerned to wait for one week before they are processed. Initial vetting and approval process should be completed within a day or two after applications are received. This is the only way to process the applications in an orderly manner. This is because the relevant parties still have a lot of work to do, including reserving air tickets, arranging transport to the capital, and picking up the relevant documents from two government offices.

Therefore, after balancing all these considerations, we consider that the method announced yesterday by opening the quota for one week at a time will allow us to complete the application process expeditiously, thus enabling them to make the relevant arrangements. It is certainly not impossible to extend the reservation period, but this will depend on our workflow and whether we can improve efficiency in the future. We cannot, for example, allow reservation to be made 30 days in advance and then hire a large group of people instantaneously to process the applications within a day or two and then these people will not need to work for the next 20 days or so. This is not the efficient use of resources. For this reason, we will keep this situation under review.

MR YIU SI-WING (in Cantonese): *President, just now the Secretary said that he was worried that the "flight suspension mechanism" triggered by the epidemic would result in the suspension of flights by airlines. May I ask how many airlines operate flights between Hong Kong and Indonesia and those between Hong Kong and the Philippines? If the "flight suspension mechanism" is really triggered and no flights are available, does the Government have other options? In other words, if the "flight suspension mechanism" is really triggered, resulting in the suspension of flights by airlines and making it impossible for FDHs to fly to Hong Kong from their home countries, does the Government have any contingency plan to address this issue?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): *President, I do not have information on the number of flights from Indonesia to Hong Kong. However, at present, there are about three flights from the Philippines to Hong Kong. At one point, two of the three flights were suspended and only one flight was available, fortunately that flight was able to make it through and no incident had occurred, otherwise all three flights would have been grounded. This just demonstrates how important it is for us to keep a tight control over the number of inbound FDHs. Had we been trying to pursue a higher number of inbound FDHs, the third flight might have also been grounded as well. I don't think Members would ask the Government to charter a plane, right? It is not an appropriate way of handling the matter. It is because the rationale and principle behind the "flight suspension mechanism" is to reduce the pressure on our efforts to prevent the importation of cases, so why should we attempt to keep them flying here if they*

have been suspended? This is against the basic principle of preventing the importation of cases, so we have not considered these methods for the time being.

MR CHUNG KWOK-PAN (in Cantonese): *President, I have some friends whose FDHs were granted entry visas by ImmD in July, but they have failed to reserve a room in any quarantine hotel or quarantine facility because they have not been as quick as others in pressing the button. In that case, will the Secretary consider allowing them to reserve a quarantine room at the time the visa was granted, that is ... for those who had the visas concerned approved in June and July, they can first reserve a DQF room, instead of using the current arrangement where one has to press the button as quick as possible in order to reserve a room? For example, if my FDH was granted an entry visa only two months ago and I was lucky enough to get a room by pressing the button quickly, my FDH would be able to come to Hong Kong to undergo the quarantine process first, while those who were granted visas in July would be kept waiting simply because their employers were a bit slower in pressing the button, resulting in their failure to reserve a DQF room. Will the authorities use the date ImmD or the Labour Department ("LD") grant the visas of FDHs as the basis for according priority to their employers for reserving DQF rooms?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): *President, in view of the epidemic, ImmD and LD have actually deployed a large number of staff since last year in dealing with the matters concerning FDHs. This time around, LD has to abruptly deploy its staff to manage a hotel-like facility which can accommodate 1 000 people, which is something that not a government department has ever dealt with before. In addition, it is a great challenge for us to operate a hotel-like facility which can accommodate 1 000 people in a very short period of time. If we further complicate the arrangements by laying down some criteria and designate a specific time for applications whose priority will be determined by us, I believe we will not be able to implement this arrangement until next January. This is because we need to hire a large number of staff to do the work, and as a result, we may have to come to the Legislative Council to ask for the funding for hiring the additional staff, and that is the reason why such an arrangement is not feasible.*

Although we consider the current arrangement not ideal, it can still achieve the objectives of preventing the importation of cases and allowing FDHs to come to Hong Kong in an orderly and gradual manner. I understand the considerable pressure and difficulties faced by individual employers in securing a room in a quarantine hotel for their FDHs.

MR TONY TSE (in Cantonese): *President, of course, the Secretary mentioned that strictly preventing the importation of cases was of utmost importance to the prevention of the epidemic. Another important aspect is those members of the public who are under the pressure of their need for FDHs. When considering this, I believe the Government ... the Secretary has just mentioned in his main reply about the measures in various aspects ... Some of the measures were related to the extension of contracts of existing FDHs, and the Secretary also mentioned the orderly manner in which FDHs were allowed to come to Hong Kong to provide services after completing the quarantine process. When considering this approach, President, on the basis I would like to ask the Government if it has assessed the time to be taken to complete the processing of FDH cases where visas have been granted by ImmD on the basis of existing manpower and handling method and assuming that no new mechanism will be put in place?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, in fact, we do not have a very accurate figure to project the number of people who are waiting. We can see that there are many intermediaries in the community which may simply quote some figures and then make a so-called projection. If the projection is increased, the number could actually be greater, as we had 400 000 FDHs at the peak time, and now we have less than 360 000, representing a reduction of 40 000. But even if we take half the number as a basis for the calculation, the demand could still be 20 000. So, the number could be anywhere from a few thousand to 20 000. For this reason, we have to take a long time to handle them and it is important to know what changes will take place afterwards—because very often, employers will also consider whether there are other options to address the need for taking care of their family members, including hiring hourly helpers or adopting other methods. In this regard, I believe that in the midst of an epidemic, we all have to find ways to address the problem, and the Government's responsibility is to do our best to help the families concerned to deal with the stress they are facing.

MR CHUNG KWOK-PAN (in Cantonese): *President, I do not quite understand the main reply given by the Secretary just now. In fact, it is very simple, but he has made things very complicated. If the visas for some FDHs, for example, were granted in July, only the employers whose FDHs were granted visas in July should be allowed to make the reservation on, say, next Monday, and the reason is as simple as that, how can it be so complicated? How can this have resulted in the great grievances of the employers concerned now? Does the Secretary understand that?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I understand that there is a lot of grievance.

PRESIDENT (in Cantonese): Mr CHUNG Kwok-pan, which part of your supplementary question has not yet been answered?

MR CHUNG KWOK-PAN (in Cantonese): *He did not give a reply at all. He only said that he knew that there were grievances but what the Secretary should do is to address the grievances of the people, instead of creating grievances.*

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

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, the reply I gave just now has already mentioned the circumstances that we will consider. We will certainly keep the existing arrangements under review and see if there is any room for improvement.

PRESIDENT (in Cantonese): Last question seeking an oral reply.

Regulation of employment agencies for placement of foreign domestic helpers

6. **MS YUNG HOI-YAN** (in Cantonese): *I have received quite a number of complaints from employers and prospective employers of foreign domestic helpers ("FDHs"), alleging that some employment agencies for placement of FDHs ("EAs") have engaged in malpractices such as overcharging commissions, charging fees under all sorts of pretexts, failing to provide services in accordance with written service agreements, and abetting FDHs to "job-hop" to take advantage of the recent shortage of FDHs. In this connection, will the Government inform this Council:*

- (1) *as it is learnt that the persons-in-charge of some EAs have, upon the EAs concerned being convicted and fined for unlawful acts, set up new EAs and continued to make huge profits by the same unlawful means, of the Government's follow-up actions to eradicate such situation;*
- (2) *given that quite a number of complaints were about EAs charging FDH employers a great variety of hidden fees, resulting in such employers ultimately having to pay fees that were much higher than those set out in the service agreements, whether the Government will specify the types and maximum amounts of fees chargeable to FDH employers by EAs; if so, of the details; if not, the reasons for that; and*
- (3) *as some FDH employers have relayed that the situation of EAs engaging in malpractices has become increasingly serious, whether the Government will review if the existing regulatory regime is outdated or pierced with loopholes and introduce corresponding amendments and increase the penalties; if so, of the details; if not, the reasons for that?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, having consulted the Security Bureau and the Immigration Department ("ImmD"), my consolidated reply to the Member's question is set out below:

- (1) According to the Employment Ordinance ("EO"), all employment agencies ("EAs") operating in Hong Kong must first obtain a licence

from the Labour Department ("LD"). EO also provides that the Commissioner for Labour ("the Commissioner") may revoke or refuse to issue or renew an employment agency ("EA") licence under certain situations, including where the Commissioner is satisfied with reasonable grounds that the licensee or the person intending to be the licensee has a conviction record of a specified offence, including fraud or dishonesty, has contravened any provision of Part XII of EO or the Employment Agency Regulations ("EAR"), or has failed to comply with the requirements of the Code of Practice for EAs ("CoP"). The Employment (Amendment) Ordinance 2018 ("E(A)O 2018") effective from 9 February 2018, has extended the scope of the overcharging offence to associates of the licensee, including the management as well as persons employed by EAs; and set out new grounds for the Commissioner to revoke or refuse to issue or renew a licence⁽¹⁾.

LD has all along processed and approved applications for issue and renewal of EA licence in accordance with the requirements in EO, EAR and CoP issued by the Commissioner. When processing a licence application, apart from checking the records of the EA's licensee, LD would also examine if the EA's operator, person intending to be the operator and the associates of the licensee (i.e. the management or employees) have any relevant conviction records. If it is found that the licensee or his/her associate has committed an offence under EO or breached CoP, LD would refuse the application.

In addition, LD has stepped up the inspections to EAs to scrutinize relevant records and documents to ensure that EAs are operating in compliance with the various requirements in EO, EAR and CoP. Upon detection of possible irregularities, LD officers would seize relevant documents for further investigation with a view to preventing any irregularities in their operation.

- (1) The new grounds include: (1) the licensee or his/her associates has not complied with CoP; (2) the associate of the licensee has contravened any provision of Part XII of EO or any regulation made under section 62; and (3) the related person of the licensee has, within the preceding five years, been convicted of an offence against the person of a child, young person or woman or of an offence involving membership of a triad society, fraud, dishonesty or extortion.

-
- (2) There is currently no provision under EO governing the amount of fees collected by EAs from the employers. Employers, as consumers, are free to choose to engage the services of any EA in the market, and negotiate with an EA the amount of fees to be charged and fee items. LD has all along encouraged EAs to adopt an open and transparent approach in conducting their business. To protect the rights of the employers as consumers, CoP requires EAs to draw up service agreements ("SAs") with employers to clearly list out the service terms and scope, details of the fees to be charged, the payment schedule, refund arrangements in case of incomplete delivery of EA services, fees to be charged for selecting another foreign domestic helper ("FDH"), etc. If an EA is unable to deliver services as per SA, the employer may file a complaint with the Consumer Council and may also institute a civil claim against it. In addition, if an employer has come across any malpractice of an EA, he/she may file complaints with LD for investigation and follow up.
- (3) LD has all along taken rigorous enforcement actions in combating unlawful acts of EAs. Prosecution will be initiated where there is sufficient evidence to substantiate that an EA has violated the law. Apart from implementing the two amendments mentioned in Part (1) above, E(A)O 2018 has also increased the maximum penalties for the offences of overcharging of commissions from jobseekers and unlicensed operation from a fine of \$50,000 to a fine of \$350,000 and imprisonment for three years; extended the statutory time limit for prosecution of the above two offences from 6 to 12 months; and provided a legal basis for CoP⁽²⁾ issued by the Commissioner. E(A)O 2018 provides an even more solid foundation for LD to combat irregularities of EAs. From 2019 to 2021 (up to August), LD considered taking out prosecution against EAs involving offences of unlicensed operation or overcharging in 83 cases. Of these, the prosecution of 43 cases could be pursued wholly due to the amendments brought by E(A)O 2018, including extending the
- (2) Under section 62A of EO, the Commissioner may issue a CoP setting out the principles, procedures, guidelines and standards for the operation, management or control of EAs for EAs to follow during operations.

statutory time limit for prosecution and expanding the scope of the overcharging offence to cover associates of the licensee.

In respect of "job-hopping" of FDHs, LD has maintained close communication with ImmD. ImmD would thoroughly scrutinize the details of the applicants, including the number of and the reasons for premature termination of contract, in order to consider whether an FDH has abused the arrangements for premature termination of contract to change employer. ImmD and LD also mount joint operations to inspect EAs suspected of encouraging or inducing FDHs to "job-hop". In addition, LD has strengthened its efforts in combating suspected inducement of FDH "job-hopping" by EAs, including closely monitoring the business practice of EAs; conducting inspections to EAs offering cash incentives to FDH jobseekers (particularly those who have terminated the contract prematurely) and their referrers, etc.

If it is found that an EA has failed to comply with CoP, the Commissioner may revoke or refuse to issue or renew its licence, or issue warnings to urge it to rectify the irregularities detected. From 2019 to 2021 (up to August), LD revoked or refused to issue or renew the licences of 13, 7 and 6 EAs respectively on the grounds that the licensees had been convicted of overcharging of commission from jobseekers or unlicensed operation, or had failed to comply with CoP, etc.

LD has all along monitored the operation of EAs and their compliance with EO and EAR and would review the effectiveness of the existing legislation in regulating the industry from time to time.

MS YUNG HOI-YAN (in Cantonese): *President, actually, employers have now become victims. They are really helpless and feel as if they are being held over a barrel in the face of the problem of "job-hopping" among FDHs.*

Despite the presence of an SA, employers are still filled with worries. Except lodging a complaint with LD and—just as what the Secretary mentioned—the Consumer Council, there is really nothing much they can do in

case of a unilateral breach of contract by their FDHs—worse still, the waiting time is very long right now—and this is really a helpless situation for carers, families with children and elders. In light of this, will the Bureau consider enhancing the existing functions of LD, including ... Though we know that employers can now lodge their complaints with the Consumer Council or with LD regarding the malpractices of EAs, or have ImmD handle their cases if their FDHs are found to be questionable, they are already heavily burdened when their families cease to have FDHs. Will LD strengthen its existing work to provide one-stop services which can free employers from their heavy burden and stress?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I believe that messages about "job-hopping" may need to be reinforced.

Of course, as mentioned in my main reply earlier, LD has significantly strengthened its work over the past two to three years, particularly because some problems mentioned just now have become more prominent due to this pandemic. One of the key messages which FDHs and EAs have to know is that any FDH who "job-hops" will be required to leave Hong Kong within a short time (seven days in general) once we receive relevant complaints or we, without receiving any complaint, notice an absence of any valid reason for his/her premature termination of contract, say his/her employers moving away from Hong Kong or any other reasonable cause. So, there should be dwindling cases of FDHs trying to find new employers by "job-hopping" with our stepped-up efforts in combating "job-hopping" recently.

MR CHAN CHUN-YING (in Cantonese): *President, the authorities have stated in part (3) of the main reply that LD has already strengthened its efforts in combating suspected inducement of FDH "job-hopping" by EAs, including closely monitoring the business practice of EAs.*

May I ask the authorities to talk briefly about the means by which they monitor these EAs? Do they send officers to pretend to be customers to visit these EAs, just like the Hong Kong Monetary Authority deploying mystery customers to inspect retail banks? Or do the authorities have other means or measures?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, as there are some 1 000-odd EAs of this kind, we generally adopt a risk-based approach from the regulatory perspective.

Definitely, the simplest risk-based approach is taking prompt follow-up action upon receipt of a complaint. So, employers in Hong Kong should let us know as soon as possible if they face the situation in question, and we will then follow up their cases. If it is the problem of the EAs concerned, LD will, of course, ask for information and conduct investigation. In case of any substantiated irregularities involving an EA, LD may handle it directly in the way as stated in the main reply earlier. This is a fairly important task as the more cases of unlawful business practice are exposed, the more the people will imitate. For this reason, it becomes increasingly important to take quicker actions against cases of unlawful and unreasonable practices.

MS ELIZABETH QUAT (in Cantonese): *President, actually, I receive complaints from different FDH employers almost every day. Many of them consider that the existing legislation offers no protection to them at all, especially at present when there is a shortage of FDHs. They simply feel as if they are being held over a barrel or being "robbed".*

Recently, I have received many ... Though the Secretary has stated that "job-hopping" cases should have been reduced significantly, the fact is that I continue to receive relevant complaints. During this period of time, many FDHs ... Expenses for air tickets, quarantine hotel accommodation, etc. add up to nearly \$20,000. An employer spent this \$20,000 just to find that the FDH quitted, i.e. "job-hopped", after working for two weeks or a month, and the next FDH also did the same after working for two months. As a matter of fact, this employer has already spent several ten thousand dollars on FDHs this year, but until now, he is still unable to get an FDH who can really help him to take care of his family so that he can work as normal.

Moreover, we also keep receiving some complaints about the problem of FDHs borrowing money. This is also a problem besetting many employers. Today, I just got a complaint from a Mrs WU. She told us that she always received

harassment calls or debt collection calls, and got knocks on her door from people chasing up debt repayment because her previous FDH had borrowed money. While she has already sacked that FDH, the situation still persists. This problem remains a headache for employers like her.

At present, there are problems surrounding unlicensed EAs, intermediaries not accredited by the FDH exporting countries and "job-hopping", I mean, FDHs being encouraged to "job-hop". Also, some FDH employers have expressed the view that those unlicensed FDH EAs, or rather, even the licensed FDH EAs, will tell FDHs where to go for loans to make the FDHs heavily indebted and need to "job-hop" for more money as instructed. These problems have actually remained unresolved, so I wish to know whether the authorities have more effective measures in hand, and whether there is any statistics showing how many FDH EAs among the existing 1 000-odd of them continuously violate the law. While the authorities claim that there is currently a dozen of cases only, the actual number is definitely more than that. So, how can employers get better protected? Is there any better measure to provide more protection to them?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, the question just raised by the Member involves quite a number of areas, and this is precisely why we amended the legislation a few years ago for the present arrangements, particularly the empowerment of the Commissioner to regulate these EAs in accordance with CoP. It was something which had to be done as quickly as possible. Members must understand that even if there are problems with just 0.01% of the FDHs, it still involves a large number of them, given that we now have approximately 360 000 FDHs. So, one of our approaches is to take expeditious actions to tackle and combat these problems whenever they emerge. We have amended the legislation to increase the penalty, hoping that it will enhance the deterrent effect and minimize the occurrence of these problems. That said, we cannot possibly bring the number of cases to zero despite our efforts, and it is therefore necessary for us to cooperate with each other. Whenever these problems emerge, we will take expeditious actions to tackle them, and hopefully, they can be minimized.

MS YUNG HOI-YAN (in Cantonese): *President, I am really glad to hear the Secretary say that he will maintain communication with LD and enhance the relevant services, especially those in respect of publicity. What I have also thought about is that some past information has actually shown—there is evidence of this kind—that some EAs would provide ImmD with false reference letters for FDHs to change jobs, i.e. reference letters from previous employers. In fact, will LD alert ImmD to the loopholes in this regard? Or will LD step up the publicity on its website using different languages? I believe that it is really necessary to do publicity work in different languages. This is not the problem of LD alone. Many government departments are also in need of support for ethnic minority languages. Here, I hope to hear a positive response from the Bureau. I mean, regarding its publicity work, will the Bureau attend to the language problem faced by different ethnic minorities and enhance its service in this regard? In particular, will it step up the efforts in publicizing its actions against "job-hopping" or the penalties for providing false information to the government departments to make false declaration or representation?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): *President, I believe those are matters of two different natures. Regarding the provision of language support, i.e. the task of helping FDHs from different places to understand their rights and interests, responsibilities etc., we will provide the relevant information to every FDH who comes to Hong Kong so that he/she will know his/her rights and interests. Another matter concerns the problems of EAs. For these problems, we mainly rely on reports of irregularities from employers to tackle them, and we have maintained communication with LD and ImmD—I believe this is particularly the case during this one year or so when we have worked in unprecedentedly close and constant liaison with each other—concerning such things as policies, arrangements, and procedures in respect of these problems. So, when we know that we can reduce the loopholes in some areas, we will take follow-up actions.*

PRESIDENT (in Cantonese): *Oral questions end here.*

WRITTEN ANSWERS TO QUESTIONS**Purchase of petrol by practitioners of the agricultural and fisheries industry**

7. **MR STEVEN HO** (in Chinese): *President, some practitioners of the agricultural and fisheries industry have relayed to me that as some oil companies no longer sell petrol in bulk after the disturbances arising from the opposition to the proposed legislative amendments erupted in 2019, it is difficult for them to use agricultural and fisheries machinery powered by petrol (e.g. plowing machines, and petrol outboard engines used in fishing vessels) and they need to switch to other modes of operation, resulting in an increase in costs and a significant impact on their livelihood. In this connection, will the Government inform this Council:*

- (1) *of the existing legislation regulating oil companies' sale of petrol in bulk, and the measures in place to prevent lawbreakers from purchasing petrol in bulk for criminal purposes;*
- (2) *whether it knows (a) which oil companies currently sell petrol in bulk to practitioners of the agricultural and fisheries industry and the related arrangements (including (i) whether documentary proof is required to be produced when purchasing petrol, and (ii) whether a restriction has been imposed on the purchase quantity), and (b) if the locations of the petrol filling stations concerned are convenient for practitioners of the agricultural and fisheries industry;*
- (3) *whether it will assist practitioners of the agricultural and fisheries industry in purchasing petrol more conveniently, such as issuing them with relevant documentary proof, and discussing with oil companies the streamlining of the relevant arrangements; and*
- (4) *whether it has assessed if the eight "Designated Bunkering Areas" ("DBAs") currently set up in Hong Kong waters can facilitate the operation of practitioners of the fisheries industry, and whether it will consider afresh setting up more DBAs?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): *President, according to the Security Bureau, the purchase of petrol in bulk for criminal purposes by lawbreakers may contravene the offence of "possessing anything with intent to*

destroy or damage property" under section 62 of the Crimes Ordinance (Cap. 200). The law enforcement agencies will deal with it in accordance with the law with regard to the actual circumstances. During the black-clad violence in 2019, the Government reminded oil companies to refrain from selling petrol in bulk to suspicious persons.

As far as we understand, currently persons engaging in the agriculture and fisheries industries are able to buy petrol in bulk to meet their daily operational needs at some petrol filling stations by presenting confirmation letters issued by oil company or using credit cards. If persons engaging in the agriculture and fisheries industries encounter difficulties in buying petrol in bulk, relevant departments are prepared to liaise with oil companies and explain to them the Government's requirements, with a view to minimizing the impact of the above on the trade as far as possible.

According to the Transport and Housing Bureau, there are currently eight Designated Bunkering Areas ("DBAs") within Hong Kong waters for oil carriers to supply bunker to vessels. These DBAs are located near the major berthing places for local vessels (including fishing vessels) to meet their operational needs. The Government currently has no plan to establish new DBAs in the near future.

Improving the law and order in rural areas

8. **MR KENNETH LAU** (in Chinese): *President, it is learnt that as rural areas are extensive in area and sparsely populated, burglaries occur there from time to time. There were 28 more burglary cases involving village houses in the first half of this year as compared with the same period last year, giving rise to worries that the law and order in rural areas shows a deteriorating trend. In this connection, will the Government inform this Council:*

- (1) *of the respective numbers of burglary cases which occurred in rural areas received by the various police districts as well as their detection rates, in each of the past three years;*
- (2) *of the new measures put in place by the Police to combat burglary crime committed in rural areas;*

- (3) *of the measures put in place by the Police to enhance communication and cooperation with the residents in rural areas, so as to detect and prevent burglary crime; and*
- (4) *whether the Police will consider increasing the manpower of the Rural Patrol Team; if so, of the relevant target establishment and implementation timetable; if not, the reasons for that?*

SECRETARY FOR SECURITY (in Chinese): President, the Police have been paying close attention to burglary cases. A three-pronged strategy integrating law enforcement, prevention and education has been adopted to curb and combat criminal activities. At the same time, the Police closely cooperate with the community and make concerted efforts with the public to combat crimes in the rural areas. My reply to the Member's question is as follows:

- (1) 973 burglary cases were recorded in Hong Kong from January to August 2021, representing a decrease of 484 cases, a drop of 33.2% when compared with the same period of 2020. During this period, the Police detected over 280 burglary cases in total across the territory and arrested more than 280 persons. The detection rate has increased by 10.1% to about 29%.

The Police maintain a breakdown of burglary cases by type of building. From 2018 to August 2021, the number of burglary cases involving village houses are as follows:

	2018	2019	2020	2021 (as at end of August)
Number of Cases	276	285	245	179

The Police do not maintain the other statistics requested in part (1) of the question.

- (2) and (3)

The Police have been committed to combating burglary in the rural areas. On the enforcement front, the Police have been making ongoing efforts to carry out high-profile patrols, strengthen

intelligence exchange with the Mainland law enforcement agencies, analyse intelligence with respect to crime trends, and undertake proactive enforcement. Apart from deploying uniformed officers to step up high-profile patrols in the rural areas, the Police mobilize the Regional Rural Patrol Unit, Police Tactical Unit and Police Dog Unit as appropriate to take part in enforcement actions, and carry out joint operations with relevant departments such as the Government Flying Service to intercept suspicious persons and conduct anti-burglary operations. In an anti-burglary operation recently conducted in Sheung Shui, the Police intercepted and arrested two illegal immigrants and found on them housebreaking instruments such as crowbars, hoods, suspected pepper spray and flashlights.

In terms of preventing burglary, the Police have proactively established communication channels with various stakeholders. For instance, through regular visits to rural committees and village offices in the districts, social media platforms, talks, the Police maintain close contact with village representatives and local residents, exchange views with them on the crimes and security issues in village areas, and timely disseminate information on crimes and crime prevention.

As regards the dissemination of crime prevention messages, the Police share with local residents information on crimes and common typologies of crimes, encourage installation of closed-circuit television system at major roads inside villages, distribute to villagers tools for security precaution (e.g. intruder alarm, sensor lights, window locks), invite villagers to become Fight Crime Ambassadors and organize talks on prevention of burglary. Besides, the Police conduct risk assessment of high-risk villages and rural housing estates, and make recommendations on the prevention of burglary to village representatives and property management staff. These communication channels also help various stakeholders provide burglary-related intelligence to the Police (e.g. information on suspicious characters), effectively expanding the criminal intelligence gathering network in rural areas and assisting the Police in taking enforcement actions.

The Crime Prevention Bureau of the Police, in collaboration with six Regions, has launched a territory-wide publicity campaign "Safe

Living" in August and September this year. Through a series of publicity activities including a promotional truck, crime prevention publicity clips, thematic talks and roadshow, the campaign aims to disseminate anti-burglary and other crime prevention messages. It also encourages the public to install smart security systems and report to the Police if they notice any suspicious characters or vehicles.

- (4) The Police will continue to mount intelligence-led operations and deploy resources flexibly to step up patrols with a view to further combating street crimes. The Police will closely monitor the trend of such crimes, and deploy resources and manpower to enhance the effectiveness of enforcement actions where warranted.

Strategies to cope with the epidemic

9. **MR SHIU KA-FAI** (in Chinese): *President, many members of the public and practitioners of a number of trades have relayed to me that they are eagerly looking forward to an expeditious resumption of normal traveller clearance between Hong Kong and the Mainland, so that residents of the two places will be able to fully engage in activities such as visiting relatives, travelling and doing business which have been restricted for a long time. On the other hand, the Chief Executive ("CE") indicated early this month that Hong Kong could not and should not adopt a strategy of "co-existing with the virus" for coping with the epidemic, otherwise the hope of resuming normal traveller clearance with the Mainland will be even more remote. In this connection, will the Government inform this Council:*

- (1) *whether it has studied how countries and places which have adopted the strategy of "co-existing with the virus" for coping with the epidemic compare with (i) their own situations prior to their adoption of this strategy and (ii) those countries and places which have adopted the strategy of "zero-infection" case for coping with the epidemic in terms of infection rate, the incidence of cases with severe symptoms and the death toll; if so, of the details;*
- (2) *given that the epidemic in various places across the globe is still fluctuating, whether the Government has assessed the impacts of*

Hong Kong's long-term adoption of the strategy of "zero-infection" case on local economic activities such as tourism as well as convention and exhibition, and whether it has formulated corresponding plans; if so, of the details; if not, the reasons for that; and

- (3) *as CE indicated in the middle of this month that the Government was discussing with the Mainland authorities the circumstances and conditions under which normal traveller clearance could be resumed in a progressive and an orderly manner, and that the Central Authorities were very supportive of the experts from Hong Kong and the Mainland to establish a dialogue in this respect, of the progress of the relevant work, including whether the relevant conditions and timetables have been worked out?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, over the past year or so, the anti-epidemic strategy and objective of the Hong Kong Special Administrative Region ("HKSAR") Government has been premised on the overall interest of the Hong Kong community, including considering the aspirations of members of the public and the impact on the economy. The Chief Executive announced on 12 April 2021 the new direction in fighting the pandemic. The first component of the new direction is indeed to resume normalcy in a gradual and orderly manner in response to the aspirations of various sectors and members of the public. In fact, since May, Hong Kong did not record any local cases for the majority of the time and have basically reached the target of "zero infection". At the same time, we are also well-positioned to relax social distancing measures in an orderly manner having regard to the actual situation, with a view to enabling various businesses to resume operation, people's lives to largely return to normal and our economy to show encouraging signs of recovery. Hong Kong continues to top the "normalcy index" compiled by an international media. The Government will continue to strive to reach "zero infection" and sustain the various stringent and necessary anti-epidemic measures, with a view to proactively implementing the anti-epidemic strategy of "preventing the importation of cases and the spreading of virus in the community", in the hopes of creating favourable conditions for the early gradual resumption of cross-boundary travel with the Mainland and Macao.

In consultation with the Commerce and Economic Development Bureau and the Constitutional and Mainland Affairs Bureau, my reply to the various parts of the question raised by Mr SHIU Ka-fai is as follows:

- (1) The Centre for Health Protection under the Department of Health has all along been closely monitoring the COVID-19 epidemic development around the world and the control and preventive strategies adopted to combat the epidemic. We noticed that some countries and regions have adjusted their anti-epidemic strategies, from the original goal of "zero infection" to the so-called "co-existing with the virus" strategy without striving for "zero infection". Generally, after adjusting their anti-epidemic strategies, these countries and regions saw an increase in the number of infection, hospitalization and death cases recorded. For example, since August this year, Singapore has adjusted its strategy and gradually relaxed its control and preventive measures. The local seven-day morbidity rate increased from less than 100 cases for every 1 million population in mid-July to over 1 000 cases for every 1 million population on 20 September. Furthermore, the United Kingdom relaxed various control and preventive measures by phase starting from March to June this year. Before relaxing the measures, the local seven-day morbidity rate in February was 1 000 to 2 000 cases for every 1 million population. Since mid-2021, the number of local infection, hospitalization and death cases have all substantially increased and is still at a very high level as of now. On 20 September, the seven-day morbidity rate has climbed to over 3 000 cases for every 1 million population.
- (2) With the prolonged outbreak of the COVID-19 epidemic around the world, both inbound and outbound travel markets have suffered from a complete halt with the tourism industry undoubtedly being the hardest hit sector. For the first eight months of this year, the number of visitors to Hong Kong was only about 50 000, representing a 99.9% drop from the same period in 2019 (about 44 million) prior to the epidemic.

The Government has all been providing support to the trade in various ways, including launching five rounds of schemes through the

Anti-epidemic Fund since 2020 to provide direct financial support to the tourism industry with a cumulative funding commitment amounting to around \$2.6 billion, benefiting over 1 700 travel agents, around 21 000 practitioners including travel agent staff, tourist guides, tour escorts and drivers of tour service coaches, around 2 100 hotels and guest houses and the cruise sector, as well as increasing the financial commitment for the Travel Agents Incentive Scheme and the Green Lifestyle Local Tour Incentive Scheme to around \$150 million and \$100 million respectively. The Hong Kong Tourism Board has also launched five rounds of the "Free Tour" and "Staycation Delights" programmes in total, encouraging local consumption and providing support of around \$45 million to the tourism industry.

At the same time, during the past year or so, whenever the epidemic situation has improved, the Government has actively expanded room for operations for the tourism industry on the premise of containing and combating the epidemic, including allowing the trade to resume organizing local group tours of 30 persons or below with conditions since end April, and relaxing the restriction on the number of participants for group tours with two thirds of the participants having received the first dose of COVID-19 vaccine to 100 persons since end June. Besides, "cruise-to-nowhere" itineraries for Hong Kong residents which do not involve ports outside Hong Kong resumed in end July.

The pandemic brings challenges to the convention and exhibition industry around the world. Since February last year, over 200 exhibitions in Hong Kong have been postponed or cancelled, while some large-scale international conferences were organized online. As the pandemic situation in Hong Kong eases, some of the local public exhibitions were successfully held during summer. Between mid-July and end August, 27 exhibitions were held in the Hong Kong Convention and Exhibition Centre and AsiaWorld-Expo. We anticipated that about 40 exhibitions will be held in the above two venues during the rest of this year and 70 exhibitions in the first half of next year.

In this regard, the Government is implementing the Convention and Exhibition Industry Subsidy Scheme with a total commitment of

\$1.07 billion, providing 100% of venue rental subsidy for exhibitions and international conventions held at the two venues; and 50% of the participation fees for exhibitors of exhibitions and participants of major conference organized by the Hong Kong Trade Development Council. As of the end of August, the Scheme has provided total subsidy of around \$121.85 million to 53 exhibitions.

The Government will continue to support the tourism and convention and exhibition industry on various fronts, maintain liaison with the trades, and put in place appropriate measures to assist the industries to tide over this challenging time where necessary.

- (3) HKSAR representatives led by the Chief Secretary for Administration attended a meeting on the anti-epidemic work of the Mainland and Hong Kong hosted by Deputy Director of the Hong Kong and Macao Affairs Office of the State Council, Mr HUANG Liuquan, in Shenzhen on 26 September 2021. At the meeting, HKSAR and Mainland representatives had detailed exchanges on the strategies to prevent and fight the virus and studied the resumption of quarantine-free travel between the Mainland and Hong Kong in a gradual and orderly manner. Mainland experts agreed with Hong Kong's determination in fighting the epidemic and reaffirmed the city's present situation of "zero local infection". The two sides explored in detail matters and factors of consideration relating to the resumption of quarantine-free travel in a gradual and orderly manner and candidly exchanged views on and examined the possible risks after resumption of quarantine-free travel. The Chief Secretary for Administration expressed Hong Kong people's eagerness for resumption of quarantine-free travel, and the close correlation of resuming quarantine-free travel with the economy and people's livelihood. The two sides discussed earnestly, provided relevant information and built a solid foundation for creating favourable conditions to take forward the resumption of quarantine-free travel. The two sides will further study the details and strive to hold a second meeting as soon as possible.

Support for individuals and families with financial difficulties

10. **MR LEUNG CHE-CHEUNG** (in Chinese): *President, the Government has relaxed the eligibility criteria for the Working Family Allowance ("WFA") Scheme and the Short-term Food Assistance Service Projects starting from June this year for a period of one year, with a view to strengthening the support for individuals and families with financial difficulties. In this connection, will the Government inform this Council:*

- (1) of the respective numbers of applications received under the aforesaid initiatives in each month since March this year;*
- (2) of the respective projected expenditures of the aforesaid initiatives for the period from June this year to May next year; and*
- (3) whether it will consider reviewing and improving the WFA Scheme in the near future (e.g. by increasing the amounts of allowances and introducing an additional "under-employment allowance")?*

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, having regard to the Coronavirus Disease 2019 pandemic, the Government has implemented two time-limited measures to strengthen its support to individuals and families with financial difficulties, namely relaxing the working hour requirements of the Working Family Allowance ("WFA") Scheme for non-single-parent households for the claim months from June 2021 to May 2022, and relaxing the asset limits of the Short-term Food Assistance Service ("STFAS") from 1 June 2021 to 31 May 2022.

My reply to the Member's question is set out below:

- (1) From March to August 2021, the Working Family Allowance Office ("WFAO") of the Working Family and Student Financial Assistance Agency and the non-government organizations commissioned by the Social Welfare Department have received 68 743 and 12 151 applications under WFA and STFAS respectively. The breakdown of number of applications received under the two Schemes by the month of submission is tabulated below:

<i>Month of submission</i>	<i>Number of WFA applications</i>	<i>Number of STFAS applications</i>
March 2021	9 460	2 021
April 2021	12 795	1 837
May 2021	15 959	1 942
June 2021	12 310	2 003
July 2021	11 371	1 220
August 2021	6 848	3 128
Total	68 743	12 151

The claim period of WFA applications covers the immediate past six calendar months preceding the submission of application. WFAO has temporarily reduced the WFA working hour requirements starting from the claim month of June 2021. Therefore, applicants may lodge an application in July 2021 the earliest. If compared with the number of applications received during the previous claim period (i.e. six calendar months before), the number of applications received under the WFA Scheme in July and August 2021 increased by about 5% and 12% from January and February 2021 respectively. Based on past operational experience, we anticipate that majority of households which are interested in applying for WFA under the time-limited measure will do so towards the end of 2021, so as to cover more claim months in their applications.

- (2) The Finance Committee of the Legislative Council approved the two time-limited measures on 26 March 2021. For the purpose of financial planning, it was roughly estimated that the time-limited measure for WFA and STFAS would involve an additional expenditure of about \$954 million and \$430 million respectively.
- (3) The policy objective of the WFA Scheme (and its predecessor the Low-income Working Family Allowance ("LIFA") Scheme) is to support lower-income working households which have longer working hours (e.g. being engaged in full-time employment) and are not on Comprehensive Social Security Assistance. The WFA Scheme promotes self-reliance by providing allowances under the principle of rewarding hard work according to working hours, and provides Child Allowance to each eligible child and youth in the household to alleviate inter-generational poverty.

The Government has, since the implementation of the LIFA Scheme in 2016, implemented a host of improvement measures. They include relaxing the eligibility criteria, substantially increasing the rates of allowances twice, and allowing household members to aggregate their working hours to apply for WFA.

In end August 2021, there were about 61 900 WFA "active households"⁽¹⁾ (involving about 210 000 persons), more than double the number of the then LIFA Scheme. In 2021-2022, the estimated recurrent expenditure for WFA is about \$1.98 billion (excluding the expenditure required for implementing the time-limited relaxation of working hour requirements mentioned in part (2) of the reply), about three times of the then LIFA. In terms of WFA payments, taking a four-person household with two children as an example, they can receive up to \$4,200 per month, which is over 60% higher than that under the former LIFA at \$2,600 per month.

In the past few years, the Government has comprehensively reviewed and introduced a number of improvements to the WFA Scheme. We have also implemented a time-limited measure amid the pandemic. While the Government has no plan to review WFA again, we will continue to closely monitor the implementation of the Scheme.

- (1) Referring to those households which have been approved with WFA and submitted the latest applications in the past six months.

Public facilities on Po Toi Island

11. **MRS REGINA IP** (in Chinese): *President, Po Toi Island is a popular tourist spot but it lacks public facilities, causing great inconvenience to the residents on the island and tourists. The only public toilet on the island is far away from the pier, is overloaded during peak tourist seasons, and gives off stench as it is an aqua privy; residents on the island do not have tap water supply and can only use rainwater collected by water storage tanks, nor do they have electricity supply and can only rely on power generators for provision of night-time lighting. In addition, as the only existing trail connecting Tai Wan and the pier*

is rugged with many steps, the residents of the island have, over the years, strived for the construction by the Government of a barrier-free access connecting the two places as a replacement, but to no avail. In this connection, will the Government inform this Council:

- (1) whether it will provide modernized public toilets near the pier and at other places with high visitor flows on Po Toi Island, and decommission that aqua privy; if so, of the details; if not, the reasons for that;*
- (2) as it has been reported that a power company has completed a preliminary design study on the construction of a solar power generation system on Po Toi Island, whether the Government knows the project's details (including the generating capacity and the construction timetable) and progress;*
- (3) as it has been reported that the Water Supplies Department commissioned early last year a consultant to conduct investigation work on underground water resources on Po Toi Island, of the progress of the relevant work; and*
- (4) whether it will study afresh the construction of the aforesaid barrier-free access; if so, of the details; if not, the reasons for that, and what other measures are in place to facilitate tourists as well as aged and mobility-impaired residents on the island to commute between Tai Wan and the pier?*

SECRETARY FOR HOME AFFAIRS (in Chinese): President, Po Toi Island ("the Island") is the southernmost island in Hong Kong with an area of about 3.69 sq km. There are about 20 ordinary residents on the Island. As Mrs Regina IP's question covers a number of policy areas, upon consultation with the Food and Health Bureau, Environment Bureau and Development Bureau, my reply to the various parts of the question is as follows:

- (1) At present, the Food and Environmental Hygiene Department ("FEHD") provides daily cleansing services to the aqua privy ("AP") on the Island. FEHD also provides toilet attendant services to this AP during weekends and public holidays to enhance its cleansing

service. Furthermore, additional public toilets (four regular portable toilets and one accessible portable toilet) are provided at the strategic locations on the Island to meet the demand of visitors. FEHD once explored the feasibility of converting AP into a flushing toilet, but it was considered technically infeasible due to the lack of formal water mains and site constraints. FEHD completed in-situ face-lifting for AP in April 2019 which included replacement of ageing facilities and installation of new facilities, repainting of ceiling, replacement of toilet compartment panels, wall tiles and floor tiles, etc., to improve the design and the facilities of AP and enhance its hygiene standard.

Besides, to further enhance the environmental hygiene of the Island, FEHD has, taking into account the actual situation, increased the frequency of refuse collection with a view to ensuring the cleanliness of public places. FEHD will continue to closely monitor the situation and as necessary increase the frequency of toilet cleaning and refuse collection during periods of high usage, such as weekends and public holidays, to maintain the cleanliness of public toilets on the Island.

- (2) According to the Environment Bureau, the Hongkong Electric Company Limited ("HK Electric") is conducting a study on the feasible options for installing a photovoltaic system on the Island. The electricity generated under the project should be able to meet the daily needs of the residents on the Island. HK Electric is identifying suitable partners to assist it in coordinating with various stakeholders on matters such as future deployment of resources and allocation, residents' participation, etc., with a view to taking forward the relevant works.
- (3) According to the Development Bureau, as the sparse population on the Island and low daily water consumption may lead to prolonged water stagnation in a submarine pipeline of long distance, resulting in deterioration of water quality, the supply of potable water by a submarine pipeline to the Island is not technically feasible. In response to the request of residents of the Island for increasing water supply sources, the Water Supplies Department ("WSD") has engaged consultants to carry out ground investigation works for the feasibility study of utilizing groundwater as a supplementary water source for the

Island. The preliminary testing results reveal that the quality and quantity of groundwater in the Island cannot meet the relevant requirements. Nevertheless, taking into consideration that the quality and quantity of the groundwater source may be subject to seasonal variations, WSD has been conducting water quality and quantity monitoring for about one year until early 2022 as scheduled to ascertain the feasibility of utilizing the groundwater source.

At present, water supply for domestic use on the Island is mainly provided by raw water collection systems under the maintenance of the Islands District Office ("IsDO"). In case of insufficient raw water supply from these systems, residents can inform IsDO to transport potable water to the Island for consumption.

- (4) The Home Affairs Department ("HAD") and IsDO have studied the proposal of constructing a barrier-free access connecting the Po Toi Public Pier and the Tai Wan beach. As the proposed works location is close to the seashore and rock slopes, the proposed barrier-free access would have to be constructed along the rock slopes and supported by piles. Considering the complexity of the construction works, remoteness of the location, and limitations on the transport of construction plants and materials, HAD estimates that the cost of the proposed works will very likely exceed the project ceilings allowed under the District Minor Works Programme and the Rural Public Works Programme. The complexity of the proposed works has also gone beyond the typical scope of minor works. Nevertheless, in response to the proposal of constructing a barrier-free access and to improve road conditions on the Island, IsDO has conducted site inspections with relevant residents and stakeholders on many occasions. Where practicable, improvement works (including the widening and levelling of pavements, conversion of some steps into ramps, and additional handrails and railings at appropriate locations) have been carried out for the major access on the Island (such as the one near the Public Pier) for use by residents and tourists. IsDO will continue to improve the existing footpaths on the Island under the aforementioned minor works programmes to facilitate access by the public, including the elderly.

Provision of infrastructure

12. **MS ALICE MAK** (in Chinese): *President, the current-term Government advocates the adoption of the "infrastructure-led" and "capacity creating" approaches in planning for new development areas, so as to create more development opportunities for these areas and make the use of lands in their vicinity more efficient. Regarding the provision of infrastructure, will the Government inform this Council:*

- (1) *as the Government indicated in the 2018 Policy Address that it must proactively create capacity through a "transport-first" strategy, of the respective numbers of transport infrastructure projects (i) proposed, (ii) in respect of which funding have been approved and (iii) commenced, since 2018, and set out by project name how the relevant projects create capacity and make the use of lands in their vicinity more efficient;*
- (2) *of the various indicators adopted for reflecting the economic return of transport infrastructure projects (and whether these indicators include new economic activities and the increase in land value) and their respective weightings;*
- (3) *of the details of the improvement works for the New Territories sewerage systems completed in the past five years, including the project names, the lots involved, as well as the commencement and completion dates of such works;*
- (4) *of the current number of villages in the New Territories the sewerage systems of which have yet to connect to public sewers; the respective numbers of villages for whose sewerage systems the Government (i) has and (ii) has not yet carried out improvement works, together with the details of the former and the reasons for the latter; and*
- (5) *whether, in the light of a number of large-scale development projects being carried out in the New Territories, it has plans to enhance the infrastructure in respect of electricity supply, fresh water supply, drainage and sewerage, etc., in the New Territories in the coming five years; if so, of the details and timetables of the various works projects?*

SECRETARY FOR DEVELOPMENT (in Chinese): President, with the other relevant bureaux consulted, my reply to the various parts of the question is as follows:

- (1) The current term Government advocates the "infrastructure-led", "capacity creating" planning approach in order to motivate development of land by provision of transport infrastructure. Based on the information provided by the Transport and Housing Bureau ("THB"), for instance, in terms of railway, the Government invited the MTR Corporation Limited to proceed with the detailed planning and design of the Northern Link ("NOL") project in December 2020. NOL is crucial to unleashing the development potential of the largely underutilized land along its alignment and increasing the supply of land and housing. Except a few low-to-medium density existing/planned residential developments in the vicinity of Kam Sheung Road and Au Tau stations, the other areas along the alignment are yet to be developed. The availability of NOL can open up development opportunities with more efficient land uses for the relevant areas. Besides, the Government has been implementing Route 11 (section between Yuen Long and North Lantau), Tsing Yi-Lantau Link, widening of Yuen Long Highways (section between Lam Tei and Tong Yan San Tsuen) and Tuen Mun Bypass. The entire group of trunk roads can improve the traffic conditions of major roads connecting the north-western New Territories with the urban areas. By improving road infrastructure, it can also further strengthen the connectivity of trunk roads and enhance the capacity of interchanges, strengthen the connectivity of developments in the vicinity, and unleash the development potential of the relevant areas effectively.

Generally speaking, not only will the increased transport capacity benefit key government projects under planning, it will also incentivize private developers to advance their development plans with a larger housing yield.

- (2) According to THB, in line with common practice for other infrastructure projects and established methodology, the assessment on economic return is an indicator of the benefits that a proposed transport infrastructure project will bring to the community.

Conventionally, economic return is represented by the economic internal rate of return ("EIRR"). The EIRR of a transport infrastructure project mainly reflects the savings in the travelling time of transport users over the project life (normally 50 years), as a measure of the overall cost-effectiveness of the project to the community.

The conventionally defined EIRR may not be able to reflect economic benefits of a transport infrastructure project which may not be readily quantifiable, such as supporting land development opportunities; and improvements to the environment arising from the provision of more environmentally friendly transport service (such as railway). According to THB, all these factors are taken into account in the overall appraisal of transport infrastructure proposals as they are all concerned with the sustainability of a community, such as the quality of life, mobility of the population, and competitiveness of the economy of Hong Kong.

- (3) In the past five years, the Drainage Services Department ("DSD") completed 15 sewerage projects in the New Territories (including Lantau and Outlying Islands, same below), details as listed below:

<i>Project Code</i>	<i>Project Title</i>	<i>Project Commencement Date</i>	<i>Project Completion Date</i>
4332DS	Lam Tsuen Valley sewerage, stage 2	October 2012	May 2017
4372DS	Rehabilitation and construction of trunk sewers underneath Shing Mun River Channel	November 2010	November 2019
4378DS	North District sewerage stage 2 part 2A—Pak Hok Lam trunk sewer and Sha Tau Kok village sewerage	January 2012	January 2017
4382DS	Sewerage at Clear Water Bay Road, Pik Shui Sun Tsuen and west of Sai Kung town	January 2013	May 2018

<i>Project Code</i>	<i>Project Title</i>	<i>Project Commencement Date</i>	<i>Project Completion Date</i>
4386DS	Village sewerage in Kau Lung Hang San Wai, Kau Lung Hang Lo Wai and Tai Hang, and southern trunk sewer between Wai Tau Tsuen and Nam Wa Po	June 2012	May 2017
4387DS	Upgrading of Mui Wo sewage treatment works and sewerage at Mui Wo town centre and Wang Tong	July 2012	April 2018
4395DS	Tolo Harbour sewerage of unsewered areas, stage 2—phase 1	July 2013	April 2018
4396DS	Sewerage in Nam Wa Po and Wai Tau Tsuen	July 2013	November 2018
4397DS	Outlying Islands sewerage, stage 2—Lamma village sewerage phase 2, package 1	December 2013	September 2018
4404DS	Tuen Mun sewerage—Castle Peak Road trunk sewer and Tuen Mun village sewerage	July 2015	October 2019
4406DS	Shek Wu Hui sewage treatment works—further expansion phase 1A—advance works, consultants fees and investigation	May 2015	December 2019
4410DS	Trunk sewers at Hiram's Highway	March 2016	December 2020
4411DS	Upgrading of San Wai sewage treatment works—phase 1	May 2016	December 2020
4384DS	Yuen Long and Kam Tin sewerage, stage 3 package 2	September 2012	January 2017

<i>Project Code</i>	<i>Project Title</i>	<i>Project Commencement Date</i>	<i>Project Completion Date</i>
4350DS	Yuen Long and Kam Tin sewerage and sewage disposal—consultants' fees and investigations	December 2006	December 2018

Moreover, the Government is currently implementing 29 sewerage projects in different areas of the New Territories.

- (4) At present, all urban areas across Hong Kong have been provided with public sewerage systems, and over 93% of the overall population in the urban and rural areas combined has access to public sewers, which is comparable to the coverage rate of the top ranking countries and regions. Whereas premises in those areas not yet covered by the public sewerage systems are required to continue using on-site sewage treatment facilities, such as biological treatment facilities or septic tanks and soakaway systems.

There are about 1 000 villages in the New Territories, among which sewerage projects for about 260 villages have been completed and about 225 villages have been included in the Public Works Programme as at June 2021, including about 65 villages currently being covered by the following sewerage projects:

<i>Project Code</i>	<i>Project Title</i>	<i>Project Commencement Date</i>	<i>Target Completion Date</i>
4435DS	Upgrading of Tuen Mun sewerage, phase 1, part 2	January 2021	December 2024
4434DS	Village Sewerage in Fanling Wai, So Kwun Po and Leng Pei Tsuen, Fanling	January 2021	March 2025
4423DS	North District sewerage stage 2 part 2A—village sewerage for Tong To	November 2018	May 2022

<i>Project Code</i>	<i>Project Title</i>	<i>Project Commencement Date</i>	<i>Target Completion Date</i>
4430DS	Tolo Harbour sewerage of unsewered areas, stage 2, phase 2	July 2020	August 2024
4403DS	Upgrading of sewage pumping stations and sewerage along Ting Kok Road	February 2019	December 2023
4214DS	Tseung Kwan O sewerage for villages	October 2020	April 2025
4433DS	Construction of San Shek Wan Sewage Treatment Works and Pui O village sewerage	March 2021	September 2026
4353DS	Outlying Islands sewerage, stage 2—extension of sewerage system to other unsewered villages in Mui Wo	October 2021	April 2026
4355DS	Outlying Islands sewerage stage 2—Lamma village sewerage phase 2, package 2	October 2021	June 2026
4362DS	Sewerage for Ma Yau Tong village, Tseung Kwan O	October 2020	October 2024
4422DS	Outlying Islands Sewerage Stage 2—Peng Chau village sewerage phase 2 package 1	November 2018	December 2022
4431DS	Port Shelter sewerage, stage 2, package 3	July 2020	May 2025
4432DS	Port Shelter sewerage, stage 3, package 2	July 2020	May 2025

<i>Project Code</i>	<i>Project Title</i>	<i>Project Commencement Date</i>	<i>Target Completion Date</i>
Other minor works items	<ul style="list-style-type: none"> - Provision of trunk sewer to three villages in Tai Po including Ta Tit Yan, Yuen Tun Ha and Lo Lau Uk - Village sewerage at Kam Tin Shi, Kam Tin - Village sewerage at Ping Kong and Fu Tei Pai - Village sewerage at Tai Tei Tong, Pak Ngan Heung - Village sewerage for seven villages in Sai Kung 	From 2013	From 2022

Remaining villages that are not yet included in sewerage works programmes are mainly located far away from the public sewerage network, scarcely populated or with local residents who did not accept the Government's proposed sewerage arrangement. In future planning, the Government will consider various factors, including level of improvement to the environment, density of village population, acceptability by residents, technical feasibility and cost effectiveness, to determine the priority of sewerage expansion programmes for progressive extension of sewage collection network.

- (5) According to the Environment Bureau ("ENB"), regarding large-scale development plans in the New Territories, CLP Power Hong Kong Limited ("CLP") will assess the electricity supply for New Development Areas ("NDAs"), and submit new project proposals in a timely manner for the Government's approval. To meet the electricity demand, the Government will critically examine the need, timing and cost effectiveness when reviewing the project proposals. Under CLP's current development plan, the Government has approved several electricity supply projects relating to NDAs in the New

Territories, such as establishing new electricity substations to meet the demand of Kwu Tung North/Fanling North and Hung Shui Kiu/Ha Tsuen NDAs. These substations will commence operation successively in the coming few years according to the development progress of these NDAs.

As regards water supply systems, the Water Supplies Department will upgrade water supply infrastructures, including extension of Ngau Tam Mei Water Treatment Works and Siu Ho Wan Water Treatment Works and water supply networks, to supply fresh water along with new town development projects, including Kwu Tung North/Fanling North, Ping Che/Ta Kwu Ling, Hung Shui Kiu/Ha Tsuen and Tung Chung New Town Extension. Details and timetable of the extension works for water treatment works are tabulated below:

<i>Project Title</i>	<i>Anticipated Project Commencement Year</i>	<i>Anticipated Completion Year</i>	<i>Details</i>
Siu Ho Wan Water Treatment Works Extension	2021	Completion in phases from 2025 to 2028	Increasing the water treatment capacity of Siu Ho Wan Water Treatment Works from 150 000 cubic metres ("cu m") per day to 300 000 cu m per day and the associated raw water transfer capacity.
Ngau Tam Mei Water Treatment Works Extension	2024	2028	Increasing the water treatment capacity of Ngau Tam Mei Water Treatment Works from 230 000 cu m per day to 440 000 cu m per day; constructing an extension of Ngau Tam Mei Fresh Water Primary Service Reservoir and laying new fresh water mains.

On drainage systems, at present, DSD has five ongoing drainage improvement projects in the New Territories. Details are as follows:

<i>Number</i>	<i>Project Title</i>	<i>Project Details</i> [^]
4118CD	Drainage improvement in Northern New Territories—package B (remaining works)	Construction of about 900 m of stormwater drains at Ho Sheung Heung Road.
4172CD	Rehabilitation of underground stormwater drains—remaining works	Rehabilitation of about 19 km of underground stormwater drains in various areas of the territory.
4180CD	Rehabilitation of underground stormwater drains stage 1	Condition survey of about 35 km of underground stormwater drains and rehabilitation of about 11 km of stormwater drains in various areas of the territory.
4185CD	Drainage improvement works at Yuen Long, stage 1	Construction of about 1 km of drainage channels and about 490 m of stormwater drains at Tai Tseng Wai, Shui Tsiu San Tsuen, Ho Lik Pui and Shan Ha Tsuen.
4186CD	Rehabilitation of underground stormwater drains—stage 2	Condition survey of about 55 km of underground stormwater drains and rehabilitation of about 11 km of underground stormwater drains in six districts [#] .

Notes:

[^] Details of project may be adjusted subject to design development, comments received during public consultation and other relevant factors.

[#] The six districts comprise Tsuen Wan, Kwai Tsing, Sham Shui Po, Yau Tsim Mong, Kowloon City and Wong Tai Sin Districts.

In addition, DSD now has 11 drainage improvement projects under planning and design stage in the New Territories. Three of these projects (*) will be submitted to the Finance Committee in 2022 for funding approval, and relevant works will commence the soonest possible. Details are as follows:

<i>Number</i>	<i>Project Title</i>	<i>Project Details[^]</i>
4112CD	Drainage improvement in Northern New Territories—drainage improvement works in San Tin—remaining works	River improvement works to existing river sections, construction of box culvert and associated flood prevention facilities in San Tin West.
4161CD*	Improvement of Yuen Long Town Nullah (town centre section)	Construction of the dry weather flow interception system at the Yuen Long Town Nullah.
4165CD	Drainage improvement works at North District	Construction of village flood protection schemes, drainage channels, box culverts, drains, and other ancillary works at North District.
4166CD-2*	Drainage improvement works at Yuen Long—stage 2	Construction of drainage channels and stormwater drains at Shan Ha Tsuen, Sung Shan New Village, Tai Wo, Lin Fa Tei and Ha Che.
4166CD-3	Drainage improvement works at Yuen Long (remaining works)	Construction of drainage channels and stormwater drains at Fung Kong Tsuen.
4173CD	Drainage improvement works in Ta Kwu Ling	Improvement works to tributary sections of Ping Yuen River, drainage improvement works at Ping Yeung Village and construction of road drainage system at Ping Che Road.

<i>Number</i>	<i>Project Title</i>	<i>Project Details[^]</i>
4178CD*	Yuen Long barrage scheme	Construction of a barrage and ancillary flood prevention facilities at Yuen Long Nullah to improve the flood protection level in Yuen Long town centre and enhancing the local environment quality of a section of Yuen Long Nullah.
4182CD	Drainage improvement works in Sha Tin and Sai Kung	Construction of stormwater pumping stations in Sha Tin and drainage upgrading works in Sha Tin and Sai Kung.
4183CD	Drainage improvement works in Tai Po	Construction of stormwater pumping station, expansion of existing stormwater pumping station, drainage improvement works and river training works in Tai Po.
4187CD	Revitalisation of Tai Wai Nullah	Beautification of the existing Tai Wai Nullah, provision of walkways and dry weather flow interception system, construction of viewing decks, revamp of existing footbridges and provision of drainage system.
4188CD	Revitalisation of Fo Tan Nullah	Beautification of the existing Fo Tan Nullah, provision of dry weather flow interception system, construction of viewing deck and revamp of existing footbridge.

Note:

[^] Details of project may be adjusted subject to design development, comments received during public consultation and other relevant factors.

On sewerage systems, along with the ongoing large-scale NDA projects in the New Territories, ENB, in collaboration with DSD, has been planning for sewerage infrastructure and implementing expansion plans in the respective areas. The Government has commenced the reconstruction and upgrading of the Shek Wu Hui sewage treatment works to cope with the development plan at Kwu Tong North/Fanling North NDA. The works will be completed in phases between 2025 and 2034. Also, to support the future development at Hung Shui Kiu/Ha Tsuen NDA and Yuen Long South NDA, sewerage facilities are being planned in these two areas, and the construction works are anticipated to commence in the period between 2027 and 2028.

The Hong Kong Club

13. **MR PAUL TSE** (in Chinese): *President, it has been reported that the Hong Kong Club ("HKC") was established in 1846, shortly after Hong Kong had become a British colony. In 1895, the British Hong Kong Government granted HKC a piece of land on Jackson Road adjacent to Statue Square in Central at a rent of \$324 per annum for a term of 999 years (i.e. until 2894) for the construction of a club building for British officials and business tycoons' gathering and socialization. In the early 1980s, HKC reached an agreement with a private developer, under which the latter funded the redevelopment of the original club building into a new 21-storey building in exchange for the rental income generated by letting out most of the storeys until 2009. There are views that HKC has occupied a site in the heart of Central for over a century but all along it has only around 1 500 members, and as Hong Kong reunified with the Motherland in 1997, the function of that building as a place for British officials and business tycoons' gathering and socialization during the colonial period no longer exists. In this connection, will the Government inform this Council:*

- (1) *of the details of the land lease of the HKC building, and whether it contains any terms concerning restrictions on development and subletting as well as the social responsibilities to be fulfilled; the existing channel(s) through which members of the public may inspect the lease;*

- (2) *whether any land premium was paid to the Government when the HKC building was redeveloped in the early 1980s, and whether HKC is currently required to pay tax for the rental income from its club building;*
- (3) *given that the HKC building occupies a site in the heart of Central at a low government rent, and that its members are the rich or noble with the general public not being able to enjoy its facilities, whether the Government has assessed if such a situation is outdated and not in the public interest;*
- (4) *whether it will consider the suggestion made by the former Governor Sir Cecil Clementi in the early 19th century: replacing HKC with a club whose membership is to be open to people of all races and social strata; and*
- (5) *whether it has assessed the current market price of the site of the HKC building; whether it will consider putting forth a land exchange proposal to HKC with a view to vacating the precious site occupied by its club building for redevelopment, so that the proceeds so derived can be used to alleviate the record-breaking fiscal deficit of the Government?*

SECRETARY FOR DEVELOPMENT (in Chinese): President, having consulted the Home Affairs Bureau, the Home Affairs Department ("HAD"), and the Financial Services and the Treasury Bureau ("FSTB"), our reply to the five-part question is as follows:

- (1) The Hong Kong Club ("HKC") is situated on Marine Lot No. 274, the land lease of which has a term of 999 years from 20 February 1894. The land lease is an archaic unrestricted lease which contains no restrictions other than the offensive trade clause⁽¹⁾. The relevant land lease is available for public inspection at the Land Registry.
- (1) Among which the restrictions in respect of five trades (mainly those relating to catering businesses) have been removed by way of a licence.

- (2) In general, a landowner may carry out redevelopment at his lot without lease modification and without involving payment of any land premium so long as the user and development parameters of the redevelopment project are not in violation of the restrictions under the land lease conditions. According to this basic principle, the redevelopment of HKC does not involve lease modification or any land premium because its land lease is an archaic unrestricted lease.

As to whether HKC is required to pay tax for rental income, FSTB indicates that the Government is unable disclose information on individual cases in view of the official secrecy provisions under the Inland Revenue Ordinance (Cap. 112).

- (3) and (4)

HKC is a private club holding a Certificate of Compliance issued by the Office of the Licensing Authority under HAD in accordance with the Clubs (Safety of Premises) Ordinance (Cap. 376). HAD indicates that the main purpose of the Cap. 376 is to ensure the building and fire safety of the club premises. The Cap. 376 does not impose restriction on the activities and modes of operation of clubs, including the eligibility and criteria for admission of members.

- (5) A land lease is a private contract between the Government and private landowner which is binding on both parties. Mutual assent by both parties is necessary for making modifications to the land lease conditions or carrying out land exchanges. Generally speaking, only under very special and fully justified circumstances (such as preservation of a particular site or building) would the Government explore with a landowner a non-in-situ land exchange. The situation of the lot of HKC is not such a case. From a practical view point, we believe that any landowner will not easily forego a piece of land under a "Commercial" zone in Central. Even if we were to assume that the two parties would enter into discussions, very likely the Government would have to shoulder substantial obligations in the process.

Statistics on private development projects

14. **MR WILSON OR** (in Chinese): *President, regarding the statistics on private development projects, will the Government inform this Council:*

- (1) *of the respective numbers of applications for (a) in-situ land exchange, (b) non-in-situ land exchange and (c) lease modification for private residential development projects (i) received and (ii) processed by the Lands Department ("LandsD") in each year from 2015 to 2020, as well as (iii) the estimated total number of units to be provided by the projects involved in the processed cases (set out in Table 1);*

Table 1

<i>Year</i>	<i>Type of applications</i>	<i>(i) Number of applications received</i>	<i>(ii) Number of applications processed</i>	<i>(iii) Estimated total number of units to be provided by the projects involved in the processed cases</i>
2015	<i>(a) In-situ land exchange</i>			
	<i>(b) Non-in-situ land exchange</i>			
	<i>(c) Lease modification</i>			
	<i>Total:</i>			
...				
2020				

- (2) *of the respective numbers of applications for (a) in-situ land exchange, (b) non-in-situ land exchange and (c) lease modification for private non-residential development projects (i) received and (ii) processed by LandsD in each year from 2015 to 2020, as well as (iii) the estimated total number of units to be provided by the projects involved in the processed cases (set out in a table of the same format as Table 1); and*
- (3) *of the number of premium assessment cases for private residential development projects completed by LandsD in each of the past five financial years, and set out in Table 2 the details of each project?*

Table 2

<i>Project</i>	<i>Execution date of land document [Type of transaction]</i>	<i>Location [Lot number]</i>	<i>Original use</i>	<i>Site area (hectares)</i>	<i>Date of valid application for land exchange/ lease modification</i>	<i>Estimated number of units</i>

SECRETARY FOR DEVELOPMENT (in Chinese): President, my reply to various parts of the question is as follows:

(1) and (2)

I suppose part (1) of the question concerns those development projects intending solely for private residential use, while part (2) concerns other projects with partial private residential development (for example, a residential and commercial complex). Between 2015 and 2020, the respective numbers of cases for (a) in-situ land exchange, (b) non-in-situ land exchange and (c) lease modification, relating to these projects involving private residential development (other than those for small house developments in the New Territories), received and processed by the Lands Department ("LandsD"), as well as the total number of units to be provided, are consolidated in the following table:

<i>Year</i>	<i>Type of applications</i>	<i>(i) Number of applications received</i>	<i>(ii) Number of cases processed and executed⁽¹⁾</i>	<i>(iii) Estimated total number of units to be provided by executed cases⁽²⁾</i>
2015	(a) In-situ land exchange	7	8	1 052
	(b) Non-in-situ land exchange	0	0	0
	(c) Lease modification	17	4	382
	Total:	24	12	1 434

<i>Year</i>	<i>Type of applications</i>	<i>(i) Number of applications received</i>	<i>(ii) Number of cases processed and executed⁽¹⁾</i>	<i>(iii) Estimated total number of units to be provided by executed cases⁽²⁾</i>
2016	(a) In-situ land exchange	7	1	504
	(b) Non-in-situ land exchange	0	0	0
	(c) Lease modification	12	3	415
	Total:	19	4	919
2017	(a) In-situ land exchange	3	16	16 832
	(b) Non-in-situ land exchange	1	0	0
	(c) Lease modification	16	4	493
	Total:	20	20	17 325
2018	(a) In-situ land exchange	1	9	2 296
	(b) Non-in-situ land exchange	0	0	0
	(c) Lease modification	10	4	1 974
	Total:	11	13	4 270
2019	(a) In-situ land exchange	7	4	1 087
	(b) Non-in-situ land exchange	0	0	0
	(c) Lease modification	5	6	1 205
	Total:	12	10	2 292
2020	(a) In-situ land exchange	5	3	1 103
	(b) Non-in-situ land exchange	0	1	1
	(c) Lease modification	9	3	54
	Total:	14	7	1 158
Grand Total		100	66	27 398

Notes:

- (1) Given the lead time required for processing, applications received may not be processed and executed in the same year. Hence, the cases processed and executed each year may not correspond to the applications received in the same year.
- (2) The estimated total number of units to be provided is based on information provided by the applicants of lease modification and land exchange at the time of execution of the land documents. The actual flat number depends on the actual design of the proposed development.

- (3) To facilitate the viewing of the above, information provided in this part is also based on calendar year. In the past five years (i.e. from 2016 to 2020), details of cases involving development projects that were "solely" for private residential use and not "solely" for private residential use (other than those for small house developments in the New Territories) processed by LandsD (including premium assessment) are tabulated as follows:

<i>Project</i>	<i>Execution date of land document [Type of transaction]</i>	<i>Location [Lot Number]</i>	<i>Original use⁽¹⁾</i>	<i>Site area (hectares) (about)</i>	<i>Date of valid application for land exchange/ lease modification</i>	<i>Estimated number of residential units⁽²⁾</i>
2016						
1	5 February 2016 [Lease modification]	Tuen Mun Heung Sze Wui Road, Tuen Mun [Tuen Mun Town Lot No. 99 and Castle Peak Town Lot No. 18]	Non-industrial	0.0743	July 2014	100
2	24 March 2016 [Lease modification]	Discovery Bay development [Lot No. 385 Remaining Portion in Demarcation District No. 352 and the extensions thereto]	Multiple uses (including recreational facilities and residential etc.)	0.6243	January 2004	200
3	27 June 2016 [Lease modification]	78-80 Maidstone Road, To Kwa Wan [Kowloon Inland Lot No. 9692]	Residential	0.0479	November 2014	115
4	7 December 2016 [Land exchange]	Tai Tong, Yuen Long [Yuen Long Town Lot No. 524]	Building and agricultural	0.4546	July 2005	504
Total						919
2017						
1	4 January 2017 [Lease modification]	340-342 Fuk Wing Street, 27-29 Tonkin Street and 249-263 Un Chau Street, Cheung Sha Wan [New Kowloon Inland Lot No. 4178]	Industrial	0.2403	January 2015	377

<i>Project</i>	<i>Execution date of land document [Type of transaction]</i>	<i>Location [Lot Number]</i>	<i>Original use⁽¹⁾</i>	<i>Site area (hectares) (about)</i>	<i>Date of valid application for land exchange/ lease modification</i>	<i>Estimated number of residential units⁽²⁾</i>
2	27 February 2017 [Land exchange]	Ho Man Tin Station Package 1 [Kowloon Inland Lot No. 11264]	Railway related	3.6204	October 2016	962
3	18 April 2017 [Land exchange]	Area 85, Tseung Kwan O, Sai Kung [Tseung Kwan O Town Lot No. 121]	Industrial/ Godown	0.9635	April 2012	1 518
4	15 May 2017 [Land exchange]	Area 54, Siu Hong, Tuen Mun [Tuen Mun Town Lot No. 483]	Agricultural	4.2856	August 2013	4 540
5	29 May 2017 [Land exchange]	Hung Shui Kiu, Yuen Long [Lot No. 4328 in Demarcation District No. 124]	Agricultural	1.0240	June 2015	176
6	31 May 2017 [Lease modification]	301, 301A-C Prince Edward Road West, Kowloon City [Kowloon Inland Lot No. 2320]	House	0.0749	December 2014	79
7	1 June 2017 [Lease modification]	195 Prince Edward Road West, Kowloon City [Kowloon Inland Lot No. 2341 Section E]	House	0.0843	May 2012	34
8	6 June 2017 [Land exchange] ⁽³⁾	Junction of Peel Street and Gage Street, Central [Inland Lot No. 9064]	Virtually unrestricted	0.0893	December 2013	116
9	12 June 2017 [Land exchange]	Heung Yip Road, Wong Chuk Hang Station [Aberdeen Inland Lot No. 467]	Railway related	6.8581	August 2016	800
10	21 July 2017 [Lease modification]	30A San Shek Wan, Lantau Island [Lot No. 687 in Demarcation District No. 329]	Residential	0.1940	March 2012	3

<i>Project</i>	<i>Execution date of land document [Type of transaction]</i>	<i>Location [Lot Number]</i>	<i>Original use⁽¹⁾</i>	<i>Site area (hectares) (about)</i>	<i>Date of valid application for land exchange/ lease modification</i>	<i>Estimated number of residential units⁽²⁾</i>
11	16 August 2017 [Land exchange]	13 and 15, Sze Shan Street, Yau Tong [Yau Tong Inland Lot No. 41]	Industrial/ Godown	0.3816	June 2010	332
12	31 August 2017 [Land exchange]	Shap Pat Heung Road, Yuen Long [Lot No. 4056 in Demarcation District No. 120]	Agricultural	0.2251	April 2015	266
13	4 September 2017 [Land exchange]	Fo Tan, Sha Tin [Sha Tin Town Lot No. 576]	Industrial/ Godown and Workmen's Quarters	2.0038	September 2013	914
14	8 September 2017 [Land exchange]	Sai Sha, Shap Sze Heung, Tai Po [Tai Po Town Lot No. 157]	Building and Agricultural	62.3232	June 2008	4 776
15	16 October 2017 [Land exchange]	Ha Yeung, Clear Water Bay, Sai Kung [Lot No. 264 in Demarcation District No. 233]	Agricultural	0.3750	May 2009	5
16	31 October 2017 [Land exchange]	Tong Yan San Tsuen, Yuen Long [Lot No. 2168 in Demarcation District No. 121]	Agricultural	0.1020	October 2013	15
17	9 November 2017 [Land exchange]	Chau Tsai, Pak A Village, Sai Kung [Lot No. 339 in Demarcation District No. 362]	Building and agricultural	0.0113	December 2006	1
18	19 December 2017 [Land exchange]	Areas 24 and 25, Kwu Tung, Sheung Shui [Fanling Sheung Shui Town Lot No. 263]	Residential	0.5250	July 2015	810
19	22 December 2017 [Land exchange]	Ping Shan, Yuen Long [Lot No. 2128 in Demarcation District No. 121]	Agricultural	0.3506	July 2015	18
20	27 December 2017 [Land exchange]	Ma Sik Road, Area 18, Fanling [Fanling Sheung Shui Town Lot No. 262]	Building and agricultural	1.6187	July 2015	1 583
Total						17 325

<i>Project</i>	<i>Execution date of land document [Type of transaction]</i>	<i>Location [Lot Number]</i>	<i>Original use⁽¹⁾</i>	<i>Site area (hectares) (about)</i>	<i>Date of valid application for land exchange/ lease modification</i>	<i>Estimated number of residential units⁽²⁾</i>
2018						
1	23 January 2018 [Lease modification]	Heung Yip Road, Wong Chuk Hang Station (Site B) [Aberdeen Inland Lot No. 467]	Railway related	6.8581	August 2017	600
2	6 March 2018 [Lease modification]	139, 141, 143, 145 and 147 Argyle Street, Kowloon City [Kowloon Inland Lot No. 6005, Kowloon Inland Lot No. 6035 Remaining Portion, Kowloon Inland Lot No. 6036 Remaining Portion, Kowloon Inland Lot No. 6037 Remaining Portion and Kowloon Inland Lot No. 6038 Remaining Portion]	Residential and office	0.5755	September 2013	172
3	29 March 2018 [Lease modification]	48A and 50 La Salle Road, Kowloon Tong [New Kowloon Inland Lot No. 3851 Section D and Section E]	Residential	0.0883	July 2013	2
4	3 April 2018 [Land exchange]	Wai Yi Street, Tai Po [Tai Po Town Lot No. 233]	Building	0.0217	March 2015	11
5	16 April 2018 [Land exchange]	Man Sau Sun Tsuen, Sai Kung [Lot No. 1179 in Demarcation District No. 215]	Agricultural	0.0486	May 2009	1
6	8 August 2018 [Land exchange]	Yau Tong, Kowloon [New Kowloon Inland Lot No. 6602]	Railway related	0.4030	November 2016	500
7	29 August 2018 [Land exchange]	Mo Tat, Lamma Island [Lot No. 524 in Demarcation District No. 7, Lamma Island]	Residential and garden	0.4552	July 2009	10

<i>Project</i>	<i>Execution date of land document [Type of transaction]</i>	<i>Location [Lot Number]</i>	<i>Original use⁽¹⁾</i>	<i>Site area (hectares) (about)</i>	<i>Date of valid application for land exchange/ lease modification</i>	<i>Estimated number of residential units⁽²⁾</i>
8	21 September 2018 [Land exchange]	233 and 235 Prince Edward Road West, Kowloon City [Kowloon Inland Lot No. 11230]	House	0.1340	July 2013	51
9	28 September 2018 [Lease modification]	Heung Yip Road, Wong Chuk Hang Station (Site C) [Aberdeen Inland Lot No. 467]	Railway related	6.8581	February 2018	1 200
10	22 October 2018 [Land exchange]	14-20 Inverness Road, Kowloon City [New Kowloon Inland Lot No. 6573]	House	0.1440	August 2015	60
11	24 October 2018 [Land exchange]	Kwu Tung South, Sheung Shui [Lot No. 2579 in Demarcation District No. 92]	Building and Agricultural	3.7560	January 2006	90
12	5 December 2018 [Land exchange]	Castle Peak Road—So Kwun Wat, Siu Sau, Tuen Mun [Tuen Mun Town Lot No. 463]	Agricultural	2.4800	July 2002	573
13	17 December 2018 [Land exchange]	Ho Man Tin Station (Site B) [Kowloon Inland Lot No. 11264]	Railway related	3.6204	June 2016	1 000
Total						4 270
2019						
1	4 January 2019 [Land exchange]	1 Wang Tak Street, Happy Valley [Inland Lot 9045]	Residential (including hotel)	0.0540	December 2015	159
2	30 January 2019 [Lease modification]	10 and 12A La Salle Road, Kowloon Tong [Kowloon Inland Lot No. 3275]	House	0.0839	November 2016	73
3		168 and 168C Boundary Street, Kowloon [Kowloon Inland Lot No. 3276]				

<i>Project</i>	<i>Execution date of land document [Type of transaction]</i>	<i>Location [Lot Number]</i>	<i>Original use⁽¹⁾</i>	<i>Site area (hectares) (about)</i>	<i>Date of valid application for land exchange/ lease modification</i>	<i>Estimated number of residential units⁽²⁾</i>
4	4 February 2019 [Lease modification]	16 Bowen Road, Wan Chai [Inland Lot No. 2304 and the extension thereto]	House	0.1435	October 2016	2
5	21 May 2019 [Land exchange]	Shek Wu Wai, San Tin, Yuen Long [Lot No. 2091 in Demarcation District No. 105]	Agricultural	11.2993	February 2009	300
6	23 May 2019 [Lease modification]	Mui Wo, Lantau Island [Lot No. 667 in Demarcation District No. 4, Mui Wo]	Non-industrial	0.0139	November 2016	3
7	19 June 2019 [Land exchange]	Tung Yuen Street and Shung Yiu Street, Yau Tong [Yau Tong Inland Lot No. 45]	Industrial/ Godown	0.7773	November 2016	536
8	30 July 2019 [Lease modification]	13-23 Wang Wo Tsai Street, Tsuen Wan [Tsuen Wan Town Lot No. 160]	Industrial/ Godown	0.3114	July 2017	327
9	26 November 2019 [Land exchange]	Nam Pin Wai, Sai Kung [Lot No. 2189 in Demarcation District No. 244]	Agricultural	1.3866	January 2007	92
10	17 December 2019 [Lease modification]	Heung Yip Road, Wong Chuk Hang Station (Site D) [Aberdeen Inland Lot No. 467]	Railway related	6.8581	February 2019	800
Total						2 292
2020						
1	26 August 2020 [Lease modification]	138 and 138A Pok Fu Lam Road, Pok Fu Lam [Rural Building Lot No. 757]	Residential	0.1895	October 2018	3
2	6 October 2020 [Lease modification]	Area 54, Siu Hong, Tuen Mun [Tuen Mun Town Lot No. 483 and the extension thereto]	Non-Industrial	4.4926	January 2018	47

<i>Project</i>	<i>Execution date of land document [Type of transaction]</i>	<i>Location [Lot Number]</i>	<i>Original use⁽¹⁾</i>	<i>Site area (hectares) (about)</i>	<i>Date of valid application for land exchange/ lease modification</i>	<i>Estimated number of residential units⁽²⁾</i>
3	12 October 2020 [Land exchange]	Coombe Road, The Peak [Rural Building Lot No. 1207]	House	0.1100	October 2016	1
4	22 October 2020 [Land exchange]	Junction of Hung Shui Kiu Tin Sam Road, Hung Yuen Road, Hung Tai Road and Hung On Lane, Hung Shui Kiu, Ping Shan, Yuen Long [Lot No. 4312 in Demarcation District No. 124]	Building and agricultural	0.9689	March 2015	935
5	10 November 2020 [Land exchange]	142-154 Carpenter Road, Kowloon City [New Kowloon Inland Lot No. 6561]	House	0.0848	November 2014	167
6	4 December 2020 [Lease modification]	30 Hang Hau Wing Lung Road, Sai Kung [Lot No. 540 in Demarcation District No. 238]	Residential	0.2514	June 2018	4
7	22 December 2020 [Land exchange]	Pak Sha Wan, Sai Kung [Lot No. 1203 in Demarcation District No. 217]	Residential	0.0815	April 2014	1
Total						1 158

Notes:

- (1) The users quoted are general descriptions of the uses permissible under lease, which do not fully reflect the detailed user conditions of the lot in question as prescribed in the relevant leases.
- (2) The estimated total number of units to be provided is based on information provided by the applicants of lease modification and land exchange at the time of execution of the land documents. The actual flat number depends on the actual design of the proposed development.
- (3) This case is a project by the Urban Renewal Authority granted at nominal premium (i.e. \$1,000).

The time required to process lease modification/land exchange applications varies depending on the complexity of the case and other factors. Such factors include whether the applicant has changed its proposed plan during the application period; whether title checking of the lot is required; the process and time needed to handle and respond to local objections and comments from government departments, if any; the time needed to complete relevant statutory procedures (such as the statutory procedures required for proposed road works under the Roads (Works, Use and Compensation) Ordinance (Cap. 370)), if any; and the time needed to negotiate and agree on the premium amount with the applicant.

LandsD releases on its website <www.landsd.gov.hk/en/resources/land-info-stat/non-NTEH-land-transaction.html#summary> on a monthly basis information on the respective numbers and nature of applications for lease modification, land exchange, lot extension or private treaty grant that are received, under processing or completed.

Common Spatial Data Infrastructure

15. **MR CHAN CHUN-YING** (in Chinese): *President, to facilitate the development of Hong Kong into a smart city, the Government is developing a Common Spatial Data Infrastructure ("CSDI") portal, with a view to enhancing the use, management, discovery and sharing of spatial data. CSDI will be ready for full operation next year. On the other hand, it is learnt that the Singapore Government has developed CSDI for more than 10 years, and the key measures introduced in this respect include setting specific performance pledges for all government agencies (e.g. data fusion for cross-agency projects to be completed within seven working days), and actively encouraging the private sector to provide and use spatial data. The geospatial industry in Singapore is developing vibrantly, with its scale nearly tripling to an amount equivalent to HK\$2.8 billion between 2009 and 2020. In this connection, will the Government inform this Council:*

- (1) *whether it has set specific targets for the provision of spatial data by policy bureaux/government departments; if so, of the details; if not, the reasons for that;*

- (2) *whether specific measures are in place to encourage public and private organizations to actively provide CSDI with the geospatial data in their possession; if so, of the details; if not, the reasons for that; and*
- (3) *whether it has assessed how the private sector's participation in CSDI can facilitate the development of the local geospatial industry; if so, of the details (including the scale expected to be achieved), and whether a development roadmap will be drawn up for such industry; if it has not assessed, the reasons for that?*

SECRETARY FOR DEVELOPMENT (in Chinese): President, the Development Bureau ("DEVB"), with the support from the Innovation and Technology Bureau, takes the lead in developing the Common Spatial Data Infrastructure ("CSDI"), a map-based digital infrastructure serving as a one-stop data platform to open up and share standardized spatial data for free use by government departments, businesses, the academia and the public. The CSDI portal is under development, targeted to be made available for government and public use by phases before end 2022.

My replies to the three parts of the question are as follows:

- (1) We are implementing the following measures to set out specific targets for government bureaux/departments ("B/Ds") to open up the spatial data in their possession under the CSDI initiative:
 - (i) We have issued a circular related to the policy and related measures of CSDI to B/Ds, specifying that unless for security, privacy, confidentiality or other policy or operational reasons, B/Ds shall progressively open up their spatial datasets;
 - (ii) B/Ds shall prepare returns of spatial data annually to set out the plan and arrangements for the release of spatial datasets. Such annual returns will be published on B/Ds' departmental websites for information of the public starting from end 2021;

- (iii) The sharing of spatial data by B/Ds should be in compliance with the CSDI standards, viz. geo-tagging of non-spatial data, documentation of data specifications and metadata, establishment of Application Programming Interface and conversion of spatial data to an open and machine-readable format; and
- (iv) In developing new geospatial applications and systems, B/Ds are required to open up the spatial data according to the prevailing policy.

We target to open up no less than 320 standardized spatial datasets in a common open and machine-readable format contributed from different B/Ds through the CSDI portal for free download and use by the public. Those datasets will mainly cover planning, lands, buildings and works related datasets, census datasets, public facilities, etc.

We will continue to review these measures to help B/Ds open up their spatial data in a timely manner to suit the needs of the wider community.

- (2) Apart from B/Ds, we are also encouraging public and private organizations to share their spatial data that are of interest and benefit to the public. The Spatial Data Office of DEVB has started approaching various organizations in the public and private sectors, such as the Hong Kong Science and Technology Parks, Urban Renewal Authority and the Construction Industry Council, to explain and promote the benefits and business opportunities in sharing spatial data. We also approached and encouraged private companies and professional institutes in the fields of construction, transportation, public utilities, etc. to make their spatial data available for sharing on public platform in the future. Feedback initially received was positive and encouraging.
- (3) CSDI, as a digital infrastructure underpinning Hong Kong's smart city development, can spur the growth of the local geospatial industry. In taking forward the development of CSDI, we commissioned a consultancy study on the development strategy of a CSDI in 2017.

The study has set out a road map for the development of CSDI in short, medium and long terms for exploring how the participation of private companies, such as public utilities and public transportation operators, can enable them to enjoy the potential benefits of CSDI. Such benefits include increased availability of spatial data to spur innovation, reduced efforts in the capture, management, and delivery of geospatial information, leading to lower business costs, improved transparency and public engagement, etc.

We have also undertaken a number of quick wins to engage the private sector to participate early in the development of CSDI which may facilitate the expansion of the local geospatial industry. For example, we have made available for use by private organizations a wide range of spatial data, geo-tagging tool and Map Application Programming Interface services on the Hong Kong GeoData Store website, viz. the alpha version of the CSDI portal. We noted the high hit rates of the spatial data and tools with an increasing trend, and we believe that the private sector should have started exploring and using spatial data for their business.

Besides, with the advice from the Common Spatial Data Advisory Committee and engagement activities through the recently opened Geospatial Lab, we look forward to nurturing a geospatial group comprising entrepreneurs, technology specialists, startups, professional organizations, academia, young generation, etc. to harness the creation, analysis and applications of spatial data. Moreover, private sector, non-government organizations and professional institutions proactively participated and identified a number of potential smart city applications in our recent activities, for instance, the wider use of pedestrian passageway information of areas of private properties to facilitate the application of indoor and outdoor positioning and navigation, which can provide seamless navigation for visually impaired people and elderly so as to enhance their connection with other communities, improving the living quality; and the greater use of real-time parking vacancy information to spur parking and transport related applications, etc. Private sector and geospatial industry including startups will be invited to collaborate and explore further the feasibility of such applications.

Realizing the importance of spatial data, we plan to invite public and private sectors to share more data on CSDI with a view to contributing further to the development of a local geospatial industry. We will consider at suitable juncture to assess the scale of development of the geospatial industry in the private sector after the launch of CSDI and formulate the most appropriate policy measures to boost further the digital economy in Hong Kong.

Flooding problem in the New Territories North

16. **MR HOLDEN CHOW** (in Chinese): *President, it has been reported that in the early hours on 6 August this year when a Red Rainstorm Warning Signal and a Special Announcement on Flooding in the Northern New Territories were in force, serious flooding occurred on Lin Ma Hang Road near the roundabout of Heung Yuen Wai Highway in the New Territories North ("NTN"). As a result, two motor vehicles broke down and, among them, a seven-seater vehicle was almost submerged. Some residents in the New Territories have pointed out that serious flooding often occurs in NTN (particularly in rural areas) during periods of heavy rain, threatening the safety of the residents' properties and lives. In this connection, will the Government inform this Council:*

- (1) *whether it has plans to conduct a comprehensive review on the planning of the stormwater drainage facilities in NTN; if not, of the reasons for that;*
- (2) *of the number and other details of flood barriers installed by the Drainage Services Department ("DSD") in the past five years for the residential areas in flood-prone districts;*
- (3) *of the quantity of sandbags currently kept in stock by DSD for residents and shop operators in need to borrow before the onset of flooding, and how DSD ensures the timely delivery of sandbags to them; and*
- (4) *given that flooding occurred on the major roads (including Man Kam To Road and the aforesaid roundabout) in NTN during the heavy rainstorms in early August this year, and caused serious traffic congestion, of the Government's plans to improve the stormwater*

drainage facilities of such roads so as to prevent the recurrence of traffic congestion caused by flooding?

SECRETARY FOR DEVELOPMENT (in Chinese): President, Hong Kong, in particular the North District of the New Territories, was affected by a series of heavy rainstorms in recent months. The Hong Kong Observatory has issued nine Special Announcements on Flooding in the northern New Territories this year, more than the annual average of the past 10 years of five announcements. These rainstorms caused flooding in a number of areas in the North District.

Having consulted the Drainage Services Department ("DSD"), the Civil Engineering and Development Department ("CEDD") and the Highways Department ("HyD"), the reply to the four parts of Mr CHOW's question as follows:

- (1) To systematically examine the adequacy and effectiveness of the stormwater drainage facilities in the northern New Territories, DSD completed the first Drainage Master Plan Study in the northern New Territories as early as in 1999. The stormwater drainage improvement measures proposed in the study were already progressively completed and put in operation, such as the major river training projects of Shenzhen River, Ng Tung River, Sheung Yue River, as well as the village flood protection schemes implemented for low-lying villages. With the completion of the above works, the extensive flooding situations in the North District of the New Territories have been remarkably improved.

To cater for the circumstances such as the development of the district, updated land use planning, climate change, etc. that came after the completion of the Drainage Master Plan Study, DSD completed a Drainage Master Plan Review Study for the North District in 2011. The scope of the study covered villages with flooding records and assessment of the performance of their stormwater drainage systems. Based on the results of the study, DSD formulated new stormwater drainage improvement measures. Besides, according to conditions such as the nature, locations and severity of the flooding as well as land use, DSD appropriately consolidated a series of proposed stormwater drainage improvement measures.

At present, DSD is carrying out the works project 4118CD "Drainage Improvement in Northern New Territories—Package B (Remaining Works)" in the northern New Territories covering the Tsung Yuen (Kwu Tung North) area, which is anticipated to be completed in 2022. In addition, DSD is also planning and designing the works project 4165CD "Drainage Improvement Works at North District" and the works project 4173CD "Drainage Improvement Works in Ta Kwu Ling" to further enhance the drainage capacity of the relevant district.

- (2) In response to the actual needs and requests of the residents affected by flooding, DSD has in the past five years installed flood barriers at locations susceptible to flooding. Details are as follows:

<i>Location with flood barriers installed</i>	<i>Number of installations</i>
(1) Tai O	12
(2) Lei Yue Mun	43
(3) Heng Fa Chuen	8
Total	63

- (3) Whenever there is a heavy rainstorm, DSD will deploy manpower to specifically handle flooding incidents and clear blocked channels. When Hong Kong is affected by a typhoon, DSD will deploy emergency response teams to station at the locations prone to flooding and will assist the local residents to handle flooding problems, including placing sand bags and installing water pumps at specific locations to reduce the flood risk.

In addition, DSD will review the stock of sand bags at different locations prior to the rainy season and typhoon season every year, for timely provision of sand bags to the residents at the locations that are susceptible to flooding when necessary. The current inventory of sand bags of DSD is as follows:

<i>Location with sand bags provision</i>	<i>Number of Sand Bags</i>
(1) Ta Kwu Ling	300
(2) Shek Wu Wai, San Tin	400
(3) Hang Tau Village, Sheung Shui	300

<i>Location with sand bags provision</i>	<i>Number of Sand Bags</i>
(4) Low-lying coastal area in the northwest of Yuen Long	3 000
(5) Luen On San Tsuen, Tuen Mun	600
(6) Kar Wo Lei, Tuen Mun	800
(7) Sham Tseng San Tsuen	350
(8) Sam Mun Tsai New Village	300
(9) Tai O	800
(10) Nam Wai, Sai Kung and Tseung Kwan O South	250
(11) Lei Yue Mun	400
(12) Heng Fa Chuen	150
(13) South Horizons	150
Total	7 800

- (4) Heavy rainstorms are likely to increase the loading of the drainage system at localized low-lying areas, such as Man Kam To Road and Lin Ma Hang Road. In addition, the road gullies and rainwater inlets that collect surface runoff are easily blocked by rubbish, soil, leaves or other obstructions during the heavy rainstorms, which causes various degrees of flooding at the relevant locations. DSD, CEDD and HyD are all very concerned about the flooding incidents and have taken immediate follow-up actions. To prevent recurrence of similar serious flooding at the above road sections, relevant follow-up measures have been put in place as follows:

Man Kam To Road

CEDD has swiftly completed the desilting works of the road drainage facilities within its project boundary at Man Kam To Road, and has also collaborated with DSD to clear the box culvert underneath this road section so as to allow the stormwater to be drained away quickly. To cope with unexpected flooding incidents, emergency services have also been incorporated into the works contract of the Man Kam To Road site. Ahead of impending heavy rain, the relevant works contractor will also step up inspections and will clear debris and obstacles in the drainage channels within the project area to ensure clearance of the channels.

Lin Ma Hang Road near roundabout of Heung Yuen Wai Highway

During heavy rainstorms, large amount of rubbish, soil, leaves and other obstructions may be washed into the river/channel, leading to the rise of river/channel water level and causing flooding to nearby roads. DSD immediately installed screens and water level monitoring system at Kong Yiu Channel ("KYC") to facilitate timely arrangement of clearance work at the river in order to prevent serious flooding conditions as far as possible.

To prevent vegetation and soil from being washed away during heavy rainstorms and hence blocking KYC adjoining Lin Ma Hang Road, and affecting its drainage capacity, CEDD is now paving up the landscaping areas within the location affected by flooding with concrete or paving blocks. CEDD will also construct flood walls along the Lin Ma Hang Road affected by flooding (adjoining KYC) to improve the flood defence of that area. At the same time, a vehicular maintenance ramp at the side of KYC will be constructed to facilitate emergency channel clearance work. In addition, to further enhance the drainage capacity, HyD is arranging to provide additional gullies at the road sections concerned. The above improvement works are in planning and design stage. The Government will commence the relevant works the soonest possible to reduce the flood risk at the road sections concerned.

Statistics on social incidents

17. **DR PRISCILLA LEUNG** (in Chinese): *President, regarding the relevant statistics on the three series of social incidents, namely the Occupy Central movement in 2014, the Mong Kok disturbance on the night of the Lunar New Year's Day in 2016 and the disturbances arising from the opposition to the proposed legislative amendments in 2019, will the Government inform this Council:*

- (1) *among the persons arrested in each series of social incidents, of the respective up-to-date numbers of those who:*
 - (i) *were released under the Police Superintendent's Discretion Scheme;*

- (ii) *had to bear legal consequences (i.e. convicted, bound over, and placed under a Care or Protection Order), with a breakdown by consequence;*
 - (iii) *had the charges against them withdrawn;*
 - (iv) *were acquitted after trial; and*
 - (v) *are awaiting trial;*
- (2) *of a breakdown of the numbers of persons mentioned in (1) by (i) the age group to which they belonged, and (ii) capacity (i.e. primary student, secondary student, tertiary student, and others), at the time of arrest (set out in a table);*
- (3) *whether it knows, in respect of the cases relating to each series of social incidents, the respective numbers of cases which have been or will be heard by the courts, with a tabulated breakdown by (i) court level and (ii) case type (i.e. criminal or civil);*
- (4) *in respect of the criminal cases relating to each series of social incidents, of the respective up-to-date numbers of legal aid applications (i) received and (ii) approved by the Legal Aid Department ("LAD"), as well as LAD's total expenditure on legal costs incurred for such cases so far; and*
- (5) *in respect of the criminal cases relating to each series of social incidents, of the up-to-date number of the persons involved who have jumped bail, and the measures taken by the Government to pursue and arrest them?*

SECRETARY FOR SECURITY (in Chinese): President, according to the Police Force Ordinance, the Police have the statutory duty to maintain public safety and public order. No one is above the law nor can anyone break the law without consequences. If there is evidence that a person violates the law, he or she must face justice regardless of status or background. No one has privileges.

Having consolidated the information from the Legal Aid Department and the Judiciary, the reply to the Member's question is as follows:

(1) and (2)

The investigation into all cases relating to the illegal Occupy Central Movement in 2014 have been concluded. As at 31 July 2021, the Police had arrested 1 003 persons in total. Among the arrested persons, 225 had been dealt with through judicial proceedings, in which 169 had to bear legal consequences (including 127 convicted and 42 bound over by the court); 18 had the charges against them withdrawn by the prosecution; 37 were acquitted after trial and 1 passed away before the conclusion of trial. The Police do not maintain other figures as requested in the question on these cases.

Regarding the illegal acts relating to the Mong Kok riot in 2016, as at 31 July 2021, the Police had arrested 93 persons in total (all over 18 years old), among which 17 were students. 65 persons were prosecuted and 11 of them were students. Among the 62 persons who had completed the respective judicial proceedings, 36 had to bear legal consequences (all of them were convicted); 20 had the charges against them withdrawn by the prosecution; 6 were acquitted after trial. No arrestees were bound over by court. The Police do not maintain other figures as requested in the question on these cases.

Regarding the illegal acts relating to the serious violence in 2019, as at 31 July 2021, the Police had arrested 10 265 persons in total (8 511 aged over 18 and 1 754 aged under 18) and 4 009 of them were students. 2 684 persons (2 195 aged over 18 and 489 aged under 18) had been prosecuted, out of which 1 102 were students.

Among the 1 527 persons who had completed the respective judicial proceedings, 1 197 had to bear legal consequences (905 convicted, 282 bound over by court, 6 granted with Care or Protection Order by court and 4 convicted of contempt of court through civil proceedings). 54 had the charges against them withdrawn by the prosecution and 276 were acquitted after trial. Besides, 25 persons were released by the Police Superintendent's Discretion. 1 173 were still going through the judicial proceedings. The Police do not maintain other figures as requested in the question on these cases.

- (3) A total of 295 cases relating to the illegal Occupy Central Movement have been dealt with or are being dealt with at various levels of court since 2014. The breakdown is as follows:

<i>Level of Court</i>	<i>Criminal Cases</i>	<i>Civil Cases</i>	<i>Total</i>
Court of Final Appeal	4	0	4
High Court	52	77	129
District Court	2	8	10
Magistrates' Courts	111	-	111
Small Claims Tribunal	-	41	41
Total	169	126	295

A total of 86 cases relating to the Mong Kok riot have been dealt with or are being dealt with at various levels of court since 2016. The breakdown is as follows:

<i>Level of Court</i>	<i>Criminal Cases</i>
Court of Final Appeal	1
High Court	11
District Court	8
Magistrates' Courts	66
Total	86

The progress of individual cases is recorded in the court files. The Judiciary does not maintain the relevant statistics.

As at 31 July 2021, over 1 900 cases relating to the serious violence in 2019 had been brought before various levels of court, among which over 1 400 (about 74%) have been dealt with. The breakdown is as follows:

<i>Level of court</i>	<i>Criminal cases</i>		<i>Civil cases</i>	
	<i>Being dealt with</i>	<i>Have been dealt with</i>	<i>Being dealt with</i>	<i>Have been dealt with</i>
Court of Final Appeal	4	3	0	8
High Court [#]	67	220	18	42

<i>Level of court</i>	<i>Criminal cases</i>		<i>Civil cases</i>	
	<i>Being dealt with</i>	<i>Have been dealt with</i>	<i>Being dealt with</i>	<i>Have been dealt with</i>
District Court	249	74	8	3
Magistrates' Courts	150	1 101	-	-
Small Claims Tribunal	-	-	4	9
Total	470	1 398	30	62

Note:

Figures include bail application cases.

- (4) Relevant figures on legal aid applications for criminal cases relating to the illegal Occupy Central Movement in 2014, the Mong Kok riot in 2016 and the serious violence in 2019 are as follows:

	<i>No. of legal aid applications for criminal cases received</i>	<i>No. of legal aid applications for criminal cases approved</i>	<i>Total legal costs*</i>
Illegal Occupy Central Movement	24	15	\$7,614,594
Mong Kok riot	73	50	\$40,770,913
Serious violence in 2019	1 310	1 068	\$49,409,027

Note:

* As some of the cases have not yet concluded, the above mentioned figures are updated as at 31 August 2021 and subject to adjustment.

- (5) The Hong Kong Special Administrative Region ("HKSAR") Government strongly condemns anyone seeking to evade legal liabilities and abscond overseas for self-preservation. Absconding to avoid legal liabilities is a shameful act. Fearing of facing justice after breaking the law, running away by jumping bail, using various excuses such as so-called "exile" to avoid one's responsibility, and

even making false statements and making up excuses before the court to apply for bail are shameful, hypocritical and coward acts.

The HKSAR Government strongly condemns any person who supports or harbours these absconders. These persons have turned a blind eye to the serious offences which the absconders are suspected to have committed, and have instead attempted to beautify these shameful acts of evading legal liabilities. They only see political dividends in disregard for justice and in contempt for the rule of law.

For those absconded by jumping bail and wanted by the court, as at 31 July 2021, among those who had been arrested in connection with the Mong Kok riot in 2016, 3 were wanted after failing to appear before the court. For those who were arrested in connection with the serious violence in 2019, 31 were wanted after failing to appear before the court and 24 did not report back to the Police according to bail conditions. As to those who were arrested in connection with the illegal Occupy Central Movement in 2014, no one had jumped bail and absconded.

All persons who are wanted for prosecution of offences and have absconded from Hong Kong are fugitive offenders. The HKSAR Government will definitely pursue their criminal liabilities and make them face the sanctions of law. The Police will, in light of the circumstances of each case, track down the whereabouts of the fugitive offenders through various means in accordance with the law and pursue them.

Problem of water dripping from air-conditioners

18. **MR CHAN HAK-KAN** (in Chinese): *President, regarding the problem of water dripping from air-conditioners, will the Government inform this Council:*

- (1) *of the following figures on the complaints about water dripping from air-conditioners received, and the law enforcement actions taken on the matter, in each of the past three years and since January this year by the 19 district environmental hygiene offices ("DEHO") under the Food and Environmental Hygiene Department ("FEHD") respectively:*

- (i) *the number of complaints received,*
 - (ii) *the number of cases identified through proactive inspections,*
 - (iii) *the number of nuisance notices issued,*
 - (iv) *the number of applications for nuisance orders made to the court, and*
 - (v) *the number of prosecutions instituted as well as the average amount of fine imposed on the convicted persons;*
- (2) *of a breakdown of the figures mentioned in (1) by type of housing (namely public rental housing, subsidized sale housing and private housing);*
- (3) *of the following information relating to the handling of the problem of water dripping from air-conditioners by FEHD in each of the past three years and since January this year (set out by DEHO):*
- (i) *the staffing establishment for handling water dripping from air-conditioners;*
 - (ii) *in respect of the completed cases, the average, longest and shortest time taken to (a) investigate and (b) reply to complainants; and*
 - (iii) *the average number of days between inspections conducted for the same street or same building;*
- (4) *of the following information relating to the "Scheme of Participation by Property Management Agents in Tackling Dripping Air-conditioners" in each of the past three years and since January this year:*
- (i) *the number and percentage of property management agents participating in the Scheme;*
 - (ii) *the number and percentage of estates participating in the Scheme;*

person who fails to comply may be prosecuted, and is liable to a maximum penalty of a fine of \$10,000, as well as a daily fine of \$200 as long as the nuisance continues. If the nuisance has not yet been abated upon the conviction of the accused, FEHD will apply to the court for a Nuisance Order to require compliance within the specified period. Any person who fails without reasonable excuse to comply with the requirements stated in a Nuisance Order shall be guilty of an offence, and is liable to a maximum penalty of a fine of \$25,000, as well as a daily fine of \$450 as long as the nuisance continues.

Regarding the question raised by Mr CHAN Hak-kan, my reply is as follows:

(1) and (2)

The number of complaints received by FEHD and cases identified through FEHD's proactive inspections, as well as other required information about water dripping from air-conditioners from 2018 to 2021 (up to 31 July 2021), broken down by the 19 District Environmental Hygiene Offices ("DEHOs") and by type of housing, are set out in Annex 1 and Annex 2 respectively.

(3) (i) Health Inspectors are deployed by FEHD to the 19 DEHOs across the territory to undertake various environmental hygiene duties, including handling complaints about water dripping from air-conditioners. In 2018-2019, 2019-2020 and 2020-2021, the staff establishment of Health Inspectors in DEHOs totalled 328. The number increased to 337 in 2021-2022. The details of the staff establishment are set out in Annex 3.

As the cases of nuisance caused by dripping air-conditioners mainly occur in the summer months, FEHD has recruited contract staff to cope with the substantial increase in workload. Dedicated teams were set up to step up the inspection, advisory and education work on buildings where the dripping problem is serious and to take law enforcement actions. The number of contract posts has increased from 40 to 45 over the past three years. The details of the related staff establishment are set out in Annex 4.

(ii) and (iii)

Upon receipt of a complaint from the public about dripping air-conditioner, the FEHD staff will usually conduct an investigation within six working days and give an interim reply to the complainant within 10 days. Excluding cases with investigation to be reopened before the next summer due to the approach of cool weather, the average time taken for completed cases (those received and completed in the same year) over the past three years are set out in Annex 5. Besides, staff will be deployed to conduct ad hoc inspections in various locations, especially black spots of dripping air-conditioners with heavy pedestrian flow (such as roadside bus stops, public light bus stands and pedestrian crossings), during different times of the day including the early morning and evening hours. FEHD does not maintain the other breakdown figures mentioned in the question.

- (4) The Scheme of Participation by Property Management Agents in Tackling Dripping Air-conditioners ("the Scheme") was initiated by FEHD in 2005 to solicit the assistance of property management agents ("PMAs") in handling complaints about dripping air-conditioners in private housing estates during the summer season. In 2018, 2019, 2020 and 2021 (up to 31 July), the respective numbers of participating PMAs were 78, 80, 82 and 84 and those of participating housing estates were 267, 269, 270 and 269. The respective percentages of cases resolved by PMAs and cases referred to FEHD for follow-up actions during the same period are set out in Annex 6.

Under the Scheme, the staff of the participating PMAs will, in the course of performing routine management duties in the housing estates, help identify the sources of the water dripping problems and advise the occupants concerned to rectify them. If PMAs' efforts are in vain, FEHD will take up the cases. FEHD provides relevant briefings and training for the staff of the participating PMAs, maintain timely communication with them and follow up on the referral cases. After evaluation, FEHD will issue letters of appreciation at the end of every summer season to commend PMAs which have actively participated in the Scheme for their efforts and contributions in handling the problems properly.

- (5) Devices such as digital cameras, high definition telescopes, retractable and adjustable video borescope inspection cameras (with LED lamps) are currently used by FEHD staff to facilitate long-range observation at night time or under poor lighting environment, with a view to identifying the sources of the water dripping from air-conditioners more effectively. FEHD reviews the methods of investigating dripping air-conditioners from time to time, and will actively consider the use of new technology to enhance the effectiveness of its investigation.
- (6) To increase its manpower to cope with the massive workload of investigation, FEHD has launched a pilot scheme since the summer of 2016 to recruit contract staff for setting up dedicated teams, which are deployed to districts with more serious problems of water dripping from air-conditioners. The duty time of the dedicated teams includes public holidays and non-office hours, facilitating more flexible manpower deployment to tackle the problem by conducting proactive inspections at relatively serious black spots in the districts during different times of the day. The number of dedicated teams has gradually increased from six (30 staff members) in 2017 to nine (45 staff members) this year.

Annex 1

Numbers of complaints about water dripping from air-conditioners received and cases identified through proactive inspections, and enforcement actions taken by FEHD by district in each of the past three years and since January this year

<i>Year</i>	<i>Total number of complaints received and cases identified through proactive inspections⁽¹⁾</i>	<i>Total number of completed cases in the year⁽²⁾</i>
2018	25 175	22 144
2019	24 934	23 010
2020	28 198	26 153
2021 (up to 31 July)	15 586	14 131

<i>District</i>	2018				<i>Average amount of fine imposed on convicted cases⁽⁵⁾</i>
	<i>Number of complaints received and cases identified through proactive inspections⁽¹⁾</i>	<i>Number of nuisance notices issued⁽³⁾</i>	<i>Number of nuisance orders issued</i>	<i>Number of prosecutions instituted⁽⁴⁾</i>	
Central and Western	1 555	238	0	0	\$1,097
Wan Chai	1 934	491	0	0	
Eastern	3 020	679	0	6	
Southern	956	21	0	0	
Islands	135	0	0	0	
Yau Tsim	1 387	383	0	2	
Mong Kok	1 353	893	0	31	
Sham Shui Po	1 769	518	0	22	
Kowloon City	1 682	16	0	0	
Wong Tai Sin	843	9	0	0	
Kwun Tong	1 854	0	0	0	
Kwai Tsing	753	11	0	0	
Tsuen Wan	1 341	245	0	0	
Tuen Mun	1 379	23	0	0	
Yuen Long	1 343	42	0	0	
North	575	15	0	0	
Tai Po	650	4	0	0	
Sha Tin	2 014	78	0	0	
Sai Kung	632	9	0	0	
Total	25 175	3 675	0	61	

<i>District</i>	2019				<i>Average amount of fine imposed on convicted cases⁽⁵⁾</i>
	<i>Number of complaints received and cases identified through proactive inspections⁽¹⁾</i>	<i>Number of nuisance notices issued⁽³⁾</i>	<i>Number of nuisance orders issued</i>	<i>Number of prosecutions instituted⁽⁴⁾</i>	
Central and Western	1 744	519	0	1	\$1,268
Wan Chai	1 145	692	0	1	

<i>District</i>	<i>2019</i>				<i>Average amount of fine imposed on convicted cases⁽⁵⁾</i>
	<i>Number of complaints received and cases identified through proactive inspections⁽¹⁾</i>	<i>Number of nuisance notices issued⁽³⁾</i>	<i>Number of nuisance orders issued</i>	<i>Number of prosecutions instituted⁽⁴⁾</i>	
Eastern	3 107	485	0	5	
Southern	1 073	48	0	0	
Islands	112	0	0	0	
Yau Tsim	1 394	517	0	1	
Mong Kok	1 265	1 399	5	63	
Sham Shui Po	1 856	507	0	20	
Kowloon City	1 643	68	0	0	
Wong Tai Sin	895	15	0	0	
Kwun Tong	2 009	0	0	0	
Kwai Tsing	824	10	0	0	
Tsuen Wan	1 299	45	0	0	
Tuen Mun	1 435	42	0	0	
Yuen Long	1 442	257	0	0	
North	501	18	0	0	
Tai Po	705	4	0	0	
Sha Tin	1 865	25	0	0	
Sai Kung	620	13	0	0	
Total	24 934	4 664	5	91	

<i>District</i>	<i>2020</i>				<i>Average amount of fine imposed on convicted cases⁽⁵⁾</i>
	<i>Number of complaints received and cases identified through proactive inspections⁽¹⁾</i>	<i>Number of nuisance notices issued⁽³⁾</i>	<i>Number of nuisance orders issued</i>	<i>Number of prosecutions instituted⁽⁴⁾</i>	
Central and Western	1 141	369	0	1	\$1,544
Wan Chai	1 613	345	0	0	

<i>District</i>	<i>2020</i>				<i>Average amount of fine imposed on convicted cases⁽⁵⁾</i>
	<i>Number of complaints received and cases identified through proactive inspections⁽¹⁾</i>	<i>Number of nuisance notices issued⁽³⁾</i>	<i>Number of nuisance orders issued</i>	<i>Number of prosecutions instituted⁽⁴⁾</i>	
Eastern	3 803	355	0	1	
Southern	1 251	36	0	0	
Islands	182	0	0	0	
Yau Tsim	1 200	458	0	0	
Mong Kok	1 177	845	0	17	
Sham Shui Po	1 888	300	1	17	
Kowloon City	1 866	95	0	0	
Wong Tai Sin	999	18	0	0	
Kwun Tong	2 385	211	0	0	
Kwai Tsing	975	6	0	0	
Tsuen Wan	1 509	100	0	0	
Tuen Mun	1 898	0	0	0	
Yuen Long	1 693	222	0	0	
North	808	4	0	0	
Tai Po	794	20	0	0	
Sha Tin	2 239	7	0	0	
Sai Kung	777	6	0	0	
Total	28 198	3 397	1	36	

<i>District</i>	<i>2021 (up to 31 July)</i>				<i>Average amount of fine imposed on convicted cases⁽⁵⁾</i>
	<i>Number of complaints received and cases identified through proactive inspections⁽¹⁾</i>	<i>Number of nuisance notices issued⁽³⁾</i>	<i>Number of nuisance orders issued</i>	<i>Number of prosecutions instituted⁽⁴⁾</i>	
Central and Western	593	159	0	0	\$1,100
Wan Chai	986	112	0	0	

<i>District</i>	<i>2021 (up to 31 July)</i>				<i>Average amount of fine imposed on convicted cases⁽⁵⁾</i>
	<i>Number of complaints received and cases identified through proactive inspections⁽¹⁾</i>	<i>Number of nuisance notices issued⁽³⁾</i>	<i>Number of nuisance orders issued</i>	<i>Number of prosecutions instituted⁽⁴⁾</i>	
Eastern	1 980	187	0	0	
Southern	711	13	0	0	
Islands	137	0	0	0	
Yau Tsim	767	225	0	0	
Mong Kok	773	383	1	9	
Sham Shui Po	1 131	49	0	4	
Kowloon City	1 019	20	0	0	
Wong Tai Sin	619	6	0	0	
Kwun Tong	697	160	0	0	
Kwai Tsing	565	5	0	0	
Tsuen Wan	931	88	0	0	
Tuen Mun	1 143	4	0	0	
Yuen Long	1 036	65	0	0	
North	481	1	0	0	
Tai Po	434	1	0	0	
Sha Tin	1 139	3	0	0	
Sai Kung	444	2	0	0	
Total	15 586	1 483	1	13	

Notes:

- (1) Most of the complaints received and cases identified through proactive inspections can be resolved by verbal warnings or advisory letters by FEHD, hence the issuance of nuisance notices is not necessary.
- (2) Not including cases with investigation to be reopened before the next summer due to the approach of cool weather.
- (3) When the source of dripping air-conditioner is identified, a nuisance notice will be issued to require the responsible person to abate the nuisance within a specified period.
- (4) Prosecution action will be taken when a nuisance notice is unheeded.
- (5) For certain convicted cases, prosecution was instituted before that year.

Annex 2

Numbers of complaints about water dripping from air-conditioners received and cases identified through proactive inspections, and enforcement actions taken by FEHD in each of the past three years and since January this year
(by type of housing)

<i>Year</i>	<i>Type of housing</i>	<i>Number of complaints received and cases identified through proactive inspections</i>	<i>Number of nuisance notices issued⁽¹⁾</i>	<i>Number of nuisance orders issued</i>	<i>Number of prosecutions instituted⁽²⁾</i>	<i>Average amount of fine imposed on convicted cases⁽³⁾</i>
2018	private housing ⁽⁴⁾	23 948	3 671	0	61	\$1,097
	public housing estate ⁽⁵⁾	1 227	4	0	0	-
2019	private housing ⁽⁴⁾	23 744	4 663	5	91	\$1,268
	public housing estate ⁽⁵⁾	1 190	1	0	0	-
2020	private housing ⁽⁴⁾	26 810	3 396	1	36	\$1,544
	public housing estate ⁽⁵⁾	1 388	1	0	0	-
2021 (up to 31 July)	private housing ⁽⁴⁾	14 829	1 452	1	13	\$1,100
	public housing estate ⁽⁵⁾	757	31	0	0	-

Notes:

- (1) When the source of dripping air-conditioner is identified, a nuisance notice will be issued to require the responsible person to abate the nuisance within a specified period.
- (2) Prosecution action will be taken when a nuisance notice is not complied with.
- (3) For certain convicted cases, prosecution was instituted before that year.

- (4) Home Ownership Scheme flats and other types of subsidized housing are included.
- (5) Most cases of water dripping from air-conditioners in public housing estates are handled by the Housing Department ("HD"). Upon receipt of relevant complaints, FEHD will refer such cases to HD for follow-up. That said, FEHD will assist HD in handling some of the cases where necessary.

Annex 3

Establishment of Health Inspectors in FEHD by district
in each of the past three years and since January this year

<i>District</i>	<i>Central and Western</i>	<i>Eastern</i>	<i>Southern</i>	<i>Wan Chai</i>	<i>Islands</i>	<i>Kowloon City</i>	<i>Kwun Tong</i>	<i>Mong Kok</i>	<i>Sham Shui Po</i>	<i>Wong Tai Sin</i>	<i>Yau Tsim</i>	<i>Kwai Tsing</i>	<i>North</i>	<i>Sai Kung</i>	<i>Sha Tin</i>	<i>Tai Po</i>	<i>Tsuen Wan</i>	<i>Tuen Mun</i>	<i>Yuen Long</i>	<i>Total</i>	
<i>Year</i>																					
2018-2019	23	24	9	24	10	23	19	18	20	11	21	14	11	13	21	12	17	17	21	328	
2019-2020	23	24	9	24	10	23	19	18	20	11	21	14	11	13	21	12	17	17	21	328	
2020-2021	23	24	9	24	10	23	19	18	20	11	21	14	11	13	21	12	17	17	21	328	
2021-2022	23	25	10	24	11	24	20	18	21	11	22	14	12	13	21	12	17	17	22	337	

Annex 4

Establishment of contract staff in FEHD for handling cases of
water dripping from air-conditioners
in each of the past three years and since January this year

	<i>2018-2019</i>	<i>2019-2020</i>	<i>2020-2021</i>	<i>2021-2022</i>
Number of dedicated teams	8	8	9	9
Number of contract staff	40	40	45	45

Annex 5

Average time taken for completed cases of water dripping from air-conditioners by FEHD in each of the past three years and since January this year

<i>Year</i>	<i>Average time taken for completed cases (those received and completed in the same year) (days)</i>
2018	34.3
2019	36.6
2020	39.5
2021 (up to 31 July)	31.6

Annex 6

Respective percentages of cases resolved by PMAs and cases referred to FEHD for follow-up actions under the Scheme of Participation by Property Management Agents in Tackling Dripping Air-conditioners in each of the past three years and since January this year

<i>Year</i>	<i>Number of complaints about water dripping from air-conditioners received by PMAs</i>	<i>Percentage of cases resolved</i>	<i>Percentage of cases referred to FEHD for follow-up actions</i>
2018	5 249	91%	9%
2019	4 056	84%	16%
2020	3 173	69%	31%
2021 (up to 31 July)	2 029	77%	23%

Development and manufacture of medicines by local biotechnology industry

19. **MS ELIZABETH QUAT** (in Chinese): *President, the University of Hong Kong ("HKU") is currently researching and developing the world's first nasal vaccine against the Coronavirus Disease 2019 with fewer side effects, and has completed phase one clinical trial of the vaccine. It has been reported that the industrialization of the vaccine is faced with those problems that local biotechnology research and development ("R&D") personnel commonly encounter. The Research Report on Hong Kong-Shenzhen Biotechnology Collaboration ("the Report") recently released by Our Hong Kong Foundation has pointed out that the problems concerned are largely related to the clinical trials and manufacture of medicines. In this connection, will the Government inform this Council:*

- (1) *as some members of the biotechnology industry have pointed out that although Hong Kong has a worldwide reputation for its strengths in the clinical trials and research of medicines, and the data obtained from relevant clinical trials have been recognized by quite a number of major drug regulatory authorities (including those on the Mainland and in the United States and Europe), its clinical trial industry lacks support from the Government, of the Government's measures to support local hospitals and medical schools in conducting the clinical trials of medicines, and whether it has assessed the effectiveness of such measures; if such measures are not in place, of the reasons for that;*
- (2) *as the Report has pointed out that the time currently taken for vetting and approval of an application for conducting clinical trials of medicines in Hong Kong (particularly phase one clinical trial) is longer than that on the Mainland and in other places, whether the Government will explore shortening the time taken for vetting and approval of such applications, so as to attract medical and pharmaceutical enterprises to conduct clinical trials in Hong Kong; if so, of the details; if not, the reasons for that;*
- (3) *as HKU's R&D team has indicated that the clinical trials concerned cannot commence as early as possible because there is not any vaccine manufacturing plant in Hong Kong, and the vaccine doses to be used in the clinical trials have to be produced by a pharmaceutical*

company on the Mainland, whether the re-industrialization initiatives implemented by the Government include those measures to facilitate biotechnology enterprises to set up high-end pharmaceutical manufacturing plants in Hong Kong; if so, of the details; if not, the reasons for that; and

- (4) *of the measures in place to make use of the Lok Ma Chau Loop to promote the scaled development of the biotechnology industry in Hong Kong, and whether such measures include providing subsidies to the relevant organizations to facilitate the establishment in the Loop of a base for coordinating Mainland/Hong Kong multi-centre late-stage clinical trials or high-end pharmaceutical production lines?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, having consulted the Innovation and Technology Bureau, the Department of Health ("DH") and the Hospital Authority ("HA"), the consolidated reply to the question raised by Ms Elizabeth QUAT is as follows:

- (1) The Government has been supporting the local clinical trial sector, in order to promote the development of the local pharmaceutical and biopharmaceutical industries. The Health and Medical Research Fund ("HMRF") under the Food and Health Bureau supports clinical trial research on infectious diseases, non-communicable diseases and advanced medical research through annual open call for investigator-initiated projects.

Apart from investigator-initiated projects, HMRF provided funding of \$80 million in 2013 under its Government-commissioned programme to support the establishment of two Phase I Clinical Trials Centres ("CTCs") by the medical faculties of The Chinese University of Hong Kong ("CUHK") and the University of Hong Kong ("HKU") to enhance the capabilities of Hong Kong in clinical trial and new drug development. The two CTCs have obtained the accreditation of the National Medical Products Administration ("NMPA") for conducting clinical drug trials. Additional funding of a total of \$100 million has been provided to the two CTCs starting from 2019, under which over 100 clinical trials on novel therapeutic drugs have been initiated.

The findings from these studies will help advance clinical practice and the standard and quality of medical care.

In addition, a total of 32 specialties from Queen Mary Hospital, Prince of Wales Hospital, Hong Kong Eye Hospital and Hong Kong Sanatorium & Hospital have gained accreditation of the clinical trial sites from NMPA and are eligible to carry out clinical drug trial approved by NMPA. The clinical trial data generated from these sites could be submitted to NMPA for the purpose of drug registration in the Mainland, which facilitates Hong Kong to become an important platform for local and multinational pharmaceutical companies to venture into the vast Chinese market.

The Government has been supporting local research and development ("R&D") of vaccines to enhance our knowledge base and research capabilities in vaccinology and immunology. Since April 2020, HMRF has supported two local universities to conduct four vaccine-related R&D projects with a total commitment of \$29.5 million. Among them, HMRF has funded around \$20 million to the Department of Microbiology, Faculty of Medicine of the HKU, to conduct the Phase I clinical trial on the safety of a nasal spray COVID-19 vaccine "VectorFlu™ ONE" co-developed with partners in the Mainland (i.e. Xiamen University and Beijing Wantai Biological). This vaccine candidate is the first nasal spray vaccine among the COVID-19 vaccine candidates approved for Phase I clinical trials. Currently, the Phase I clinical trial of the "VectorFlu™ ONE" has been completed in 30 volunteers. The Project Team is now reviewing the next phase of clinical trials to assess a wider range of immune response parameters.

- (2) According to the Pharmacy and Poisons Ordinance (Cap. 138), anyone who wishes to conduct a clinical trial on pharmaceutical products in Hong Kong is required to apply to the Pharmacy and Poisons Board of Hong Kong ("the Board") for a Certificate for Clinical Trial ("certificate"). The Drug Office of DH is responsible for providing technical and executive supports to the Board and its committees.

DH has pledged that applications for the certificates would be processed within three months upon the submission of all required documents by the applicants. In 2020-2021, the Board issued a total of 343 certificates with all applications being evaluated and approved within three months.

In addition, DH has implemented a number of enhancement measures with an aim to shorten the time for evaluating and approving the applications for clinical trials. These measures include extending the validity period of certificates, simplifying the application procedures for low-risk clinical trials and developing an online submission system, etc. As the approval of the certificate is subject to the approval of the ethic committee of the respective research or healthcare institution, in order to further shorten the processing time of clinical trial applications, the applicants could submit applications for certificates to DH in parallel while their clinical trials are being approved by the ethic committee of their institutions.

Moreover, HA has also been supporting the development of clinical research in Hong Kong through various aspects including research ethics review governance, stakeholder engagement, as well as provision of study sites in public hospitals with patient involvement. To optimize the research ethics review application for multi-cluster clinical research, HA has established the HA Central Institutional Review Board (not for phase 1 clinical trial) in April 2021 to provide a one-stop service to handle and coordinate the ethics review of multi-cluster clinical research.

- (3) Hong Kong has a competitive edge in R&D of biotechnology. The Government has been adopting a multi-pronged approach in promoting the development of biotechnology enterprises through infrastructure, funding schemes and various support measures. The Government has implemented a new listing regime since end April 2018 to facilitate the listing of pre-revenue/pre-profit biotechnology companies in Hong Kong. At present, Hong Kong is Asia's largest and the world's second largest fundraising hub for biotechnology.

In terms of infrastructure, the InnoHK research clusters have successfully attracted a number of world-renowned universities and research institutes to the Hong Kong Science Park ("HKSP").

Health@InnoHK focuses on healthcare technologies, including drug discovery, personalized medicine and vaccine development, etc. This initiative will further consolidate Hong Kong's status as the hub for global biotechnological research collaboration. The Hong Kong Science and Technology Parks Corporation ("HKSTPC") has also been striving to develop various infrastructure facilities in the Industrial Estates, including the Medical Accessory Resilience Supplies Manufacturing Centre, the Precision Manufacturing Centre and the Advanced Manufacturing Centre, in order to encourage manufacturers (including biotechnology enterprises) to set up high-end production bases in Hong Kong. In addition, wet laboratories ("wet-labs") are indispensable to biomedical research. Currently, the leasable area of wet-labs in HKSP amounts to 59 000 sq m, and will increase to about 68 000 sq m after the completion of the conversion works of Building 6W to wet-labs by the end of this year.

In addition, various funding schemes currently support enterprises engaging in R&D of biotechnology. The Enterprise Support Scheme ("ESS") under the Innovation and Technology Fund provides dollar-for-dollar matching funding of up to \$10 million for private companies to carry out in-house downstream R&D projects, including pre-clinical research and preliminary clinical trials. In 2020-2021, ESS supported 14 biotechnology-related projects with around \$30.4 million in funding. The Re-industrialisation Funding Scheme subsidizes manufacturers, on a 1 (Government): 2 (Company) matching basis, to set up new smart production lines in Hong Kong. The funding for each project is capped at \$15 million. As at end August 2021, the Government has received 27 applications in total, and three of the supported applications come from biotechnology enterprises, which involve the manufacturing of biologics, as well as in vitro diagnostic reagents and testing systems. The Incu-Bio Incubation Programme of HKSTPC provides funding of up to \$4 million to incubatees engaging in biotechnology, as well as targeted additional funding of up to \$2 million for certification or investigational new drug applications, etc. As at end August 2021, the Incu-Bio has supported 47 start-ups, with around \$63.5 million approved by HKSTPC.

In terms of capital, the Innovation and Technology Venture Fund ("ITVF") encourages venture capital funds to invest in local

innovation and technology ("I&T") start-ups, and co-invests at a matching investment ratio of approximately 1 (Government): 2 (co-investment partners). ITVF has invested in start-ups with businesses covering different areas. For instance, the major business of a start-up involves the R&D of DNA sequencing technology and manufacturing of relevant portable sequencers. The Corporate Venture Fund ("CVF") of HKSTPC has invested in biotechnological start-ups engaging in drug delivery, stem cell technology and cancer treatment research, etc. As at end August 2021, CVF has invested in six biotechnology-related start-ups with a total investment amount of \$66.4 million.

- (4) The Government is pressing ahead with the development of the Hong Kong-Shenzhen Innovation and Technology Park ("HSITP") in the Lok Ma Chau Loop. The vision of HSITP is to become the world's knowledge hub and I&T centre, and converge technology enterprises, R&D institutions and higher education institutions from Hong Kong, the Mainland and overseas, thereby connecting upstream and midstream research to downstream market, and further enhancing the collaboration among the industry, academic and research sectors. One of its priority development areas is healthcare technologies. High value-added processes including R&D, prototyping, product design, testing, etc., can be performed at HSITP. With the geographical advantage of HSITP, enterprises therein can leverage the strong production facilities of Shenzhen and the Guangdong-Hong Kong-Macao Greater Bay Area for mass production.

Relevant works projects of HSITP, including infrastructure works, are being carried out at full steam, and the eight buildings in Batch 1 will be completed in phases starting from end 2024. The Hong Kong-Shenzhen Innovation and Technology Park Limited ("HSITPL") will draw up plans as appropriate to attract tenants in accordance with the vision of HSITP and its priority technology areas, as well as the experience of I&T platforms around the world in developing appropriate admission criteria and rental policies. As for start-ups, HSITPL will take into account the relevant plans and experience of HKSP and Cyberport to attract more start-ups to HSITP and put in place appropriate incubation programmes and support schemes.

Assisting young people in taking up employment

20. **MR LUK CHUNG-HUNG** (in Chinese): *President, in the past three years, the unemployment rates of persons belonging to the two age groups of 15 to 19 and 20 to 29 were both higher than those of persons from other age groups. Although the unemployment rates of persons from the two age groups dropped from their peaks in July to September last year (i.e. 25.2% and 12%) to 18.5% and 8.6% in May to July this year respectively, such rates were still much higher than those of persons from other age groups. In this connection, will the Government inform this Council:*

- (1) *whether it conducted in the past three years studies and surveys on matters such as the causes of unemployment among young people, their intention to receive training, career aspirations and terms of employment; if so, of the details; if not, whether it will regularly conduct thematic studies and surveys with young people and employers as targets;*
- (2) *whether it evaluated in the past three years the effectiveness of those measures which had been introduced to assist persons from the aforesaid two age groups in taking up employment; if so, of the details; if not, whether it will conduct such an evaluation and improve the relevant measures based on the evaluation results; and*
- (3) *given that in the light of the epidemic, the Government has launched the "Job Creation Scheme" and introduced measures under the Scheme to assist young people in taking up employment, of the progress and effectiveness of the various measures?*

SECRETARY FOR LABOUR AND WELFARE (in Chinese): *President, in consultation with relevant bureaux and departments, my consolidated reply to the Member's question is as follows:*

- (1) *The Government conducts researches into youth employment from time to time. The Census and Statistics Department conducted a Thematic Household Survey ("THS") during November 2017 to January 2018 to collect information on the education and employment trajectories of young and middle-aged*

persons (aged 22 to 47 at the time of enumeration) in Hong Kong. Information on their self-perceived social class and degree of life satisfaction was also collected. Key findings of the survey were set out in the THS Report No. 65 published in June 2019 <https://www.censtatd.gov.hk/en/data/stat_report/product/B1130201/att/B11302652019XXXXB0100.pdf>.

Moreover, since last year, the Youth Development Commission ("YDC") has arranged policy thematic meetings via live webcast, with a view to communicating with young people in an open, direct and interactive manner. The first policy thematic meeting held in August 2020 was on "youth employment". The then Chief Secretary for Administration, Secretary for Labour and Welfare, representative of the Civil Service Bureau, as well as young people and stakeholders jointly discussed and listened to young people's views, thereby enabling more thorough consideration as well as effective formulation and implementation of relevant policy measures in the future. The recorded meeting has been uploaded on the Facebook page of the YDC <www.facebook.com/YDCgovhk> for the public's viewing.

Besides, the Labour Department ("LD") has all along been keeping tabs on the employment support service needs of young people through various channels, including customer opinion surveys and collection of views from service providers regularly.

- (2) To assist young people to find jobs, LD provides comprehensive training and employment support to young school leavers aged 15 to 24 with educational attainment at sub-degree level or below through the Youth Employment and Training Programme ("YETP"). Besides, LD operates two youth employment resource centres named "Youth Employment Start" ("Y.E.S.") to provide personalized advisory and support services on employment and self-employment to young people aged 15 to 29.

LD conducts trainee development surveys every year on trainees who have enrolled under YETP and completed the 12-month support services. The survey findings for the 2018-2019 and 2019-2020 programme years showed that 69.8% and 77.1% of the trainees respectively were still in employment at the time of survey. In

addition, Y.E.S. regularly evaluates the effectiveness of its services by arranging opinion surveys and group discussions with its members. Participants generally considered that training activities and counselling services provided by Y.E.S. could help them better map out career path and opportunities for self-employment.

LD from time to time enhances YETP in light of the review results. Enhancement measures include raising the ceiling of the on-the-job training ("OJT") allowance payable to employers under YETP in September 2020, with a view to further encouraging employers to hire young people. LD also launched a pilot scheme in the same month to encourage eligible employees to undergo and complete OJT under YETP through the provision of a retention allowance, thereby stabilizing employment.

The Employees Retraining Board also reviews the effectiveness of its courses for young people from time to time, and launched five new dedicated courses for youth in 2020-2021, including three full-time placement-tied courses in professional security services, youth inspiration training and all-round performer as well as two part-time skill upgrading courses in hairdressing and pet boarding.

- (3) As graduates and young people have limited work experience, it is particularly difficult for them to seek job opportunities amid the pandemic. As such, many jobs under the Job Creation Scheme are created specifically for graduates or especially suitable for young people to apply. Among the 31 000 jobs created under the first round of the Job Creation Scheme, around 10 000 jobs belong to this category. For instance, various bureaux and departments have created around 700 administrative and executive support positions in the Government which may be taken up by people without any work experience. As regards the non-governmental sector, various bureaux, in collaboration with the non-governmental organizations or relevant associations under their purview, have launched a number of subsidy schemes to provide jobs that are suitable for young people, covering engineering and architectural, financial services, elderly and rehabilitation services sectors, logistics industry, etc. These jobs offer graduates and young people with on-the-job training or orientation support in the relevant sectors with a view to enabling

them to gain relevant work experience which will be conducive to their career development, while some may even facilitate them to acquire related professional qualifications.

The new round of the Job Creation Scheme will continue to create jobs for graduates and young people with limited work experience. For example, the Development Bureau will roll out a subsidy scheme again to subsidize companies to employ around 2 000 graduates and assistant professionals in the fields of engineering, architecture, surveying, town planning and landscape architecture. The Environment Bureau will also launch a subsidy scheme again to subsidize enterprises to employ around 300 fresh graduates in the environmental-related discipline. Besides, there will be new subsidy schemes, such as the one jointly launched by the Department of Justice and The Law Society of Hong Kong to subsidize local law firms to employ trainee solicitors.

Problems faced by the taxi trade

21. **MR FRANKIE YICK** (in Chinese): *President, the findings of a research have pointed out that the taxi trade has been facing in recent years a number of structural problems, including low and rigid taxi fares, drivers earning an income lower than the average level of the overall transport sector, as well as ageing and shortage of drivers. In this connection, will the Government inform this Council:*

- (1) *given that it has been an established practice for the Government, when setting the fare levels of taxis, to maintain sufficient differentials between taxi fares and those of other public transport modes (the differentials being five to seven times and three to four times for urban taxis and New Territories taxis respectively) in order to minimize the competition between the former and the latter, how such differentials are determined and computed; of the current actual differentials between taxi fares and those of the various public transport modes; if such differentials are lower than the target levels, whether the Government has plans to increase the differentials so as to bring them back to the target levels, with a view to improving drivers' income;*

- (2) *of the number of holders of a valid full driving licence for taxis and, among them, the number of those who were active taxi drivers, in each of the past three years, with a breakdown by the age group to which they belonged (i.e. aged 29 or below, 30 to 39, 40 to 49, 50 to 59, 60 to 69, 70 to 79, and 80 or above); apart from shortening, from three years to one year, the period for which an applicant for a driving licence for commercial vehicles (including taxis) must have held a private car/light goods vehicle valid full driving licence, the new measures in place to address the problems of ageing and shortage of taxi drivers; and*
- (3) *whether the Government will, by drawing reference from the relevant measures of New South Wales of Australia, introduce the following measures to enhance the competitiveness of the taxi trade: (i) implementing flexible fare arrangements (e.g. fares for peak and late night hours being higher than those for other hours), (ii) providing subsidies to drivers for carriage of wheelchair-bound passengers on a per trip basis, and (iii) providing interest-free loans to assist the taxi trade in expediting the replacement of existing taxis by new models that can accommodate wheelchair-bound passengers; if so, of the details; if not, what alternative measures that the Government has in place?*

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

- (1) In reviewing the applications for taxi fare adjustment, the Government has all along been considering various factors such as the financial viability of taxi operation, taxi operating costs, reasonable fare differential between taxis and other public transport modes, overall supply and demand situation, service quality as well as public acceptability of the magnitude of fare increases.

The fare differential between taxis and other public transport modes is the ratio between the average fare per taxi passenger and the average fare per passenger of other public transport modes. The former is calculated based on the average fare per taxi trip (including charges for waiting time) and the average number of passengers per trip; while

the latter is calculated based on the total fare revenue of various public transport modes and their respective total number of passengers.

To effectively manage demand for taxis and road traffic load, it is the Government's established policy to maintain a reasonable fare differential between taxis and other public transport modes. According to the advice of the Transport Advisory Committee, the established practice is to maintain the fare differential between urban taxis and other public transport modes at five to seven times, and that between New Territories ("NT") taxis and other public transport modes at three to four times⁽¹⁾. The existing fare differential between urban taxis and other public transport modes is around 6.59 times while that between NT taxis and other public transport modes is around 4.84 times, both largely maintain at the established level.

- (2) The number of people holding a valid full driving licence for driving a taxi in the past three years, broken down by age groups, is tabulated below:

<i>Age groups</i>	<i>Number of people holding a valid full driving licence for driving a taxi</i>		
	<i>2018</i>	<i>2019</i>	<i>2020</i>
29 or below	1 070	1 179	1 312
30 to 39	9 101	9 066	8 851
40 to 49	22 286	21 368	20 683
50 to 59	73 866	67 129	60 118
60 to 69	86 725	86 746	87 412
70 to 79	16 244	19 979	23 207
80 or above	1 232	1 399	1 444
Total	210 524	206 866	203 027

According to the estimate of the Transport Department ("TD"), the current number of active taxi drivers is about 46 000. To attract more new blood to join the taxi industry, the Government has relaxed the requirement for applying a commercial vehicle (including taxi) driving licence since 1 October 2020, from the original requirement that the applicant must have held a driving licence of private car or

- (1) Given the relatively small number of Lantau taxis and that the intra-district public transport within Lantau are mainly buses and taxis, there is no fare differential set for Lantau taxis.

light goods vehicle for at least three years to at least one year. In addition, TD has also enhanced the taxi written test with effect from 14 February 2020, including adjusting the content, number of questions and passing criteria such that the examination can better suit the practical needs, with a view to attracting more new comers who are interested in joining the taxi trade and thereby alleviating the problem of manpower shortage in the trade.

- (3) The Government has been maintaining close communication with the taxi trade to explore suitable measures to assist the trade in enhancing the service quality and improving its operating environment. We are aware of the suggestion of allowing taxis to adopt flexible fares, such as charging a higher fare during peak hours and late-night periods. In fact, at present, passengers can voluntarily provide tips according to their needs when hailing taxis through telephone or mobile applications to speed up the matching process during peak hours or for passengers with special needs. We consider that the existing arrangement can already provide sufficient flexibility for taxi drivers to efficiently respond to the passenger demand.

The Government has all along committed to promoting the concept of "Transport for All" and has been working with public transport operators to improve public transport facilities and establish a barrier-free transport system to take care of the needs of various passenger groups including the elderly and persons with disabilities. At present, there are around 2 000 wheelchair-accessible taxis in the market. In view of the actual needs of different wheelchair-bound passengers (e.g. some larger electric wheelchairs may require more spacious taxi compartments), the Government is actively discussing with the taxi trade and vehicle suppliers on the introduction of other taxi models that can carry wheelchair-bound passengers, so as to facilitate the introduction of new taxi models while ensuring vehicle safety. In addition, the Government also provides subvention for the operation of the Rehabus service to provide point-to-point special transport services for persons with disabilities who have difficulties in using general public transport. As regards the suggestion of providing subsidies to each taxi driver who carries wheelchair-bound passengers, it involves the use of public money and the Government must be careful and prudent in considering the matter.

On the loan front, in view of the continued impact on the transport sector by the pandemic, the Hong Kong Monetary Authority ("HKMA") together with the Banking Sector SME Lending Coordination the Mechanism ("Mechanism") announced in September 2021 that the Pre-approved Principal Payment Holiday Scheme would be further extended for another six months to end April 2022. Also, HKMA and the Mechanism have suggested that banks should exercise greater flexibility in handling new financing applications from taxi operators for vehicle replacement. Banks do not need to rigidly adhere to the 85% loan-to-value ratio cap, provided that prudent risk management principles are observed and new loans are only used for the purchase of new vehicles. In order to further alleviate the cash-flow pressure faced by the transport sector, the Mechanism encourages banks to actively consider extending the maximum loan tenors for existing taxi loans from 25 years to 30 years with regard to the situation of individual borrowers. Moreover, the Government has announced extending the application period of the Special 100% Loan Guarantee under the SME Financing Guarantee Scheme ("the Scheme") till end June 2022 and extending the maximum duration of principal moratorium under the Scheme from 18 months to 24 months; the application period for principal moratorium has also been extended to end June 2022.

The Modular Integrated Construction method

22. **IR DR LO WAI-KWOK** (in Chinese): *President, compared with traditional construction methods, the Modular Integrated Construction method ("MiC") can substantially reduce construction time, uplift on-site productivity and save costs. In 2018, the Government allocated \$1 billion for setting up a Construction Innovation and Technology Fund ("the Fund") to subsidize the adoption of innovative technologies (including MiC) by the construction industry in Hong Kong for enhancing construction efficiency. Moreover, to encourage broader adoption of MiC by developers, the Buildings Department ("BD") announced a concessionary measure in May 2019: 6% of the floor area of a development constructed by MiC may be disregarded from the calculation of the gross floor area ("GFA") of that development and will not be subject to the current 10% cap on GFA concessions. In this connection, will the Government inform this Council:*

- (1) *given that as at the end of May this year, among the 101 applications for subsidies relating to MiC received under the Fund, only 37 of them were approved (i.e. a success rate of less than 40%), whether the Government has analysed the causes for the low success rate of applications and made improvement; if so, of the details; if not, the reasons for that;*
- (2) *whether it will consider raising the amount of non-recurrent commitment of the Fund and at the same time relaxing the eligibility criteria and streamlining the vetting and approval procedure, so as to further promote the adoption of innovative construction technologies such as MiC in Hong Kong; if so, of the details; if not, the reasons for that;*
- (3) *of the respective numbers of applications related to the aforesaid concessionary measure received, approved and rejected by BD since June 2019; and*
- (4) *whether it will consider providing more concessions or other incentives in the light of market situations to encourage greater adoption of MiC by developers; if so, of the details; if not, the reasons for that?*

SECRETARY FOR DEVELOPMENT (in Chinese): President, Hong Kong's construction industry has been facing challenges, including declining productivity, high construction cost and an ageing workforce. Since 2017, the Government has been actively promoting the adoption of the Modular Integrated Construction method ("MiC") in building projects with a view to enhancing the industry's productivity and cost effectiveness. According to the findings of study carried out by the University of Hong Kong on two completed MiC pilot projects, the adoption of MiC can reduce construction time by 30% to 50% and save construction costs by about 10% comparing with traditional construction methods. In addition, it will also have better performance on productivity, workmanship, environmental protection and safety aspects.

To further promote the adoption of MiC, the Development Bureau ("DEVB") set up a steering committee in 2019 to formulate policies and measures with the relevant departments. The Government also took the lead and issued a technical circular in 2020 mandating the adoption of MiC for designated

government buildings such as schools, dormitories, hospitals and office buildings under the Government's Capital Works Programme, unless otherwise exempted by the Steering Committee. Meanwhile, DEVB has introduced various measures to encourage the industry to adopt MiC, including setting up the Construction Innovation and Technology Fund ("the Fund") to subsidize the industry and granting concession of floor area constructed by MiC. There are currently more than 60 projects adopting MiC in the pipeline.

The reply to the four parts of the question raised by Ir Dr LO Wai-kwok is as follows:

- (1) DEVB encourages and supports the construction industry to adopt MiC through the Fund with a view to enhancing the overall performance of the industry. The Fund is well received and supported by the industry. According to the statistics of the Construction Industry Council ("CIC"), as at the end of August this year, a total of 115 funding applications relating to MiC have been received. Excluding the 13 applications withdrawn by the applicants as well as another 14 applications undergoing vetting procedures, 88 applications have been vetted by the Fund, of which 51 applications have been approved, representing a success rate of about 60%, involving a funding grant of \$115 million. Unsuccessful applications were mostly found in the early phase of implementation where applicants were not familiar with the scope and criteria for application. While the Government noticed that, as compared with the past, there is a drop in the number of unsuccessful applications this year, DEVB and CIC will continue to liaise with the industry to explain the application requirements, so as to facilitate their submission of valid applications.
- (2) The \$1 billion Fund was launched in October 2018. As at the end of August this year, over \$500 million has been granted to the industry. A total of more than 780 enterprises engaged in the construction industry have been funded to make use of innovative construction technologies in their projects, and the Fund has subsidized about 11 000 training places for construction practitioners to attend technology-related training. The progress of the Fund is right on track. Moreover, DEVB and CIC have generally completed the mid-term review of the Fund in order to enhance current funding arrangements by taking consideration of the opinions and suggestions

from the industry. The details will be announced to the industry upon being finalized. DEVB and CIC will continue to operate the Fund and review its operational needs from time to time.

To further promote a wider adoption of MiC in the industry, the funding scope of MiC under the Fund has been increased from initially three to currently five areas. The Fund's MiC Vetting Sub-committee will continue to refine the scope, mode and amount of subsidies under the Fund in due course so as to better cope with the needs of the industry.

- (3) With a view to promoting the wider use of MiC in Hong Kong, the Buildings Department ("BD") issued a practice note in 2019 promulgating the gross floor area ("GFA") concession of 6% of the floor area constructed by MiC. As at August 2021, BD has received 14 applications for GFA concession in adoption of MiC, of which 11 applications have been approved, and the rest are being processed.
- (4) Since 2017, the Government has been actively promoting and encouraging the adoption of MiC in the construction industry. The Government piloted some public projects for the adoption of MiC, including the transitional housing project at Nam Cheong Street in Sham Shui Po by the Hong Kong Council of Social Service, the InnoCell by the Hong Kong Science & Technology Parks Corporation and the Married Quarters for the Fire Services Department at Pak Shing Kok in Tseung Kwan O. The Government also encourage the adoption of MiC by the industry through the Fund and the GFA concessions granted by BD. On the other hand, the Government has been working with CIC to organize local and overseas project visits, technical seminars and workshops to equip the industry with the understanding of MiC technology and applications. While MiC has already been adopted in more than 60 projects so far, DEVB will continue to look into the situation and discuss with the industry and stakeholders on the application of MiC as well as the challenges encountered, with a view to review the relevant subsidies and concessions in a timely manner in order to encourage a wider adoption of such a technology by the industry.

GOVERNMENT BILLS**Second Reading of Government Bills****Resumption of Second Reading Debate on Government Bill**

PRESIDENT (in Cantonese): Government Bills.

This Council resumes the Second Reading debate on the Sale of Goods (United Nations Convention) Bill.

SALE OF GOODS (UNITED NATIONS CONVENTION) BILL**Resumption of debate on Second Reading which was moved on 14 July 2021**

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

MR STEVEN HO (in Cantonese): President, in my capacity as the Chairman of the Bills Committee on the Sale of Goods (United Nations Convention) Bill, I submit to this Council the report on the Bill.

The United Nations Convention on Contracts for the International Sale of Goods ("CISG") is a widely adopted Convention which provides a set of uniform rules governing contracts for the international sale of goods within its scope. The purpose of the introduction of the Sale of Goods (United Nations Convention) Bill ("the Bill") is to implement CISG in Hong Kong. The main provisions of the Bill seek to provide that the Ordinance, if enacted, shall apply CISG to the SAR Government and shall have the force of law in Hong Kong; and if there is any inconsistency between the Ordinance to be enacted or CISG and any other laws, the Ordinance to be enacted or CISG prevails to the extent of the inconsistency. The text of CISG is set out in the Schedule to the Bill.

The Bills Committee held one meeting with the Administration to discuss the reasons for the application of CISG to Hong Kong, the modalities, the benefits to be brought about and the impact on Hong Kong businesses. Members were generally supportive of the proposals in the Bill.

A member noted that CISG did not apply to Hong Kong prior to 1 July 1997 and China has become a party to CISG since 1 January 1988, and that during and after the transition period, China had not informed the Secretary-General of the United Nations of the application of CISG to Hong Kong. This member enquired why the Administration only started to seek the application of CISG to Hong Kong under Article 153 of the Basic Law more than 20 years after the reunification. The Administration explained that it had conducted internal reviews in this regard from time to time over the past 20 years or so and considered it opportune to apply CISG to Hong Kong to tie in with the development of the overall economic and legal infrastructure of Hong Kong, particularly as CISG had been widely accepted in the international arena. Another consideration is that the Administration found that the business and legal sectors were generally supportive of the application of CISG during the seven-month consultation exercise.

In response to further questions from members on the benefits that CISG would bring to Hong Kong, the Administration advised that Hong Kong businesses would have an additional choice of law option after the application of CISG, namely, utilizing CISG as designed with Hong Kong law used as its residual law (an option that is not available under the status quo because CISG is not part of Hong Kong law); alternatively, parties can choose to be governed solely by local Hong Kong law rather than CISG under the fundamental principle of Party autonomy. The Administration emphasized that the application of CISG would prevent Hong Kong enterprises, in particular small and medium sized enterprises, from being subject to unfamiliar foreign laws when entering into cross-border transactions. In addition, the Administration was of the view that the application of CISG to Hong Kong would help to reinforce Hong Kong's role as a centre for legal services and a dispute resolution hub.

The Bills Committee has enquired about the reasons for adopting the approach of setting out the text of the provisions of CISG in the Schedule to the Bill in this legislative exercise and the overall considerations in deciding to adopt such an approach. The Administration explained that this legislative approach was adopted because CISG had already provided a uniform legal text for the sale of international goods and there was no need for adaptation and no room for amendment. This approach has also been adopted by other common law jurisdictions such as Australia, Canada and Singapore in their implementation of CISG. Some members had asked whether there was a need to amend the local laws relating to sales in Hong Kong to accommodate the differences between local laws and the provisions of CISG, such as the Sale of Goods Ordinance (Cap. 26).

The Administration responded that despite the discrepancies identified, it did not appear that the provisions of CISG were fundamentally inconsistent with the provisions of Hong Kong law. In addition, under the current implementation proposal, clause 5 of the Bill would confer an overriding effect on the provisions of CISG, it is therefore not necessary to amend the existing local legislation governing the sale of international goods in the light of the implementation of CISG in Hong Kong. In particular, article 6 of CISG also allowed the parties to opt out of CISG by agreement, or to derogate from or vary the effect of any provision of CISG.

Members were also concerned that most professionals in the business and legal sectors in Hong Kong were not familiar with the provisions of CISG and its application in the context of international trade, especially when the contractual terms currently used by Hong Kong enterprises might be different from those of CISG. In this connection, members suggested that the Administration should provide the necessary assistance to enable the industry to adapt to the implementation of CISG, for example, by providing the legal profession and the relevant industries with a standard model contract that would meet the requirements of CISG, or by setting up a dedicated team to provide professional advice after the enactment and implementation of the Ordinance. Members also urged the Administration to strengthen its communication with the business and legal sectors with a view to promoting the application of CISG to Hong Kong.

The Administration advised that the terms and conditions set out in the contract agreed between the parties to the international sale of goods would form the main basis for governing the transaction. CISG could fill in gaps in the contract on matters which might not be expressly provided for in the contract, such as the rights and obligations of the buyer and seller in relation to the contract, or remedial matters relating to the breach of contract. The Administration pointed out that the parties involved in the international sale of goods could therefore decide on the most appropriate contractual terms according to the particular circumstances. On the promotion of CISG, the Administration advised that the Department of Justice had set up a dedicated website about CISG to provide open access to information and resources for interested stakeholders. The Administration added that given that CISG had been implemented for many years, there was already a sufficient amount of resources and reference information available on the Internet. Recognizing that it might take time for the relevant stakeholders to adapt to the changes and adjust their business practices as appropriate, the Administration would defer the commencement of the

implementing Ordinance until at least six to nine months after its passage. In the meantime, the Administration will work with the business and legal sectors to further promote CISG and the enacted Ordinance.

President, the following are my personal views on the Bill. Actually, there is nothing special for me to say because we have only held one meeting with the SAR Government. In fact, I have more than five or six pages of papers in my hand concerning the Bill. Therefore, I would like to take this opportunity to thank all members of the Bills Committee, and even those who have not participated in the Bills Committee, for their input as well as the SAR Government for providing sufficient information for our discussion on this issue. Of course, the results or replies may not be entirely satisfactory, but I would like to remind the SAR Government in particular that while no particular concern was raised in the overall report of the Bills Committee during the consultation exercise, during the consultation exercise or in the course of promoting or formulating the Ordinance, some members mentioned in particular that many people in the business sector seemed to know little about the Ordinance concerning the sale of goods, and since they did not know what it was all about, they did not know what the consultation list was.

After all, sales contracts may be drawn up by a person in the legal profession. Frankly speaking, it's the same as the purchase of a property, as we have to go to a lawyer's office. But the purchaser may not necessarily have read the entire document. This is why the communication with the legal profession is particularly important. Later on, perhaps Mr Holden CHOW will also express his views in this respect. Therefore, I hope that the SAR Government should not underestimate the one meeting, as the material provided in the meeting is very informative and it also shows that the SAR Government can do better in some aspects. I hope that Secretary for Justice Teresa CHENG can lead the law-drafting team of the SAR Government to do better in the future by consulting many more professional functional constituencies and even directly-elected Members who have extensive knowledge in certain sectors before the Government starts to draft bills, or to identify which groups to be consulted so that the legislative process can be refined and the conflicts among different parties can be minimized.

President, I so submit. I would like to thank all Members who have participated in the scrutiny of the Bill.

MR CHUNG KWOK-PAN (in Cantonese): President, Mr Steven HO has just made a very good point, that is, during the consultation process, many friends in the business sector were totally unaware of the Sale of Goods (United Nations Convention) Bill ("the Bill") and did not know that the Bill could actually help them.

President, I have been in the import and export business for over 30 years. In the past, our contracts were generally drawn up by the buyers, that is, the purchasers. Very often, we did not have much bargaining power, but if we can secure an international and unified sales convention now, it will be very helpful for our future international trade.

Of course, we understand that Hong Kong has not been able to become a Party to the United Nations Convention on Contracts for the International Sale of Goods ("CISG") in the past, primarily because its membership is limited to sovereign states. Then, this time around, we are very glad that China has added Hong Kong as a party to CISG. In particular, for a long time in the past, we mainly did business with the Western world, such as Europe, America and Japan, but we are starting to open up more and more new markets. For example, the Belt and Road countries, ASEAN and other countries, many of which do not necessarily adopt the common law system. The systems they adopted are different from ours in terms of legal concept, and some of them adopt the civil law system or other legal systems of their own countries. Therefore, having a unified law on international trade sales will do more good than harm to Hong Kong's future.

Nevertheless, the biggest problem is that most of the enterprises in Hong Kong are small and medium sized enterprises ("SMEs"). It may be easier for some large and multinational enterprises to adapt to and accept the provisions of the Bill. But as 90% of the business operators in Hong Kong are SMEs, I believe they do not understand this Bill at all. They may be aware of the need to use the sales contracts under this Bill, but if they have to go online to find out for themselves—although there is a lot of information available on the Internet, as we have just mentioned, it will still be very difficult for them as they will have to take the time to understand it on their own and then draw up an agreement for sale and purchase. Therefore, we have to rely on the legal professionals and even the accounting professionals to carry out this task properly, and of course it will be of great help if the SAR Government can help to formulate a simple framework. In the Bills Committee, the Government explained that it might not do so or not be able to do so because there were already many examples or models in the cyber

world or in real life transactions, but after all, as Members have mentioned earlier, 90% of the enterprises in Hong Kong are SMEs and it will be very difficult for them to understand and make use of this Bill easily.

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

Deputy President, in addition, we know that under the 14th Five-Year Plan of our country, it is expected that Hong Kong will become an international trade hub. If Hong Kong can become an international trade hub, we can definitely make use of it or become part of the international trade community. For this reason, the amendments this time around to make Hong Kong become a party to CISG will certainly be of help to us in becoming an international trade hub in the future under the 14th Five-Year Plan. If not, the results will be lacklustre. For this reason, we strongly support the Bill, but I still have to reiterate that I hope the SAR Government and the Department of Justice will make more publicity, promotion and education efforts so that Hong Kong enterprises, especially SMEs, can better understand and make good use of this Bill. Thank you, Deputy President.

MR HOLDEN CHOW (in Cantonese): Deputy President, I speak in support of the Second Reading of the Sale of Goods (United Nations Convention) Bill ("the Bill").

First of all, I thank Mr Steven HO, Chairman of the Bills Committee on the Sale of Goods (United Nations Convention) Bill ("the Bills Committee"). There are other members of the Bills Committee, including Mr WONG Ting-kwong, Mr CHUNG Kwok-pan, Mr SHIU Ka-fai and me. We were grateful that the Government provided us with enough information at a meeting of the Bills Committee, which enabled us to finish the meeting. We deemed the meeting important as we mentioned in particular at the meeting that many small and medium enterprises ("SMEs") did not have much information on the Bill during the consultation process, and did not know much about the forthcoming implementation of the United Nations Convention on Contracts for the International Sale of Goods ("CISG") in Hong Kong.

Our country also supports the implementation of CISG in Hong Kong, so it is good that the Bill was introduced in fact. Yet, we pointed out specially in the Bills Committee that there must be an adequate adaptation period in the course of its implementation. That means the Bills should provide for an adequate adaptation period, so as to enable SMEs in particular to know how to use CISG and how to adapt to it. The Government mentioned that an adaptation period of six to nine months would be provided. I sent a letter to the SAR Government on 23 August and they have given me a reply. It seems that the Government will give us at least six to nine months' time for the time being, but I think one year will be better, if possible, so that SMEs can have ample time to prepare for and adapt to the implementation of this new convention.

In fact, we asked in particular at the meeting of the Bills Committee about existing ordinances. According to the Department of Justice ... are there any major conflicts between CISG and the existing sale-related legal provisions in Hong Kong? Do we need to make further amendment to other ordinances? If my memory has not failed me, the Government told me quite clearly that day they had not seen any conflicts between CISG and other related legal provisions, so all sectors can make good use of CISG handily.

However, I would like to raise one point here. Notwithstanding the above, as Mr Steven HO, Chairman of the Bills Committee, mentioned just now, the current bill adopts a direct incorporation of the provisions of CISG. There is no room for amendment basically, as the implementation of CISG requires the adoption of its provisions once you have signed it.

Thus, I put forward an idea repeatedly here, that is I hope the Government can provide more new standard sample contracts for SMEs and the business sector during the coming adaptation period, especially samples applicable to CISG, for the convention has been in place for a period of time. Other regions, even the non-common law jurisdictions, have adopted it and have already had standard sample contracts that are fit for use. In fact, is it not more effective for the Government to provide samples for us, be it SMEs or different sectors in the community, so that we can understand easily that those are standard sample contracts we can follow in the future? Since the samples used in the past may not be applicable to CISG, sample contracts become especially important to the industry.

Therefore, I would like to particularly point out here that I hope the Government can provide sufficient support for the sector during the adaptation period after the Bill comes into effect, including the provision of more standard sample contracts for our reference and understanding. I think the Department of Justice may especially consider—we also mentioned at the meeting of the Bills Committee—that after the implementation of CISG, while many members of the industry are not quite familiar with it at the beginning, would the Government at least provide systematic hotline service, or tell SMEs and the industry that manpower will be arranged by concerned departments, so that they can make enquires or seek consultations. I think this is important for it takes time for us to adapt to the new convention. We support the implementation of CISG.

Deputy President, I so submit.

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

(No Member indicated a wish to speak)

DEPUTY PRESIDENT (in Cantonese): If not, I now call upon the Secretary for Justice to reply. Then, the debate will come to a close.

SECRETARY FOR JUSTICE (in Cantonese): Deputy President, first of all, I would like to thank Mr Steven HO, the Chairman of the Bills Committee on Sale of Goods (United Nations Convention) Bill ("Bills Committee"), all committee members and staff of the Secretariat for their efforts in the smooth completion of the scrutiny of the Sale of Goods (United Nations Convention) Bill ("the Bill"). The objective of the Bill is to implement the United Nations Convention on Contracts for the International Sale of Goods ("CISG") in Hong Kong. The legal and related sectors in general support the proposed application of CISG to Hong Kong, so does the Panel on Administration of Justice and Legal Services of the Legislative Council. I thank Members, the legal, business and academic sectors for providing valuable opinions during the consultation period.

CISG is an important and widely adopted commercial law treaty. Almost all major trading members of the World Trade Organization and nearly half of the countries participating in the Belt and Road Initiative are members of CISG.

While China is a Contracting State to CISG, CISG is currently not applicable to Hong Kong. The Bill seeks to give CISG the force of law in Hong Kong and the adoption of CISG will bring lots of benefits to the business and legal sectors in particular, including: the potential to drive GDP and trade growth, preventing Hong Kong businesses from being subject to unfamiliar foreign laws when entering into cross-boundary transactions, and improving Hong Kong's competence in resolving CISG disputes.

The CISG applies automatically to contracts for sale of goods between parties whose places of business are in different Contracting States. We must pay special attention to one thing: party autonomy is a fundamental principle of the CISG. With very limited exceptions, the parties can, by agreement, derogate from or vary the effect of any provisions of the CISG, or exclude the Convention's application entirely. The legislative proposal will not change this principle of autonomy.

I notice that some Members are concerned about the time that the business and legal sectors in Hong Kong may need to prepare for the implementation of the new regime. As the Department of Justice ("DoJ") pointed out at the meeting of the Bills Committee, the Government will mainly assist the related sectors in two directions in their preparation for and adaption to the implementation of CISG:

- (1) the Government plans to defer the commencement of the Bill until at least six to nine months after its passage, so that relevant stakeholders can adapt to the change and adjust their business practice and affairs as appropriate; and
- (2) during the aforementioned adaptation period of at least six to nine months, we will further promote CISG and implement the Bill in collaboration with the legal and business sectors, so as to explain to the sectors the application and implementation details of CISG.

On the other hand, we understand that some Members hope that the Government can provide some standard sample contracts for the reference of the sectors, but there have already been a lot of online materials related to CISG for public reference. For example, on the web page of the United Nations Commission on International Trade Law ("UNCITRAL") and the Institute of International Commercial Law of Pace University, we can not only find versions of CISG in all official languages, but also the database of related precedents, guides

to the application of CISG, online seminars and academic articles, and guides to drafting contracts under CISG, etc. DOJ has also set up a web page designated for CISG in which related useful information has been consolidated for public inspection and reference.

Last year marked the 40th anniversary of CISG. An online conference¹ and an online seminar² were organized by DoJ in collaboration with UNCITRAL and the Asian Academy of International Law ("AAIL"), and with AAIL respectively in October last year, during which top CISG experts from all over the world discussed the latest CISG development, and issues in relation to the legal and business sectors. These events help to promote the wider application of CISG, and in turn facilitate rule-oriented international trade.

The Government will keep in touch with the sectors, and continue to enhance the publicity work of CISG to help the sectors prepare and adapt to the implementation of CISG.

As I pointed out in my speech when I moved the Second Reading of the Bill, generally speaking, DoJ is not the Policy Bureau responsible for the application of international conventions to Hong Kong or the relevant legislative exercise. However, having considered that the application of CISG may provide Hong Kong businesses with an additional option in terms of law and enhance Hong Kong's competence in resolving relevant disputes, DoJ has spearheaded the relevant legislative exercise exceptionally this time in consultation with the Commerce and Economic Development Bureau. The Commerce and Economic Development Bureau will be responsible again for the future policies related to this Bill.

Deputy President, this legislative proposal can help lower the risk encountered by Hong Kong businesses due to legal uncertainties when they conduct international sale of goods, enhance Hong Kong's legal infrastructure for international sale of goods, and develop and consolidate Hong Kong as an international trade centre, and a hub for international law, trade facilitation and dispute resolution services under the 14th Five-Year Plan. Subject to the passage of the Bill and after the enactment of the Ordinance, the Government will seek the

¹ Titled "Conference on the 40th Anniversary of CISG: CISG as a Tool for Global Trade—Theory and Practice" (27 October 2020)

² Titled "Hong Kong Business and the CISG: The 'Must knows' from International Court Practice" (31 October 2020)

assistance of the Central Government in completing the necessary steps for the application of CISG to Hong Kong pursuant to Article 153³ of the Basic Law.

Deputy President, I so submit. I urge Members to support the passage of the Second Reading of the Bill. Thank you, Deputy President.

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

(Members raised their hands)

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

(No hands raised)

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

I declare the motion passed.

CLERK (in Cantonese): Sale of Goods (United Nations Convention) Bill.

Council became committee of the whole Council.

Consideration by Committee of the Whole Council

DEPUTY CHAIRMAN (in Cantonese): This Council now becomes committee of the whole Council to consider the Sale of Goods (United Nations Convention) Bill.

³ Article 153 of the Basic Law provides (excerpts) that, "[t]he application to the Hong Kong Special Administrative Region of international agreements to which the People's Republic of China is or becomes a party shall be decided by the Central People's Government, in accordance with the circumstances and needs of the Region, and after seeking the views of the government of the Region."

SALE OF GOODS (UNITED NATIONS CONVENTION) BILL

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

CLERK (in Cantonese): Clause 1 to 5 and the Schedule.

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

(No Member indicated a wish to speak)

DEPUTY CHAIRMAN (in Cantonese): If not, we now proceed with the voting.

I now put the question to you and that is: That That the clauses and schedule read out by the Clerk stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

I declare the motion passed.

DEPUTY PRESIDENT (in Cantonese): All the proceedings on the Sale of Goods (United Nations Convention) Bill have been concluded in committee of the whole Council. Council now resumes.

Council then resumed.

SECRETARY FOR JUSTICE (in Cantonese): Deputy President, I now report to the Council: That the

Sale of Goods (United Nations Convention) Bill

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

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

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

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

(Members raised their hands)

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

(No hands raised)

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

I declare the motion passed.

Third Reading of Government Bill

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

SALE OF GOODS (UNITED NATIONS CONVENTION) BILL

SECRETARY FOR JUSTICE (in Cantonese): Deputy President, I move that the

Sale of Goods (United Nations Convention) Bill

be read the Third time and do pass.

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Sale of Goods (United Nations Convention) Bill be read the Third time and do pass.

Does any Member wish to speak?

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

I declare the motion passed.

CLERK (in Cantonese): Sale of Goods (United Nations Convention) Bill.

Resumption of Second Reading Debate on Government Bill

DEPUTY PRESIDENT (in Cantonese): This Council resumes the Second Reading debate on the National Flag and National Emblem (Amendment) Bill 2021.

NATIONAL FLAG AND NATIONAL EMBLEM (AMENDMENT) BILL 2021**Resumption of debate on Second Reading which was moved on 18 August 2021**

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

MR CHEUNG KWOK-KWAN (in Cantonese): Deputy President, in my capacity as Chairman of the Bills Committee on National Flag and National Emblem (Amendment) Bill 2021 ("the Bills Committee"), I will now report on the deliberations of the Bills Committee. The purpose of the National Flag and National Emblem (Amendment) Bill 2021 ("the Bill") is to amend the National Flag and National Emblem Ordinance ("NFNEO") and to provide for incidental matters, so as to implement the relevant provisions in the amended Law of the People's Republic of China on the National Flag ("National Flag Law") and Law of the People's Republic of China on the National Emblem ("National Emblem Law") in the Hong Kong Special Administrative Region ("HKSAR").

Last October, the Standing Committee of the 13th National People's Congress endorsed the amendments to the National Flag Law and the National Emblem Law. According to the Administration, the principle of the Bill is to reflect the provisions, principles and spirit of the amended National Flag Law and the amended National Emblem Law, safeguard the proper use and preserve the dignity of the national flag and the national emblem which are the symbols and signs of our country, so as to promote respect for the national flag and national emblem, enhance the sense of national identity among citizens and promote patriotism, whilst taking into account our common law system and the actual circumstances in HKSAR.

The Bills Committee has held two meetings with the Administration, and has invited members of the public to submit written views. Members are supportive of the proposals in the Bill. They are mainly concerned about what behaviours could be in violation of the law after the legislative amendment, and what behaviours will constitute publicly and intentionally desecrating the national flag or national emblem. Members have noted that clause 6 of the Bill proposes that a national flag or a national emblem must not be displayed upside down, must not be displayed or used in any way that undermines the dignity of the national flag or the national emblem, and must not be discarded at will. Some members have been concerned whether members of the public will violate the law if they inadvertently display the national flag upside down or the national emblem sideways. As explained by the Administration, the elements of the offences are provided under the proposed new section 7 as introduced in clause 10 of the Bill, i.e. to publicly and intentionally desecrate the national flag or national emblem by burning, mutilating, scrawling on, defiling or trampling on it or its image or in any other way, or to intentionally publish such a desecration with intent to desecrate the national flag or national emblem.

The Administration has advised that one focus of the Bill is to make clear the requirements in respect of the use of the national flag and national emblem, including the use of the design of the national emblem on the home page of some specific websites (i.e. proposed section 3(2A) of the Bill), recovery and disposal of national flags and national emblems (i.e. proposed section 3(3A)), inappropriate use of the national flag and national emblem (i.e. proposed section 4), etiquette for taking part in or attending a national flag raising ceremony (i.e. proposed section 4A), and using the national flag at mourning ceremonies (i.e. proposed Schedule 3, "use of national flag at mourning ceremonies"), etc. These provisions are all directional provisions that do not carry any penalty. Such arrangement follows that of the amended National Flag Law and the amended National Emblem Law, and is consistent with the National Anthem Ordinance ("NAO"). The Administration has also advised that although the aforementioned directional provisions do not carry any penalty, any person who violates the proposed section 7 of the amended NFNEO which I just mentioned, would commit an offence, whereas the level of penalty could be up to a fine at level 5 and to imprisonment for three years.

In addition, some members have enquired whether it is in violation of the law if members of the public make souvenirs bearing the design of the national flag out of a patriotic motive and not for commercial interests. As advised by the Administration, the aforementioned case is not unlawful under the proposed section 6(1) of NFNEO as long as those souvenirs are not displayed or used in

trademarks, registered designs or commercial advertisements, private funeral activities or other occasions on which or places at which the display or use of the national flag or its design is restricted or prohibited under the stipulations made by the Chief Executive, and the national flag or its design shown on those souvenirs have followed the specifications stipulated in Schedule 1 to NFNEO.

As members have noted, clause 7 of the Bill proposes to add a new section 4A to NFNEO to provide for the etiquette for taking part in or attending a national flag raising ceremony. Members have requested the Administration to widely publicize the points to note with regard to relevant provision to enhance the public's understanding of the etiquette for taking part in or attending a national flag raising ceremony. The Administration has advised that it is working on Announcements of Public Interests ("APIs") to promote the national flag, national emblem and national anthem, as well as the etiquette to be observed when the national flag is raised and when the national anthem is performed or played.

Moreover, the Bill also proposes that the Secretary for Education should be required to give directions for the inclusion of the national flag and national emblem in primary and secondary education, and for matters relating to the daily display of the national flag and the weekly conduct of a national flag raising ceremony to specified schools. The proposed new section 7A also provides that for dealing with flag display and raising matters, post-secondary education institutions must make reference to the directions given by the Secretary for Education. Members have enquired about the consequences that schools would face for failures to comply with the relevant directions to be given by the Secretary for Education and how the Administration would strengthen the training for teachers on education in the national flag and national emblem.

The Administration has advised that the Education Bureau ("EDB") has all along been stringently following up on any irregularities identified in school operation (including failing to comply with the directions given by the Secretary for Education), and has been demanding schools to make rectifications through the existing mechanism, for example, giving verbal or written warnings or advisory letters. If individual schools do not comply with the requirements, EDB can exercise power conferred by relevant provisions of the Education Ordinance. On training and support for teachers, the Administration has advised that EDB would enhance the provision of the relevant learning and teaching resources for schools. Furthermore, from this September onwards, EDB has been organizing web-based seminars on national flag raising ceremonies for teachers of kindergartens, primary and secondary schools, and conducting training workshops for teachers.

Members have also been concerned why the Administration does not amend the Regional Flag and Regional Emblem Ordinance ("RFREO") and NFNEO in parallel to ensure that the enforcement standards of relevant offences would be aligned and avoid giving rise to disparities between the two Ordinances. Having considered members' views, the Administration has agreed that it should review and suitably amend RFREO with a view to ensuring reasonable consistency as appropriate between its provisions with the amendments proposed by the Bill. The Government has stated that it is the authorities' plan to introduce the relevant bill into the Legislative Council within the next legislative session.

Deputy President, the above is my report on the work of the Bills Committee. Now, I will express my personal views on the Bill.

Deputy President, as mentioned just now, the Bill actually seeks to implement the relevant provisions in the amended National Flag Law and the amended National Emblem Law in HKSAR. As the National Flag Law and the National Emblem Law of our country were listed in Annex III to the Basic Law and applied locally by way of legislation in July 1997, HKSAR actually has an unshirkable constitutional responsibility to implement these two amended national laws. This time, we are merely fulfilling such constitutional responsibility and, for this very reason, this Bill has not aroused any great controversy in Hong Kong society.

While presenting the report just now, I also talked about the power conferred upon the Chief Executive by the Bill regarding the use of national flag and national emblem. During the meetings, the Administration has made it clear that the Chief Executive will stipulate that three organizations: the HKSAR Government, the Legislative Council and the Judiciary, must use the national emblem design on the home page of their websites. The stipulation to be made by the Chief Executive on these three organizations is—I believe—regarded by the community as a legitimate decision which will not spark any controversy.

As for the mechanism for the recovery and disposal of national flags and national emblems about which the Chief Executive will be empowered to make a stipulation, the Government will require event organizers to recover the used national flags and national emblems used on the site of the event for keeping or reuse in future. Also, any damaged or substandard national flags and national emblems must be returned to designated collection points for central handling by HKSAR. This arrangement can be the very solution for addressing the

undesirable situation where members of the public were seen mishandling national flags and national emblems after public events. It can also resolve the previous ... It can address the issue of how to avoid people discarding the national flags and national emblems in a way which undermines their dignity at the same time.

Further, as regards the national flag and national emblem not to be used inappropriately, this Bill provides for additional circumstances in which the national flag and national emblem must not be used or disposed of inappropriately—for example the circumstances mentioned earlier—setting out clearly that a national flag or a national emblem must not be displayed upside down etc. In fact, these circumstances have been covered in the existing provisions, and the present amendment simply spell them out in clearer terms without changing the applicable scope of the original provision.

When responding to Members' concerns during the scrutiny of the Bill, the Administration has also clearly explained the provisions which I just mentioned, i.e. the mechanism for the recovery and disposal of national flags and national emblems, the circumstances at which the national flag and national emblem must not be used inappropriately, the etiquette for taking part in or attending a national flag raising ceremony, and using the national flag at mourning ceremonies etc. These provisions are all directional provisions that do not carry any penalty and such arrangement is consistent with the National Anthem Ordinance. While it is true that these directional provisions do not carry any penalty, as reiterated by the authorities in the meetings, it will be another story if there is any violation of section 7 of the Bill regarding the protection of the national flag and national emblem, i.e. someone publicly and intentionally desecrating the national flag or national emblem, and the offender may be imprisoned or fined. What is more, the legislative intent of the provision in section 7—as explicated by the Government—is to prohibit all public and intentional desecrating behaviours in relation to the national flag and national emblem, regardless of whether the behaviour is committed in the real life or the virtual world. Therefore, this amended provision has actually allowed us to have a clear idea that even in the virtual world, we should not commit any act of publicly and intentionally desecrating the national flag and national emblem as stipulated under section 7.

In addition, Deputy President, regarding the manufacture of the national flag and national emblem, it must be noted that there will be no designated manufacturers for national flags for flying, whereas national emblems for hanging will still have to be manufactured by enterprises designated by the Central People's

Government. Such arrangement is consistent with the amended National Flag Law and the amended National Emblem Law. Also, members of the public can certainly produce printed national flags on their own, but their printed national flags must comply with the relevant specifications provided in the legislation concerned.

Regarding the expansion of the scope of prohibition on certain uses of national flag and national emblem, this Bill prohibits the display or use of the national flag and the national emblem or their designs in registered designs, commercial advertisements or products in everyday life. In the course of scrutiny, some Members have actually mentioned—as I also mentioned earlier while presenting the report—that we have seen many Hong Kong people or organizations make souvenirs or face masks bearing the design of the national flag from time to time possibly out of a patriotic motive and not for commercial interests. Many people are thus worried whether they can continue to do so in the future. This time, the Administration has made it clear and reiterated in the meeting that the use of souvenir items or face masks bearing the design of the national flag is not unlawful, but then, they should definitely not be displayed or used in trademarks, registered designs or commercial advertisements, or private funeral activities, and the national flag or its design shown on them must follow the specifications stipulated in the relevant legislation. So, I believe the general public can now rest easy about this point.

Lastly, the Democratic Alliance for the Betterment and Progress of Hong Kong and I give our support and endorsement to the Bill's requirement that the Secretary for Education should give directions for the inclusion of the national flag and national emblem in primary and secondary education, and for matters relating to the daily display of the national flag and the weekly conduct of a national flag raising ceremony to schools. Also, we urge the Secretary for Education to ensure that schools will persistently follow the relevant directions given by EDB.

Deputy President, I so submit.

IR DR LO WAI-KWOK (in Cantonese): Deputy President, I rise to speak in support of the passage of the National Flag and National Emblem (Amendment) Bill 2021 ("the Bill").

The National Flag Law and the National Emblem Law of the People's Republic of China are the national laws listed in Annex III to the Basic Law which,

according to the Article 18(2) of the Basic Law, shall be applied locally by way of promulgation or legislation by the Hong Kong Special Administrative Region ("HKSAR") in order to accommodate the common law system and the actual circumstances in Hong Kong at the same time. Accordingly, HKSAR enacted the National Flag and National Emblem Ordinance ("NFNEO") in July 1997. On 17 October 2020, the Standing Committee of the 13th National People's Congress endorsed the amendments to the National Flag Law and the National Emblem Law which came into force on 1 January this year. Therefore, from the legal perspective, HKSAR has the constitutional responsibility to implement these two amended national laws locally. Against such background, the introduction of the Bill is undoubtedly necessary.

Deputy President, it is common knowledge that the national flag and national emblem are the symbols and signs of our country that every citizen has the duty to safeguard their dignity. As expressly stated by the SAR Government, the principle of the Bill is to reflect the provisions, principles and spirit of the National Flag Law and the National Emblem Law, both of which have been amended by the Standing Committee of the National People's Congress, essentially safeguard the proper use of the national flag and national emblem, and preserve their dignity, so as to promote respect for the national flag and national emblem while enhancing the sense of national identity among citizens and promoting patriotism.

The Bill was introduced to this Council on 18 August this year, and a Bills Committee was subsequently formed for its scrutiny. As a member of the Bills Committee, I think the following are the couple of major points of concern.

Regarding the use of the national flag and national emblem, the Bill stipulates that the HKSAR Government, the Legislative Council and the Judiciary must use the national emblem design on the homepage of their websites, and provides for a mechanism for the recovery and disposal of national flags and national emblems. Event organizers will be required to recover the used national flags and national emblems used on the site of the event for keeping or reuse in future. Of which, any damaged, defiled, faded or substandard national flags and national emblems must be returned to designated collection points to be set up at the Community Halls or Community Centres in different districts for central handling by the HKSAR Government. Meanwhile, the Bill also stipulates that a national flag or a national emblem must not be displayed or used in any way that undermines the dignity of the national flag or the national emblem, such as displaying a national flag or a national emblem upside down, and must not be

discarded at will. Moreover, the Bill provides for the etiquette for taking part in or attending a national flag raising ceremony as well.

In respect of the manufacture of the national flag and national emblem, the Bill lays down specific provisions and expressly provides that the national emblems for hanging have to be manufactured by enterprises designated by the Central People's Government. Also, it prohibits the display or use of the national flag, the national emblem or their designs in registered designs, commercial advertisements or products in everyday life.

The Administration has emphasized that any person who publicly and intentionally desecrates the national flag or national emblem by burning, mutilating, scrawling on, defiling or trampling on it or its image or in any other way, or to intentionally publish such a desecration would commit an offence, regardless of whether the behaviour is committed in the real life or the virtual world. The level of penalty can be up to a fine at level 5 (i.e. \$50,000) and to imprisonment for three years. What is more, in dealing with the above mentioned desecrating acts that are committed overseas, the Police will seek cooperation and assistance from overseas law enforcement agencies as necessary.

Deputy President, admittedly, it is important to improve the legislative provisions and specify the penalties, but it is equally crucial to further promote education on the national flag and national emblem. The Bill consists of a new provision which requires the Secretary for Education to give directions for the inclusion of the national flag and national emblem in primary education and in secondary education; and for matters relating to the daily display of the national flag and the weekly conduct of a national flag raising ceremony to schools. Some of the Bills Committee members have proposed that the Secretary for Education should give directions for the inclusion of the national flag and national emblem in kindergarten education, and that education on the national flag and national emblem should also be covered in the national security education courses run by the universities funded by the University Grants Committee, so as to enable all students to develop the sense of national identity. To this end, the authorities should allocate additional resources to schools for the provision of more support for learning and teaching, including strengthening the training for teachers.

Deputy President, in order to prevent the public from violating the law inadvertently, the authorities should step up the efforts in publicizing and explaining the main contents of the Bill, and promote the national flag, national

emblem and national anthem, as well as the etiquette to be observed when the national flag is raised and when the national anthem is performed or played. Apart from making use of the traditional audio broadcasting and television channels, the authorities should also keep abreast of the times by fully utilizing the social media platforms to enhance the effectiveness of the publicity efforts.

Deputy President, the Bills Committee supports the resumption of the Second Reading of the Bill in this Council. The absence of any amendment from the Bills Committee and the Administration indicates that various sectors of the community has no dispute about the Bill. Once it is passed, it will come into operation on the day on which the enacted Ordinance is published in the Gazette.

Deputy President, with these remarks, I support the passage of the Bill.

MR CHAN CHUN-YING (in Cantonese): First and foremost, Deputy President, I would like to, on behalf of Members belonging to G6, voice support for the National Flag and National Emblem (Amendment) Bill 2021 ("the Bill").

National anthem, national flag and national emblem are all symbols of a country. Members may have noticed that at the Olympic Games just held in Tokyo, athletes winning the top three places in an event would run around the sports venue, usually wearing their home countries' national flags, and at the crucial moment when the prize-giving ceremony took place, their countries' national flags would be hoisted while the national anthem of the champion's country would be played.

For our Motherland, the five-starred red flag is its symbol and hallmark; the national emblem featuring Tiananmen Gate beneath the five shining stars, encircled by ears of grain and a cogwheel symbolizes and signifies the sovereignty of the People's Republic of China ("PRC"), which every citizen and organization should respect and cherish.

The National People's Congress ("NPC") adopted the Law of PRC on the National Flag ("National Flag Law") in June 1990 to regulate the size, raise, use, supervision and administration, etc. of the national flag. In March 1991, NPC further adopted the Law of PRC on the National Emblem ("National Emblem

Law") to regulate the making and hanging of the national emblem as well as the use of the design of the national emblem and its supervision and administration.

During the three decades since the implementation of the National Flag Law, however, some new situations and new problems have emerged. For example, the common sizes of the national flag failed to meet the needs for diversified uses of the national flag of PRC, the occasions for the raising and use of the national flag no longer suit the needs of our country's political and social development, the problem of lack of regulation over the use of the national flag on some occasions does exist, the departments responsible for the making, sale, raising and recovery of the national flag have yet to be made clear, and so forth.

Likewise, new situations and new problems have arisen in the implementation of the National Emblem Law, where the need to further improve the use of the national emblem by State organs is in focus. Besides, given that the common sizes of the national emblem do not suit the practical needs, it is necessary to stipulate which documents, websites, etc. are allowed to use the design of the national emblem and make clear which departments are responsible for the supervision and administration of the making, sale, hanging, use and recovery of the national emblem.

Hence, NPC endorsed the amendments to the National Flag Law and the National Emblem Law in October 2020, which have come into force since 1 January 2021. The amendments to the National Flag Law and the National Emblem Law targeting on addressing the prominent problems encountered in their implementation are, in order to keep pace with the times as well, meant to improve the national emblem system which is conducive to creating a social atmosphere for upholding the dignity of the national flag and national emblem, and is of great significance in protecting the image of our country.

In Hong Kong's case, the National Flag Law and the National Emblem Law are contained in Annex III (National Laws to be Applied in the Hong Kong Special Administrative Region) to the Basic Law. The National Flag Law and the National Emblem Law were applied locally by legislation through the enactment of National Flag and National Emblem Ordinance ("NFNEO") in July 1997. In light of the recent amendments to the two national laws, consequential amendments should be introduced to NFNEO here in Hong Kong.

Gazetted in August, the Bill was introduced into the Legislative Council in the same month. Mr CHEUNG Kwok-kwan, Chairman of the Bills Committee, has just given a detailed introduction of the rather copious contents of the amendments proposed this time which I am not going to repeat here. Yet, as can be seen from what was discussed by the Bills Committee, it is clear that the Mainland's concerns in amending the National Flag Law and the National Emblem Law are different from ours. In Hong Kong, we are more concerned about preventing acts of disrespect for the national flag and national emblem.

The Bill per se reflects the provisions, principles and spirit of the amended National Flag Law and the amended National Emblem Law, safeguards the proper use and preserves the dignity of the national flag and national emblem which are the symbols and signs of the People's Republic of China, whilst taking into account the actual circumstances in Hong Kong under our common law system.

Actually, as far as the younger generation is concerned in particular, the national flag and national emblem make prime teaching materials for education in patriotism, and so I am pleased to see the addition of the new section 7A to NFNEO as proposed under clause 11 of the Bill. As Members have mentioned just now, this proposed section requires the Secretary for Education to give directions for the inclusion of the national flag and national emblem in primary education and in secondary education and give directions to specified schools (i.e. schools that provide primary education or secondary education, or nursery education or kindergarten education as defined by the Education Ordinance) for matters relating to the daily display of the national flag and the weekly conduct of a national flag raising ceremony. Post-secondary education institutions are also required to make reference to the directions given by the Secretary for Education for dealing with matters relating to the daily display of the national flag and the weekly conduct of a national flag raising ceremony.

I hope that the Government will keep a close eye on the implementation of the teaching of the national flag and national emblem in schools upon passage of the Bill and allocate more learning and teaching resources for this purpose to ensure that patriotic education of this kind is effective.

With these remarks, Deputy President, I support the passage of the Bill.

MR TONY TSE (in Cantonese): Deputy President, national flag and national emblem are the symbols of a nation's sovereignty and dignity which need to be safeguarded by means of legislation.

Hong Kong already applied locally the National Flag Law and the National Emblem Law (both are national laws) on the day of its return to the Motherland in 1997 by enactment of legislation (including criminalizing desecrating behaviours in relation to the national flag and the national emblem) through the mechanism enshrined in Article 18 of and Annex III to the Basic Law, so that the national flag and the national emblem of the People's Republic of China are legally protected in the Hong Kong Special Administrative Region ("HKSAR").

On 17 October 2020, the Standing Committee of the National People's Congress ("NPCSC") endorsed the amendments to the National Flag Law and the National Emblem Law, which have come fully into force in the Mainland since 1 January 2021. Hence, the HKSAR has the constitutional responsibility to introduce consequential amendments to the National Flag and National Emblem Ordinance ("NFNEO") as soon as practicable. Besides, taking into account the enactment of the National Anthem Ordinance ("NAO") by the Council in mid-2020 and the experience and cases accumulated from the implementation of NFNEO over the past 20 years or so since the reunification, there is also a need for Hong Kong to update and improve NFNEO. The above is the legislative background of the National Flag and National Emblem (Amendment) Bill 2021 ("the Bill"), on which the Second Reading debate resumes today.

Both the old National Flag Law and the National Emblem Law of the Mainland and NFNEO of Hong Kong focused on protecting the national flag and the national emblem from damage or desecration. The emphasis of the amendments introduced by NPCSC last year lies in that it is also necessary to, as protection alone is not good enough, regulate the correct use of the national flag and the national emblem, promotional efforts and relevant educational work to achieve the objectives of enhancing citizens' consciousness of the country and promoting patriotism.

Drawing reference from NAO, the Bill proposes to amend the long title of NFNEO and add a brand-new preamble, stipulating that NFNEO is enacted to preserve the dignity of the national flag and national emblem, to regulate the use of the national flag and national emblem, to enhance citizens' awareness of the

People's Republic of China, and to promote patriotism. It is further emphasized in the preamble that all individuals and organizations should respect and cherish the national flag and national emblem, and use the national flag and its design on appropriate occasions.

Concerning the meaning of "appropriate occasions", the Bill gives a more detailed account than before, including specifying that a national flag or a national emblem must not be displayed upside down or discarded at will, and that a national flag or a national emblem that is damaged, defiled, faded or substandard must be recovered or disposed of in the manner stipulated by the Chief Executive.

Moreover, the Bill proposes detailed regulation on the size, specifications for the scale and the making of the national flag and national emblem, as well as their use in everyday life, commerce, mourning ceremonies and foreign affairs activities. The Bill also requires people taking part in or attending a national flag raising ceremony to stand solemnly facing the national flag and look at the national flag with respectful attention or to salute the national flag in an appropriate manner, who shall not behave in a way that undermines the dignity of the national flag.

Nevertheless, similar to the relevant provisions in NAO, even if a member of the public has failed to follow the above etiquette, it will not constitute a criminal offence as long as that person does not intentionally desecrate the national flag.

Regarding the criminal offences of desecrating the national flag or national emblem, the Bill has also made a number of necessary updates in the light of the Mainland's and Hong Kong's situations in the past, including stating in more express terms that a person's act of intentionally publishing videos or images involving desecration of the national flag or the national emblem through the Internet or other channels is tantamount to desecrating a national flag or national emblem in physical form, which may also be subject to criminal liability.

The Bill also suggests bringing in line the penalty and prosecution time bar for the offence of desecrating the national flag or that of desecrating the national emblem with those for the offence of insulting the national anthem under NAO. That is to say, the legal safeguards for these three national symbols in Hong Kong will become more consistent.

During the scrutiny of the Bill, however, a number of Members and I have pointed out a crucial omission from the current legislative amendment exercise which will lead to inconsistency, that is, the Regional Flag and Regional Emblem Ordinance ("RFREO") has not been updated simultaneously. It must be noted that NFNEO and RFREO were both implemented on 1 July 1997. Given that the provisions and wording of these two laws are mostly the same, how come one of them needs to be updated while the other needs not?

Upon passage of the Bill, the rendition of the offences of desecrating the national flag and desecrating the national emblem will become inconsistent with that of insulting the regional flag and regional emblem. Will such inconsistency affect the relevant law enforcement and prosecution work? And when national education is being implemented in schools in the future, will the schools only have to impart to their students the knowledge about the national flag and national emblem without having to impart to them the knowledge about the regional flag and regional emblem? Well, it is gratifying that the Constitutional and Mainland Affairs Bureau, which is responsible for the Bill, has swiftly responded direct to this issue and promised to introduce a bill into the Legislative Council of the new term in the next legislative session in order to amend RFREO as soon as possible.

From now on, whether it be enacting new legislation or amending existing laws (in particular laws related to the dignity and security of our country), I hope that the Government will play a more proactive role instead of taking a passive approach to allow the problems to crop up and get worse by not taking any action until express instructions are given by the Central Authorities.

Finally, I would like to talk about the education on the national flag and national emblem. It is stipulated in the Bill that the Secretary for Education must give directions for primary and secondary schools to educate the students on the history and spirit of the national flag and national emblem while requiring specified schools to display daily the national flag and conduct weekly a national flag raising ceremony. In recent years, so many young people in Hong Kong have gone astray to become "anti-China" and "hostile to China". They were even arrested and prosecuted for engaging in illegal activities involving violence, thus ruining their own hopeful future.

The reason behind is that the education in Hong Kong has gone wrong as schools have failed to teach students to correctly understand their own country and race, which has resulted in the failure to cultivate the sense of national identity and

patriotism among the students. This is not something that can be achieved by enacting legislation or conducting national flag raising ceremonies in schools alone. It takes perseverance and wholeheartedness to teach students to have a correct understanding of their own country and race through subtle influence, so as to cultivate the sense of national identity and patriotism among them. I hope that those officials of the Education Bureau and all practitioners in the local education sector can hear me and get this done.

With these remarks, Deputy President, I support the Second Reading and Third Reading of the Bill.

DR PRISCILLA LEUNG (in Cantonese): Deputy President, first of all, I speak in support of the National Flag and National Emblem (Amendment) Bill 2021 ("the Bill"). Deputy President, this is our fundamental constitutional responsibility. In October last year, the Standing Committee of the National People's Congress endorsed the amendments to the Law of the People's Republic of China on the National Flag and the Law of the People's Republic of China on the National Emblem. As a special administrative region of the country, Hong Kong must, and should, apply precisely the relevant amendments to Hong Kong through local legislation in accordance with Annex III to the Basic Law.

Apart from the constitutional responsibility, what I hear more often in the community is: "Why is it necessary to legislate, legislate and legislate again?" For example, I asked again yesterday whether Hong Kong should enact legislation against insulting police officers or more directly, hatred towards police officers as soon as possible. Why do we not solely rely on education? In fact, like everyone else, I also hope that there is no need to require people to respect the national flag and the national emblem through legislation, or even raise this to the level of the national constitutional regime, and even make the wording of the law so specific. The national flag and the national emblem are the dignity of the country and the symbols of our 1.4 billion people, including Hong Kong and Macao compatriots. Since we are all part of the 1.4 billion people, we should respect the symbols of our country and nation from the bottom of our hearts we without any stipulations.

However, in the past few years, we have seen people trampling on and burning the national flag, and placing it upside down blatantly in Hong Kong. In

2019, some people even threw paint bombs at the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region (i.e. LOCPG) to deface the national emblem. Some young people put the national flag on the ground and played the game of "a train going through a tunnel" on it, taking turns to trample on their national flag, which is very heart-rending to see. Why is the education in Hong Kong so deplorable? As the saying goes, "while respect is accorded by others, notoriety is brought on by yourself". There are certain things on legislation is not necessary indeed, and my judgment has always been that there is no need to legislate with respect to the national anthem. However, some people in Hong Kong have been deliberately doing such acts in public. If there were no such acts, of course, it would be unnecessary to enact the legislation. But when such uncivilized and insulting acts against our own country and nation frequent appear, they can only be stopped by laws. For the national laws listed in Annex III to the Basic Law to be implemented in Hong Kong, it is necessary to go through local legislative procedure for them to be applicable to Hong Kong. Hence, the laws are consistent throughout the country. In fact, the Hong Kong community should reflect on these radical and, in my opinion, shameful behaviours by some people in Hong Kong.

We can see in the amendment that some of the provisions are written in great detail, for example, section 4A specifically mentions the need to stand solemnly when facing the national flag. In fact, one should stand solemnly when facing the national flag of one's own country, which should be a natural expression of respect, and to look at the national flag with respectful attention or to salute the national flag. In this connection, I think Hong Kong people may not be familiar with the etiquette of looking at the national flag with respectful attention. Therefore, more efforts can be put in such promotion through education. However, I think that if a person respects his country, his natural form will be very solemn, which is a way to show respect for the symbol of his country and the nation.

In the past few years, many people have intentionally and even in different forms, tried to insult their own country. As technology advances, more people are making use of the Internet and social media to do so. And there are some countries which are motivated by a desire to see the world in chaos, for example, a newspaper in Denmark has changed the five stars of the Chinese flag to five coronaviruses. Such actions are totally unacceptable and should be illegal if they happen in our country. Therefore, I think that after the Bill is amended, people

can no longer use the excuse of being ignorant. In fact, even though they are ignorant, they should also have a sense of shame, and such ignorance is tantamount to a violation of the law. They now "invite" the enactment of a law to regulate these basic virtues of a person or the basic national character and morals, and even these have to be clearly specified through legislation.

Another stipulation is that a national flag must not be displayed upside down, and there has been such ridiculous behaviour in this Council. Nevertheless, we politicians may say that such an act is ridiculous, but when 1.4 billion people see such an act, they find it very offensive. Therefore, whether it is the national flag or the national emblem of our own country or another country, actually it should not be offended, because it concerns the people's deepest emotional ties with the nation.

In my view, after the passage of the Bill today, one of very significant tasks is of course to promote it, and the most important thing, I think, is to do well in national education through promoting this amendment. I am very glad that this legislation stipulates that the Secretary for Education must give directions, and the Chinese word "須" is used in the provision—"must" in English—so that the people concerned can no longer pass the buck around. Of course, there is no reason why kindergartens and universities should not respect the national flag, the national emblem and national education. It is a matter of course that there should be no exceptions. Hence, I hope the Secretary for Education is clear that all Hong Kong people should simply show respect to them. Nevertheless, some people and teachers may say that they are not aware of this, and some principals may say that they do not see the stipulations. The Secretary for Education should and must deal with them. Sometimes, what these people are most afraid of is not the law, Deputy President, but is the Secretary for Education. In the university, I am cognizant of what regulates which area. What they are most afraid of is the actual enforcement of the Education Ordinance. Now there is no way out and we have to resort to carrot and stick tactics which include enacting legislation. I think there are still some schools which may not be willing to comply with the rules. However, they have to follow suit, because in a special administrative region of China, how can the schools not do well in national education? Schools cannot provide bad education, because education is for the good of the people. In fact, I think the country has filled in all the gaps for us this time, so that the situation is

clear to everyone and people can stop saying that this or that aspect is not perspicuous.

The same is certainly true for images. I imagine that with future technological advances, perhaps the law should also include images appearing in the sky, Secretary. In short, with future technology, in respect to the national flag of China as discerned by a reasonable third party, no one can publicly and intentionally defile it or desecrate it in any way.

I believe that the national flag and the national emblem represent the territorial of our country, the dignity of our 1.4 billion people and our country, and should not be defiled or desecrated in any way. This is the basic character of a human being and the basic national character of a Chinese.

With these remarks, Deputy President, I support the amendment to the Bill.

MR KENNETH LAU (in Cantonese): Deputy President, on behalf of Heung Yee Kuk N.T., I speak in support of the National Flag and National Emblem (Amendment) Bill 2021 ("the Bill").

The national flag and national emblem are the symbols and signs of a country, representing the authority and dignity of the country. They are important elements in the country's system and also an essential carrier to enhance the sense of national identity and unite patriotic feelings. They should not be desecrated or trampled upon under any circumstances. The Standing Committee of the 13th National People's Congress endorsed in October 2020 the amendments to the National Flag Law and the National Emblem Law. The amended national laws came into force in January 2021 to perfect the system governing the use of the national emblem and better protect the image and dignity of the country.

The original National Flag Law and National Emblem Law were listed in Annex III to the Basic Law as early as in July 1997 and were applied to Hong Kong SAR by way of local legislation through the enactment of the National Flag and National Emblem Ordinance. In light of the amended National Flag Law and National Emblem Law, the SAR Government has the constitutional responsibility to implement locally the two amended national laws mentioned above to prevent

any improper practices in Hong Kong that do not respect the national flag or national emblem. This approach is consistent with the principle of "one country, two systems" and the implementation of the National Anthem Law by way of the enactment of the National Anthem Ordinance in Hong Kong.

The legislative intent of the Bill is clear, which is to prohibit any acts that intentionally and publicly desecrate the national flag or national emblem. The key amendments include specifying the stipulations in relation to the use of the national flag and national emblem, as well as the etiquette of the national flag raising ceremony and the recovery mechanism for national flags; clarifying the provisions on offences of desecrating the national flag and national emblem; strengthening school education and promotion; enhancing people's sense of national identity and advocating patriotism; and extensively creating in society an atmosphere of respect and love for the national flag and national emblem.

There has been some chaos in Hong Kong. Some people willfully trampled on and publicly desecrated the national flag and national emblem especially during the time when the "black-clad violence" plagued Hong Kong. Hong Kong was then hard-hit by violent protests. Some rioters publicly desecrated and burnt the national flag, defaced the national emblem, stormed the Offices of the Central People's Government in Hong Kong. These willful acts and reckless criminal behaviour seriously threatened the limits of "one country, two systems" and publicly challenged the national sovereignty; furthermore, these acts and behaviour hurt the patriotic feelings of 1.4 billion compatriots, and should not be condoned. The Bill clearly sets out that no one is allowed to publicly or intentionally desecrate the national flag and national emblem by burning, damaging, defacing, defiling, trampling upon or any other means. Such behaviour is against the law no matter it takes place in the real world or on the Internet. Anyone with such criminal intents will not escape the long arm of the law.

The ferocity of the "black-clad violence" has precisely exposed the inadequacy of the education on our country and national education in Hong Kong. The Bill requires primary and secondary schools to teach students to understand the history and significance of the national flag and national emblem and observe the rules on their usage and the etiquette, so that Hong Kong people will be able to learn about the country from a young age and cultivate correct values and patriotic feelings. Upon passage of the Bill, the Education Bureau will give directions to

schools for matters relating to the daily display of the national flag and the weekly conduct of a national flag raising ceremony. I hope that the authorities will provide more support to schools and assist them in implementing education-related work, and also give adequate guidelines to teaching staff, so as to ensure that they grasp the proper attitude and etiquette on displaying the national flag and be able to convey to students the correct knowledge of the national flag and national emblem and guide students to have a comprehensive understanding of the country, thereby enhancing their sense of identity with and sense of pride for the country and the nation.

However, there have been careless incidents of government departments displaying the national flag in a wrong way. Although these are inadvertent mistakes and there is no criminal intent nor is there any criminal liability, these incidents have resulted in a bad public perception. I hope that the departments can learn from the mistakes and the experience and adopt measures to prevent the recurrence of similar incidents. The incidents also reflect the need for the Government to strengthen national education for civil servants.

In a government media session earlier, part of the title of the backdrop was wrongly written as "中國人民共和國" instead of "中華人民共和國". It is difficult for the public to accept such an elementary error made by the civil service which is known for its meticulousness. If an inadvertent mistake like this can be made by the civil service, we should indeed brood no delay in educating the general public on our country as well as on the national flag and national emblem.

It also comes to my attention that after some large public events, people often casually threw away the national flags. Such acts which undermine the dignity of our country should not happen again. When the Bill is passed and comes into force, used national flags and national emblems shall be recovered or disposed of in the stipulated ways in the hope that people will treat the national flags and national emblems with respect and dignity. It is imperative that the Government should properly take forward publicity work to educate the public on how to properly recover used national flags. Apart from the traditional radio and television publicity, the Government must also produce more info-packs and infographic for social media, so that the public can easily forward these messages in instant messaging systems, such as WhatsApp and WeChat, so as to deepen their understanding of the Bill and allay their worries of inadvertently breaking the law.

All in all, the fundamental spirit and principle of the Bill is the need to "respect" the country and to deter people who intend to desecrate the national flag and national emblem. I believe, as long as the Government properly takes forward the publicity work, the public can understand, or grasp, this spirit of "respect" and will not casually do anything to undermine the dignity of our country. I also deeply believe that each and everyone of us is willing to jointly fulfil our duty to uphold the dignity of our country.

Over the past few years, Hong Kong has weathered the storm of the "black-clad violence". Society was filled with conflicts and dissensions. People felt unsettled. It is fortunate for Hong Kong that the Central Government has stepped in and implemented the Hong Kong National Security Law and improved the electoral system, which has enabled Hong Kong to restore order from chaos and put Hong Kong back on its track. We now see the light at the end of the tunnel. As an organization that loves the country and Hong Kong, Heung Yee Kuk N.T. definitely supports the expeditious passage of the Bill for the Government, so as to enable the national flag and national emblem, which represent the dignity of our country, to be protected by the law and enable the SAR Government to fulfil its constitutional responsibility as soon as possible.

I so submit and support the Bill.

MR CHAN KIN-POR (in Cantonese): Deputy President, I support the National Flag and National Emblem (Amendment) Bill 2021 ("the Bill"). The Standing Committee of the National People's Congress endorsed the amendments to the Law of the People's Republic of China on the National Flag ("National Flag Law") and Law of the People's Republic of China on the National Emblem ("National Emblem Law") last year, so Hong Kong also needs to make corresponding amendments. The Government has put forward three main amendments this time, including making clear the requirements in respect of the use of the national flag and the national emblem, adding the prohibitions on certain uses of the national flag and the national emblem and clarifying the provisions relating to offences of such behaviour, and providing for the education and promotion of the national flag and national emblem.

I am particularly concerned about the education and publicity issue. The Bill stipulates that the Secretary for Education must include national flag and national emblem in primary education and in secondary education, so as to educate students on the history and spirit of the national flag and national emblem, on the regulation of displaying and using the national flag; and on the etiquette to be followed in a national flag raising ceremony. The Secretary for Education must also give directions to specified schools for matters relating to the daily display of the national flag and the weekly conduct of a national flag raising ceremony.

As the symbol and hallmark of our country, both the national flag and national emblem represent the dignity of our country and our nation, and should be respected by anyone. In fact, Hong Kong has enacted the National Flag and National Emblem Ordinance since reunification, but there has been no regulation on the education on national flag and national emblem. Although schools might give a simple explanation on this topic, the content was very limited and superficial. As I recall, the "black-clad" rioters committed evil acts repeatedly by desecrating the national flag and national emblem during the "black-clad" riots. As a Chinese, it is heartbreaking to see such behaviour and to see the national flag and national emblem being insulted. Why did Hong Kong people commit such outrageous acts? I believe that it is attributable to the long-standing emphasis on "two systems" and the playing down of the "one country" principle under the influence of the opposition camp since reunification. When the Government tried to promote national education, it was attacked severely by the opposition camp immediately, and even a so-called anti-national education movement was triggered. As a result, schools rarely taught students anything about our country in the past two decades. Even if they did, they would not go too far. Young people did not have a sense of national identity at all and did not know what patriotism is. On the contrary, they have been misled for a long time by the reports from media that aimed at opposing China and disrupting Hong Kong. Under such subtle influence, some young people no longer knew they are Chinese and went so far as to commit acts which desecrate our country and national dignity.

Now that the "black-clad" riot has been put to a stop, Hong Kong can promote national education to teach young people the right sense of national identity. The inclusion of national flag and national emblem in primary education and secondary education, and the requirement for schools to raise and display national flag daily and to conduct a national flag raising ceremony weekly as stipulated in the Bill this time, can align with the national education in our country

indeed. I hope that the Education Bureau can handle the work well and teach young people properly, so as to let them know they are Chinese and must respect the national flag and national emblem.

Furthermore, the Bill will also stipulate clearly that public desecrating acts in relation to the national flag and national emblem committed in both real life and on online platform would be an offence, and the level of penalty would remain unchanged. The Government explained that this amendment only seeks to better reflect the legislative purpose and intent, but not to expand the scope of desecrating acts. And such provisions are consistent with those in the National Anthem Ordinance. I support this arrangement. A lot of netizens like parodying on the Internet, thinking that they are just having fun and do not have to be responsible for their behaviour. Now that the Bill stipulates that online desecrating acts in relation to the national flag and national emblem is also an offence. It serves precisely as a reminder to all of us that we must not break the law. In fact, online platform has become part of our modern life. The Government must take into account the factor of online platform when it enacts laws in the future, or it will become out of tune with the times.

Thank you, Deputy President.

MR CHRISTOPHER CHEUNG (in Cantonese): Deputy President, I speak in full support of the Second Reading of the National Flag and National Emblem (Amendment) Bill 2021 ("the Bill"). I believe that as a Chinese, it is lawful, sensible and reasonable for us to fully support the Bill.

First of all, I am happy to see that the Bills Committee on the National Flag and National Emblem (Amendment) Bill 2021 ("Bills Committee") completed the scrutiny work of the Bill very efficiently. I think we all still remember that when we scrutinized the National Anthem Bill last year, members of the "mutual destruction camp" tried to obstruct our work by means of malicious filibustering, and even throwing rotten eggs and pouring smelly water. Finally, we managed to complete the scrutiny work after going through a lot of hardships. Today, the smooth resumption of the Second Reading debate of the Bill reflects that with the gradual implementation of the Hong Kong National Security Law and the improvement to the electoral system, Hong Kong has regained vitality, and the Council is back to rational and highly efficient operation. We are certainly happy to see this.

Deputy President, amending the National Flag and National Emblem Ordinance ("NFNEO") is our responsibility. Last October, the Standing Committee of the National People's Congress endorsed the amendments to the Law of the People's Republic of China on the National Flag ("National Flag Law") and Law of the People's Republic of China on the National Emblem ("National Emblem Law"), and the two laws have been listed in Annex III to the Basic Law. It is actually the constitutional responsibility of the SAR Government to make corresponding amendments to NFNEO in the light of the amendments to the two national laws. More importantly, the national flag and national emblem are the symbols of our country, and it is the responsibility of every citizen to respect the national flag and national emblem of our own country. The Bill aims precisely to better safeguard the proper use and preserve the dignity of the national flag and the national emblem, so as to promote respect for the national flag and national emblem, enhance the sense of national identity among citizens and promote patriotism. I believe that all those who love our country and Hong Kong will not oppose the Bill which makes the respect for our country's national flag and national emblem as the core spirit.

Deputy President, the content of the Bill is clear and easy to understand, and is worth our support. The amendment on the use of national flag and national emblem and their recovery and disposal can help ensure that the general public or concerned organizations will not discard them at will; the stipulation on the etiquette for taking part in or attending national flag raising ceremony can deepen the understanding of the general public about the related etiquette; making intentionally desecrating the national flag or national emblem an offence with the level of penalty up to a fine at level 5 and to imprisonment for three years can enable the public to understand the serious consequences of such acts, thereby preventing them from breaking the law. Not only does this series of amendments reflect the requirements and principles of the amended National Flag Law and the amended National Emblem Law, but it also perfects the original NFNEO.

What I am most concerned about is the provision newly added to the Bill which stipulates the inclusion of the national flag and national emblem in primary education and in secondary education. I think it is absolutely necessary. First, I believe that the essence of education is to teach students to love their own country, respect the national anthem, national flag and national emblem. If students do not know how to respect their country, or even commit malicious acts to desecrate the national anthem, national flag and national emblem, they will not earn others' recognition and respect even if they attain good school results or great achievements in the future.

Besides, given the present situation of education in Hong Kong, the inclusion of the national flag and national emblem in primary education and in secondary education becomes even more important. As we all can see, due to the absence of national education in Hong Kong for a long time, some young people and students in Hong Kong do not have a sense of national identity at all, nor the awareness to respect the national flag. During the movement of opposition to the proposed legislative amendments, some young people took pride in desecrating the national flag and national emblem. Their behaviour was outrageous. It even proves the urgency and necessity of including the national flag and national emblem in primary education and in secondary education.

I hope that the Education Bureau ("EDB") will implement the relevant work resolutely and seriously rather than finishing the job hastily by simply issuing a guideline. They should pay more visits to schools to keep track closely on the progress of national flag and national emblem education in schools. As for those schools that comply in public but resist secretly, or violate EDB's instructions intentionally, EDB should not condone their acts but immediately ask them to correct their mistakes and give them corresponding punishment, in a bid to ensure the genuine implementation of national flag and national emblem education in primary schools and secondary schools, and in turn cultivate patriotism among young people and students.

Furthermore, at the first meeting of the Bills Committee, some members have queried why the Administration does not amend the Regional Flag and Regional Emblem Ordinance ("RFREO") and NFNEO in parallel to ensure that the enforcement standards of relevant offences would be aligned. After taking into account members' opinions, the Administration agreed that it should review and suitably amend RFREO, and quickly gave us a reply at the second meeting of the Bills Committee, telling us their intention to introduce the relevant bill into the Legislative Council within the next legislative session. I think this reflects that the Constitutional and Mainland Affairs Bureau values Members' opinions and responds to their concerns actively, which is worthy of recognition and commendation. I believe that the Government can win public support as long as it is willing to listen seriously to the opinions of different sectors of society, follow up issues actively and practically, and do more practical work rather than shirking responsibilities.

I so submit. I support the Bill.

MR YIU SI-WING (in Cantonese): Deputy President, I speak in support of the National Flag and National Emblem (Amendment) Bill 2021 ("the Bill"). The Bill was introduced in light of the amendments to the Law of the People's Republic of China on the National Flag ("the National Flag Law") and Law of the People's Republic of China on the National Emblem ("the National Emblem Law") endorsed by the Standing Committee of the National People's Congress in October 2020. Given that the National Flag Law and National Emblem Law have been listed in Annex III to the Basic Law, and the SAR Government has the constitutional responsibility under the Basic Law to apply the national laws listed therein locally by way of legislation, the Bill was introduced to satisfy the requirements under national laws.

The national flag and national emblem are the symbols and signs which represent the dignity of the country, and they should be respected by the people. This is a politically sensible requirement that every country will impose, with the only difference being the extent of the requirement. It was not uncommon to notice acts of mutilating the national flag and national emblem during some anti-government demonstrations in the past, as well as the "black-clad violence" incidents in the movement of opposition to the proposed legislative amendments in 2019. What is most outrageous is that on 21 July 2019, some protestors went so far as to deface the national emblem hung in the Liaison Office of the Central People's Government in HKSAR, and this amounted to a naked challenge to the limits of toleration for the Central Authorities and the SAR Government, as well as a serious insult to the dignity of the country. It can thus be seen that there is indeed the need to amend the National Flag Law and National Emblem Law.

Deputy President, the imposition of penalties can only address the problem concerning illegal acts, and many people still refer to different grey areas or scenarios to seek explanation from the Government on whether they would constitute violation of the law. When determining whether certain acts, be they done intentionally or not, constitute violation of the law, the crux lies in whether they are done by the persons concerned with an attitude of respect for their country, and respect for others and for all things is in fact an attitude we should all uphold. Hence, the enactment of legislation is only one of the steps that we should take, while a more important step in the next stage is to take fundamental actions by instilling a sense of national identity in students, promoting to different extents their understanding of the development of our country in such areas as history, culture, economy and political system, requiring students to have knowledge of the national flag, national anthem and national emblem of our country, and providing guidance to young people for learning to respect and developing a correct sense of value. These actions should become a part of our moral, civic and national education, and

they can at the same time prevent students from being misled due to youthful ignorance, thus breaking the law and ruining their future.

There will be much work for the Government to follow up upon passage of the Bill, including first of all providing appropriate outlines for teaching materials for primary and secondary schools, and the provision of appropriate training for teachers. The objective of doing so is to foster a correct understanding of the relevant knowledge and the use of lively teaching methods and techniques, thereby making things easy for students to comprehend and remember. In this connection, the Education Bureau should proceed with the preparation work for providing training for teachers.

During deliberation by the Bills Committee formed to study the Bill, I have asked whether the authorities had prescribed a set of standardized guidelines for teacher training, which would serve as a reference basis for teaching the subject with a view to avoiding disseminating wrong information to students due to misunderstanding on the part of teachers themselves; and whether teachers teaching the subject would be required mandatorily to attend training courses organized by the Education Bureau. The Administration replied that a set of standardized requirements was currently not in place for teacher training, candidates attending training courses would be nominated by schools on their own, and it would enhance efforts in this regard in the future when necessary. I am of the view that as far as teachers of the national education subject are concerned, the Government's requirements and training are obviously inadequate. The Education Bureau does have the responsibility to design a set of standardized outlines for providing training and guidance for teachers, require teachers teaching the subject to attend a specified number of hours of training, and organize delegations and exchange tours to the Mainland, so that the teachers concerned can have a more comprehensive understanding of our Motherland and a more correct perception towards the national flag and national emblem.

Secondly, civic education should be strengthened to provide guidance to organizations and the public on the correct use of the national flag and national emblem. The Bill has prescribed detailed requirements for the use of the national flag and national emblem, but some provisions are relatively difficult for the general public to understand and interpret. As a matter of fact, there were previous cases in which government departments as well as some public and private organizations had had the regional flag printed wrongly, and there were also frequent cases of flying the national flag and regional flag incorrectly. I suggest that the SAR Government should develop a visual-based and easy-to-use guide book for this purpose.

For example, all Members of the Legislative Council are provided with an information kit on the font style, colour code, size, scope and standards of application of the logo of the Legislative Council, and together with a template file of the logo, they are all equipped with the correct information for printing publicity materials. Some large organizations have also prepared similar brand identity manuals for implementation by their subsidiary companies. The SAR Government should make reference to such an approach and formulate a set of standard guidelines on the use of the national flag, national emblem and national anthem as well as the regional flag and regional emblem, which would provide guidance for various organizations and members of the public to follow. In the meantime, efforts should be made from time to time to publicize through different media the requirements on the use of the national flag and national emblem, so that no one will inadvertently break the law.

Finally, I would like to say a few words about law enforcement. I have expressed concern at meetings of the Bills Committee that apart from incorrect use of the national flag and national emblem by members of the public, it was also my worry that as the guidelines on the surrounding environment for using the national flag and national emblem were unclear, people with ulterior motives might take advantage of the surrounding environment to undermine the national dignity with the use of some other slogans. The Secretary responded then that the Chief Executive might specify by stipulations the occasions on which and places at which the display of the national flag and national emblem would be allowed, and it would be an offence under the proposed provisions for making any insulting remarks publicly and deliberately. It is my hope that after the passage of the Bill, the Government will formulate a set of new guidelines that provide greater clarity after a period of assessment and examination to avoid disputes.

Besides, when asked for the law enforcement plans in place in Hong Kong to contain the damage caused by the negative impact brought about by acts or messages which defile the national flag and national emblem in overseas websites, the Secretary has responded that a mutual system would be set up with other jurisdictions to assist in law enforcement. However, in similar circumstances, it still requires initiatives by the departments concerned to collect evidence and make requests for legal assistance. I hope the Government would establish a standing and effective mechanism for evidence collection, thus enabling the relevant legislation to achieve the greatest effectiveness in order to protect national dignity.

Deputy President, I so submit.

MR LUK CHUNG-HUNG (in Cantonese): I am very glad to have this chance to scrutinize the National Flag and National Emblem (Amendment) Bill 2021 ("the Bill") here today, and see that fellow Members have done this job in a very serious, practical and realistic manner.

Looking back on what happened two years ago, we could hardly imagine that meetings could be conducted so peacefully. During the time when the National Anthem Bill was scrutinized back then, Members of the "mutual destruction camp" were still in this legislature. They frequently disrupted order here by leaving their seats, dumping filthy things, charging at the President Podium, and the personal safety of the Deputy President was perhaps really much threatened then. The actions taken by the country to implement the Hong Kong National Security Law and improve our electoral system have indeed produced a deterrent effect on the "mutual destruction camp", and the entire community could thus return to rationality and take a turn from chaos to governance.

In the past, the "mutual destruction camp" often casually interpreted the laws on national flag, national anthem, national emblem and even national security out of context and made scaremongering remarks suggesting that they were tools which would easily incriminate each one of us anytime. As we look back now with hindsight, such remarks are of course worth nothing but a laugh, and these people are also destined to be nailed on the pillar of shame in history, because it is a must for all people around the world to have respect for the symbols of their country, i.e. their national anthem, national emblem and national flag.

Take the five-starred red flag of our country as an example. While the red colour stands for the bloodshed by revolutionary martyrs, the biggest star among the five represents, as we all know, the Communist Party of China, which is the governing party of our country. As for the remaining four stars, they represent respectively the working class, peasant class, urban petty bourgeoisie and national bourgeoisie, meaning that all people in the country are united together regardless of their social classes. This is therefore the national dignity we must defend, and we should all make ourselves aware of the meanings behind, lest it will be desecrated wantonly. All desecrating acts in this respect should be subject to legal sanctions, because we are talking about not only the desecration of an inanimate object but also national spirit and cohesion of the people, and relevant legislation should be enacted to regulate such acts.

According to my most vivid memory of what happened on 21 July 2019, a group of protestors outside the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region defaced the national emblem hung there. During the "black-clad violence" incidents in 2019, we have also

witnessed many cases in which the national flag was mutilated, thrown into the sea, trampled on and burnt. It can thus be seen that the spread of the idea of "Hong Kong independence", anti-government thoughts and anti-Central Authorities sentiments had plunged our society into chaos. Luckily though, operation in the legislature has already resumed normal.

Coming back to the subject, as one of the issues of major concern I have raised at meetings of the Bills Committee formed to study the Bill, I hope law enforcement agencies will pay attention to various acts of spoofing after the enactment of the legislation. For example, in the early days of the epidemic outbreak, pictures showing the national flag being spoofed with the five stars thereon replaced by five virus shapes were both circulated on the Internet and displayed on the street, and the objectives of doing so were to insult our country for its handling of the epidemic and even convey the implied meaning of "Chinese virus". This served to echo the smearing remarks against China by the United States and Western countries, and anyone with discerning eyes could readily understand that they were spoof pictures of our national flag, so what should we do then? I think the matter must be handled cautiously in the future, because this is by no means an insult committed blatantly to the national flag but rather, an act done for such a purpose through various kinds of sly tactics and spoofing works, and this is a problem we must address.

Secondly, regarding the provisions prohibiting the display of the national flag and national emblem in products in everyday life, many people consider them puzzling. Will the use of face masks, clothes or products in everyday life bearing the design of the national flag and national emblem constitute an offence under the proposed provisions when they are actually made out of a patriotic motive? In response to our enquiries, the Administration has clarified and explained that it is not unlawful to do so as long as the design of the national flag and national emblem is not used in connection with any trade, calling, profession, commercial interests or private funeral activities, and the design shown has followed the specifications stipulated in the Bill. After all, with regard to the circumstances under which the use of the national flag and national emblem should be allowed or prohibited, I think it is the intention that counts. People need not worry too much about the use of the national flag and national emblem in certain activities as long as it is done out of love for their own country and respect for the national flag and national emblem.

Small flags and badges bearing the design of the national flag are usually distributed in community activities we organize, and at the end of such events, participants are always reminded to keep these flags as souvenirs if they so wish and keep them properly at home. They are also welcome to return ornaments

bearing the design of the national flag and national emblem to the host organizations. In this connection, we as Legislative Council Members do have a lot of opportunities to exchange views with the Government and enquire the Secretary directly about the proper ways to handle the matter, but from where can members of the general public obtain the relevant information? The Government therefore needs to devote more efforts in publicity and education in the future, so that our citizens will be made aware of the need to protect and respect the national flag and national emblem in both cognition and action. It would be an excellent thing for the people to express their feelings for the country through various ways out of their patriotic sentiments, because this involves their respect for the country, and is something regulated under the law too. People should not worry about the risk of being inadvertently caught by the law if they have taken the matters involved seriously.

As far as publicity and education are concerned, we need to do a good job in education, especially education for students and young people. The aim of doing so is to deepen their understanding of national affairs and the history of our country, so that they can come to realize how the country has survived all the ordeals and come a long way since the days of extreme poverty, what sacrifices our predecessors have made, what achievements the country has accomplished today, and what challenges and problems we have to face in the future. We must stick together, forge ahead and do our very best with a spirit of patriotism on the basis of a general consensus reached by members of the public, and this is the best way to protect the national flag and national emblem. All these are education efforts to be undertaken first at schools.

Hence, schools should be encouraged to set up their own national flag raising teams, educate team members on knowledge about the standard procedures for raising the national flag, and require teachers to receive a certain number of hours of training and follow the relevant curriculum guides in this respect. It is also my hope that a teaching kit will be compiled by some authoritative agencies, so as to ensure a precise understanding among teachers and students of the use of the national flag and national emblem. I remember that during my visit to a primary school, I noticed that wrong information had been posted on a display board about the meaning of the five stars on the national flag, and I wonder whether the information was prepared by its students or school teachers. I understand that they had no malicious intention, but the information would mislead students into forming a wrong understanding of the matter. Therefore, with regard to such minute details in education issues, I hope that apart from the Constitutional and Mainland Affairs Bureau, the Education Bureau will also pay attention to them.

I sincerely hope that with the current legislative amendment exercise, together with the efforts to start from basic education, a correct message will be conveyed to the people, telling them that we must respect and protect the national flag, so that we may better integrate into the overall development of the country in a new era. We must stay alert to prevent recurrence of past incidents witnessed over the last few years in which the national flag and national emblem were wantonly desecrated, because such incidents will give our compatriots in the Mainland a very bad impression of Hong Kong people. A small group of people with such extremely offending acts will be enough to tarnish the impression among many compatriots in the Mainland of Hong Kong people, thus causing great hindrance to Hong Kong's participation in the overall development of the country. I therefore hope that this legislative amendment exercise will be a new starting point for fellow citizens to nurture an even deeper love for our Motherland.

Thank you, Deputy President.

MS ELIZABETH QUAT (in Cantonese): Deputy President, I speak in support of the National Flag and National Emblem (Amendment) Bill 2021 ("the Bill"). The national flag and national emblem certainly deserve our respect because they symbolize the dignity of our country. Unfortunately however, in the past few years we have often seen, and found in news reports, that some members of the public in Hong Kong have indeed committed some destructive acts on the national flag and national emblem, such as burning, mutilating, defiling and scrawling on them, and even throwing the national flag into the sea. In our Chamber, it also happened once that a former Member went so far as to flip the national flags upside down. Therefore, it is all the more important for us to strengthen legislation and promote national education.

The current amendment stems from the endorsement by the Standing Committee of the National People's Congress on 17 October last year and the coming into force since 1 January this year of the amendments to the Law of the People's Republic of China on the National Flag ("National Flag Law") and the Law of the People's Republic of China on the National Emblem ("National Emblem Law"). Since these two national laws have been listed in Annex III to the Basic Law, the Hong Kong Special Administrative Region ("HKSAR") has the constitutional responsibility to implement relevant legislation in Hong Kong.

The current amendment focuses on seven areas: use of national flag and national emblem; national flag and national emblem not to be used inappropriately; etiquette for taking part in or attending national flag raising ceremony; expanded

scope of prohibition on certain uses of national flag and national emblem; protection of the national flag and national emblem; education in national flag and national emblem; and inclusion in sound broadcasting and domestic television programme services. Most importantly, the current amendment makes it clear to the public what is considered inappropriate use of the national flag and national emblem. It requires among others that a national flag or a national emblem must not be displayed upside down, and must not be displayed or used in any way that undermines the dignity of the national flag or the national emblem; a national flag or a national emblem must not be discarded at will; and a national flag or a national emblem that is damaged, defiled, faded or substandard must be recovered or disposed of in the manner stipulated by the Chief Executive. Therefore, the situation we saw in the past where some national flags and national emblems were indiscriminately discarded on streets should not recur. The Bill also provides that after an event in which national flags or national emblems are used, the organizer must, in the manner stipulated by the Chief Executive, recover or dispose of the national flags or national emblems.

The Bill clarifies the provisions relating to offences of desecrating behaviour in relation to the national flag and national emblem, including the prohibition of a person from publicly and intentionally desecrating the national flag or national emblem by burning, mutilating, scrawling on, defiling or trampling on it or its image, or in any other way; and from intentionally publishing a desecration of the national flag or national emblem by burning, mutilating, scrawling on, defiling or trampling on it or its image, or in any other way. In effect, public and intentional desecrating acts in relation to the national flag and national emblem committed in both real life and the virtual world would be an offence. Currently the level of penalty, i.e. up to a fine of \$50,000 or imprisonment for three years, remains unchanged and is in fact the same as that in respect of insulting the national anthem.

The legislative principle of the Bill is to reflect the provisions, principles and spirit of the amended National Flag Law and the amended National Emblem Law, safeguard the proper use and preserve the dignity of the national flag and the national emblem, which are the symbols and signs of our country, so as to promote respect for the national flag and national emblem, enhance the sense of national identity among citizens and promote patriotism, whilst taking into account our common law system and the actual circumstances in Hong Kong. Penalties alone are not enough, and that is why the current amendment has incorporated a very important part, namely the enhancement of education. I am particularly glad to see that the current amendment has added a new section on the education in national flag and national emblem, which is not covered by the existing ordinance. It provides that the Secretary for Education must give directions for the inclusion of

the national flag and national emblem in primary education and in secondary education, and requires that a post-secondary education institution act in accordance with the directions given by the Secretary for Education. I believe that clear guidelines, while in place, are conducive to strengthening national education from a young age, especially because such directions will be given for nursery education and kindergarten education as well. As for the next step, I think it is all-important to strengthen the training of teachers. It is imperative for teachers to know clearly what is the right thing to do, so that generation after generation we can foster respect among citizens from a young age for the national flag and national emblem, as well as for the dignity of our country.

This is certainly a great concern to us because it is currently commonplace in the community that the national flag is raised and displayed and the national anthem is played and sung at the events that we attend. Clause 7 of the Bill proposes to add section 4A to stipulate the etiquette for taking part in or attending a national flag raising ceremony. In this regard, many members of the public have asked me how to be compliant and avoid breaking the law in future. We therefore urge the Administration to widely publicize the points to note in the relevant provisions, thus enabling the general public to have a better understanding of the etiquette to be followed by any person taking part in or attending a national flag raising ceremony, and know under what circumstances the national flag should be raised, without having to worry that situations such as negligence or inability to stand would constitute an offence.

I believe that the general public has in fact great respect for the national flag and national emblem and understands the need to observe certain etiquette during a national flag raising ceremony. Of course, should we be still in the past Legislative Council, I believe it would have been difficult for us to discuss this Bill so calmly, because as I recall even when we discussed whether we should stand during the singing of the national anthem, some Members would keep filibustering and raising inane questions in this Council in order to fail or block those bills that required urgent passage.

The resumption of calm and rational discussion in this Council today is in fact a rather good start. Therefore, I hope that the Government will make more thorough efforts in publicity and education after the passage of the Bill, and do all the work in one go while paying more attention to details in the event of any legislative amendment related to national dignity in future.

Deputy President, with these remarks, I support the Bill.

MR SHIU KA-FAI (in Cantonese): Deputy President, the National Flag and National Emblem (Amendment) Bill 2021 ("the Bill") seeks to implement the amended National Flag Law and the amended National Emblem Law in the Hong Kong Special Administrative Region ("SAR") in light of the endorsement by the Standing Committee of the National People's Congress on 17 October last year and the coming into force since 1 January this year of the amendments to the two national laws. The principle of the legislative amendments is to, among others, safeguard the proper use and preserve the dignity of the national flag and national emblem, which are the symbols and signs of our country, so as to promote respect for the national flag and national emblem, enhance the sense of national identity among citizens and promote patriotism.

In fact, these principles are well justified as the national flag, national emblem and national anthem are all national symbols signifying the dignity of the country. Safeguarding the proper use of the national flag, national emblem and national anthem is essentially equivalent to respecting one's own country. To use an analogy, the country is like one's own parents. If someone insulted your parents, would you suffer in silence or accept that behaviour? Would you even take the initiative to insult your own parents? I believe there may be such people, but they are probably brute beasts.

In fact, in recent years quite a number of people have not shown respect for the national flag, national emblem, or even the national anthem. For instance, in 2018, there was a lady named CHEUNG Sin-ying in the Legislative Council Chamber. I believe that many Hong Kong people remember her saying right in this Chamber that hearing the national anthem made her want to throw up. Many patriotic Hong Kong people were outraged when they heard such remarks from her. I believe that this lady's name will be engraved in the hearts of patriots forever. Despite seemingly being just an utterance of a few simple words, her behaviour has deeply insulted all those who have feelings for the country.

The incidents of misbehaviour or insult towards the national flag or national emblem included disqualified former Member Dr CHENG Chung-tai flipping the colleagues' national flags upside down in the Chamber in October 2016, an apprentice barista desecrating a national flag at the "Reclaim Tuen Mun Park" protest in September 2019 during the period of "black-clad violence", a group of people throwing a national flag into the sea at Tsim Sha Tsui during a protest march dubbed "marching again in Mong Kok" on 3 August 2019, and a group of people who joined the "shop with you" activity throwing a national flag into a pool at the

New Town Plaza in Sha Tin in September 2019. All of these acts constituted desecration of the national flag. In addition, I believe that many Hong Kong people know social activist KOO Sze-yiu, who in July last year attempted to desecrate the five-star flag by writing words on it when, together with others, expressing support for certain people suspected of inciting an unlawful assembly. He was eventually handed a jail sentence of four months. Why did the people I mentioned just now behave like this towards their own national flag? Would they do the same to their parents? In simple terms, actually they do not regard it like their parents at all. Alternatively put, they do not see this country as their own. If they do not see this as their home, then they should please leave. What is the point of staying here?

Upon passage of the Bill, I believe it will have a more than ordinary deterrent effect on those people. Secretary, in my personal view, the court has been rather lenient in handing out sentences in the past few cases I mentioned just now. The maximum penalty under the Bill is understood to be three years' imprisonment. I hold that only such levels can make those people aware not to take such farcical acts as a laughing matter, because their behaviour is no trivial thing. For example, Miss CHEUNG Sin-ying, whom I mentioned earlier, seemed to get a kick out of saying those few words, but people would always remember her.

Here, I would like to mention in passing that under the Bill, it may not be possible for the national flag and national emblem to be displayed on merchandise. I know that some very patriotic Hong Kong people would have some T-shirts made to order. Would the clothes of these fellow people be deemed inappropriate under the legislation in future because no approval or consent has been obtained? In my opinion, the Government should step up publicity in this regard to advise them that patriotism also requires compliance with rules and regulation, so they should not print something like the national flag on their clothes or merchandise at will, because this move may backfire by contravening the law. I think the SAR Government may need to do more publicity.

In addition, I would like to say that, Deputy President, there are two persons named LAM Wai-man in my own party: one is a District Council member for the constituency of Jardine's Lookout and the incumbent Vice Chairman of the Wan Chai District Council; the other is the Chairman of the Hong Kong General Chamber of Pharmacy. Both being our very patriotic fellows, they are certainly willing to serve the community. However, apart from the two members of our party who are called LAM Wai-man, I think other patriotic fellows also know that there is yet another LAM Wai-man in Hong Kong. This LAM Wai-man shares

with the two aforementioned namesakes the common characteristic of being very patriotic. In the case I mentioned earlier where a five-star national flag was thrown into the sea at Tsim Sha Tsui on the sidelines of the protest march dubbed "marching again in Mong Kok" on 3 August 2019, this Mr LAM Wai-man was first out of the gate, acting on his own initiative, to gather his friends to Tsim Sha Tsui the next morning to erect the flag again. It has been learnt that actually at that time he had no idea where to find a national flag to erect, but it turned out that there was one at his own home, which his father had bought at an event against British repression 52 years ago and all along kept as a family heirloom for him, so this Mr LAM Wai-man immediately took it out and put it up.

What does this story tell us? It is the truth that education and the paternal generation have a profound influence on young people in terms of patriotism. If a father is patriotic, his children should also be likewise patriotic under normal circumstances. That being the case, how can we continue to nurture and educate the next generation in future? In fact, if we say one more sentence or tell one more story to the young people or the younger generation around us, it will also have a significant indicative and directional effect on their future values. Patriotism needs to be expressed in actual action. Protecting the national emblem and national flag and respecting the national anthem are in fact the basic things that all of us in Hong Kong should do. Therefore, the earlier story tells some fellow people in Hong Kong exactly that we are willing to come out and safeguard the dignity of our own country.

Lastly, I would also like to share the story about Ms MENG Wanzhou, which has smouldered for a good three years as all of us have actually noted. Two days ago, Ms MENG finally returned to China. I have never met Ms MENG in person. I believe that in fact many Hong Kong people have never met her either. However, when Ms MENG Wanzhou arrived at Shenzhen by plane, I saw many of my friends around me expressing inexplicable joy on Facebook. That delight is beyond description. Why are so many people so enthusiastic and pleased about the return to her own country of a woman who seems to have no blood ties to us? It is because the public of Hong Kong, or the Chinese people, have in fact clearly seen from her story that for the purpose of suppressing China as Huawei is a very big enterprise, the United States used some excuses to high-handedly detain Ms MENG for three full years in Canada, where some specious laws were invoked to prevent her from returning to China. However, as we have all seen, Ms MENG finally returned to our country after three years. Things would have been very different were it not for the fact that our country is so powerful. We can draw on the experiences of many other countries in the Middle East, where it is indeed very

difficult for one's own country to keep a city intact, let alone for someone to safely come back to Hong Kong ... sorry, back to their own place. Therefore, Deputy President, the very existence of the country is a prerequisite for the creation of families. I hope that the people of Hong Kong cherish and respect the National Flag Law and the National Emblem Law currently in question, as well as the National Anthem Law preceding them.

Thank you, Deputy President.

DR JUNIUS HO (in Cantonese): Deputy President, this amendment to the National Flag and National Emblem Ordinance is the logical course of events. It is not an option but a necessary duty to Hong Kong because the 22nd session of the Standing Committee of the 13th National People's Congress endorsed the amendments to the National Flag Law and the National Emblem Law. These two national laws have been listed in Annex III to the Basic Law, and the amended national laws came into force on 1 January 2021. And expeditiously in August 2021, the Chief Executive in Council proposed the National Flag and National Emblem (Amendment) Bill 2021 ("the Bill"). Today is 29 September. It has only been a little more than one and a half months since the introduction of the Bill on 10 August. This is highly efficient. This precisely shows the efficiency that the Legislative Council of Hong Kong should have.

(THE PRESIDENT resumed the Chair)

Back in July 2020, the Chief Executive announced that owing to the COVID-19 epidemic situation, the Legislative Council General Election would be postponed for a minimum of one year to prepare for the fight against the epidemic. In just over one-odd year, we have set many new records. We have improved the electoral system. Public officers are required to take an oath to swear allegiance. And today, we are dealing with the amendments to the National Flag and National Emblem Ordinance. What is the purpose of this series of work? President, it is to strengthen the sense of national identity among the HKSAR citizens. XIA Baolong, Director of the Hong Kong and Macao Affairs Office made an important speech at the symposium marking the first anniversary of enacting the Hong Kong National Security Law held this year. I believe all those who hold public office in the Legislative Council or in the Government, those who serve the public, or even those who will participate in other public offices, whether in a statutory body

or advisory body, will be subject to the same treatment. They all will have to take an oath to swear allegiance.

Oath-taking is to show the standard or connotation of patriotism and the love of Hong Kong. If this is not done properly, all subsequent actions will go wrong. I do not want to be repetitive, but my colleagues have already pointed out and we have witnessed the "big mess" that occurred on the day of oath-taking at the Sixth Legislative Council in 2016. If I am to say anything about the incident in a slightly critical manner, such absurd acts were childish. If I am to put it more seriously, such actions are an act of treason. Unlike our present approach where, in which people who disrespect or damage the national flag or national emblem will only be liable to a fine at level 5 or imprisonment for two years, their actions can result in life imprisonment or even death penalty in other countries. We are already very lenient to them.

As a national, we must have patriotic sentiments towards our nation. Like a baby given birth by the mother, we should fulfil our filial duty and love and respect the elders. This is in line with the Confucianism that Chinese people always respect. However, even in countries where people have no idea of Confucianism, their feelings about their countries are not very different from ours. Why can some people in Hong Kong be so heartless and deranged? Why do we despise our national flag and scrawl on, disrespect and damage our national emblem? During the "black-clad violence", we found such scenes on the television extremely disturbing. However, we might have felt too disturbed at that time that we did not know how to react to such violence. Today, we have somewhat recovered from our shock and are a little calmer than before. And it is absolutely correct to take forward this work now.

President, here, I would like to ask ... this is not only the duty of the Secretary for Constitutional and Mainland Affairs, though he is the responsible public officer. But the public officer who should attend this debate today and sit on the front roll should be the Secretary for Education. There is a serious dereliction of duty on the part of the Education Bureau. The absurdity yesterday actually sprouted from the failure of education. What have happened to the 90 000-odd teachers? In 2014, someone at the Education University of Hong Kong was so heartless and deranged as to congratulate one of our public officers on the loss of her son. Yesterday, the body of a police officer who went missing for several days while discharging her duty for maintaining public order of Hong Kong was finally found. She died bravely on duty for us. She lost her life. However, some heartless and deranged firefighters, singers in the entertainment

industry and a former District Council member, all of whom are worse than animals, said something like "celebrating her death with champagne". So, I have already said to the Secretary for Security that they must arrest these people and do not need to wait for the legislation on Article 23. They should arrest them using the Crimes Ordinance.

President, I have not digressed. The purpose of the national flag and national emblem is to show that we have patriotic sentiments; otherwise, we will not be required to face the national flag and the Hong Kong SAR flag during oath-taking. Hence, this symbolic meaning is not about the superficial symbol. It actually has a profound meaning. We need to restore order from chaos. There are still many such people in Hong Kong. Even if they only account for 10% of the 7.5 million people, it is already a lot. These people are impervious to reason and it is useless to reason with them; 20% of the population support these people, while the rest just follow the herd. So, who do we need to fight for? We need to restore order from chaos and put those who just follow the herd back on the right track. And those heartless and deranged people are incurable and can only be treated with severe punishment.

Secretary, I have high hopes on you. Among the public officers, you are the one tasked with the largest number of portfolios. The toughest and the easiest ones are all dealt by you. You have completed the task to improve our electoral methods; and now, you deal with the national flag and national emblem. However, as to the implementation, you must discuss with your colleague Kevin YEUNG, Secretary for Education and also those working under him. Do not shirk your responsibility and pretend not to see the problems. All principal officials are subject to the accountability system. You can dodge one problem, but you cannot dodge all problems.

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 Constitutional and Mainland Affairs to reply. Then, the debate will come to a close.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, first of all, I would like to thank Mr CHEUNG Kwok-kwan, the Chairman of the Bills Committee on National Flag and National Emblem (Amendment) Bill 2021 ("Bills Committee"), all committee members, the Legislative Council Secretariat and legal advisers for their efforts in the efficient and smooth completion of the scrutiny of the National Flag and National Emblem (Amendment) Bill 2021 ("the Bill"). I also thank the Legislative Council and other people for providing valuable opinions on the Bill. I am delighted to see that Members and different sectors of society fully supported the expeditious scrutiny of the Bill in the past few months, so that the Hong Kong Special Administrative Region ("HKSAR") can fully demonstrate the provisions, principles and spirit of the amended Law of the People's Republic of China on the National Flag ("National Flag Law") and the amended Law of the People's Republic of China on the National Emblem ("National Emblem Law") by way of local legislation, thereby fulfilling the constitutional responsibility of the SAR Government as early as possible.

I have mentioned in different occasions before that the national flag, national emblem and national anthem are the symbols and hallmarks of our country, representing national authority and dignity. In response to the new situation and new problems found in the course of policy implementation, our country adapted to evolving circumstances by completing the amendments to the two national laws, i.e. the National Flag Law and the National Emblem Law last October, so as to improve the system of national symbols and hallmarks, and better protect national image and dignity. Since the two national laws have been listed in Annex III to the Basic Law, and applied locally by legislation through the enactment of National Flag and National Emblem Ordinance ("NFNEO") as early as July 1997, the SAR Government has decided to amend NFNEO so that the two amended national laws can be applied locally. This approach is in conformity with the requirement of the Basic Law and the "one country, two systems" principle.

The legislative principle of the Bill is very clear, that is to reflect the provisions, principles and spirit of the amended National Flag Law and the amended National Emblem Law, i.e. to safeguard the proper use and preserve the dignity of the national flag and the national emblem which are the symbols and hallmarks of our country, so as to promote respect for the national flag and national emblem, enhance the sense of national identity among citizens and promote patriotism, whilst taking into account our common law system and the actual

circumstances in Hong Kong. Except for some provisions that are not applicable to HKSAR, the majority provisions of the amended National Flag Law and the amended National Emblem Law have been suitably incorporated into the Bill as appropriate.

There are three main amendments in the Bill:

First, making clear the requirements in respect of the use of the national flag and the national emblem, including adding provisions to provide for the etiquette to be followed by the persons who take part in or attend a national flag raising ceremony, the circumstances at which the national flag or national emblem be used inappropriately, the manner of recovery and disposal of the national flags and the national emblems, the use of the national emblem design on the home page of designated websites, etc. The Bill empowers the Chief Executive to make and promulgate stipulations in relation to the manner of recovery and disposal of the national flags and the national emblems, as well as the use of the national emblem design on designated websites. Regarding the mechanism on the recovery of national flags and national emblems, citizens or event organizers will be responsible for returning any damaged, defiled, faded or substandard national flags and national emblems to designated collection points for central handling by the SAR Government. Of course, we encourage members of the public to reuse standard national flags and national emblems as such practice can promote patriotism and is consistent with the principle of environmental protection.

Second, adding the prohibitions on certain uses of the national flag and the national emblem and clarifying the provisions relating to offences of desecrating behaviour in relation to the national flag and national emblem. Our legislative intent is very clear, that is to prohibit all public and intentional desecrating acts in relation to the national flag and national emblem, including acts committed in both real life and on online platforms. In order to better reflect this legislative intent, we have made clearer the original provisions concerning the offense of desecrating the national flag and national emblem by making reference to the National Anthem Ordinance, while the level of penalty remains unchanged.

Third, providing for the education and promotion of the national flag and national emblem so as to enhance students' and people's understanding. The Bill requires the Secretary for Education to give directions for the inclusion of the national flag and national emblem in primary education and in secondary

education, as well as matters relating to the daily display of the national flag and the weekly conduct of a national flag raising ceremony. The Secretary for Education will provide schools with guidelines according to the existing mechanism, and offer relevant resources and support duly to help schools implement the related requirements. In addition, the Bill also requires domestic television programme service licensees and sound broadcasting service licensees to promote the national flag and national emblem in the government announcements or materials that are in the public interest. The Constitutional and Mainland Affairs Bureau is working on the concerned announcement on public interests and publicity footage which are expected to be aired after the Bill is passed and enacted.

Overall speaking, the fundamental principle and spirit of the Bill is "respect", that is to respect our country, and respect the national flag and national emblem as the symbols and hallmarks of our country. This is our obligation as the people of our country. Regarding some people who intend to desecrate the national flag or national emblem, or commit public and intentional desecrating acts in relation to the national flag and national emblem, the Bill has kept the related criminal liability and penalties and has made them clearer, in a bid to punish and deter people from committing such acts, showing that education and punishment go hand in hand.

During the scrutiny by the Bills Committee, we thank committee members for their detailed discussions and valuable opinions on individual provisions and implementation details. I will now give a brief explanation and response on the provisions and matters that Members concern the most.

First of all, some Members are concerned that if non-compliance with the directional provisions in the Bill would constitute a desecrating act in relation to the national flag and national emblem, and hence commit the offence concerning the protection of the national flag and national emblem listed in section 7 of the amended NFNEO. As I said just now, one of the focuses of the Bill is to make clear the requirements in respect of the use of the national flag and the national emblem. In this connection, the Bill follows the relevant arrangements of the two national laws by incorporating certain directional provisions into the Bill, for example, a national flag or a national emblem must not be displayed upside down. Although the directional provisions do not carry any penalty, any person who violates the elements of offence in section 7 of the amended NFNEO regarding the protection of the national flag and national emblem (i.e. to publicly and intentionally commit desecrating acts in relation to the national flag and national

emblem with intent to desecrate the national flag or national emblem) would commit an offence.

On deciding whether a particular case (including the violation of directional provisions) would constitute a violation of the law, I must reiterate that the law enforcement agencies would need to consider holistically the actual circumstances of each case and the gathered evidence according to the relevant stipulations in the legislation before deciding to take any law enforcement action. And it will be the court to determine at the final stage whether the prosecution has proved all elements of the offence beyond reasonable doubt. We have also stressed repeatedly that members of the public need not worry as long as they do not have the intent to desecrate the national flag and national emblem. Of course, we still hope that the public can look at the symbol and hallmark of our country with the spirit and attitude of respect. After all, as I mentioned above, this is our obligation as the people of our country.

Furthermore, some Members are concerned about the specific situations in which we need to apply for the use of national flag, national emblem and their design. For example, do we need to make prior application if private buildings and fishing boats, etc. wish to display national flag to express patriotism.

To put it simple, according to the Bill, the use of national flag, national emblem and their design must comply with section 6 of the amended NFNEO, and they cannot be used in occasions prohibited by the provision, including other occasions on which or places at which the display or use of the national flag, national emblem or their design is restricted or prohibited under a stipulation made by the Chief Executive. According to the stipulation made by the Chief Executive, the national flag, national emblem and their design must not be used in connection with any trade, calling or profession, or the logo, seal or badge of any non-governmental organization except with prior approval from the Government. In other words, application is not needed for the use of national flag, national emblem and their design by anybody as long as the use does not involve the occasions listed in section 6 of NFNEO and in the stipulation made by the Chief Executive. Under such circumstances, application is also not needed even for private places, boats and buildings, etc. to raise the national flag for display rather than for use in connection with the related trade, calling or profession. Details of application for the use of national flag, national emblem or their design are available on the web page of the Protocol Division of Government Secretariat.

Should anyone have any enquiries about the use of national flag, national emblem or their design, they can seek help from the Protocol Division. The Protocol Division welcomes enquiries from the public.

The last point I would like to respond to is the consistency between the Regional Flag and Regional Emblem Ordinance ("RFREO") and NFNEO. I have explained at the meeting of the Bills Committee before that in order to fulfil its constitutional responsibility, it is the SAR Government's top priority to amend NFNEO as early as possible. Nevertheless, we also agree with members' views that there is a need to amend RFREO accordingly to ensure reasonable consistency with the Bill. We now plan to introduce the relevant bill into the Legislative Council within the next legislative session. Yet, I must stress that the provisions of the existing RFREO has offered sufficient protection to prohibit and handle any public and intentional desecrating acts in relation to the regional flag and regional emblem, so Members and the general public need not worry.

President, in order to expeditiously implement the provisions in the amended National Flag Law and the amended National Emblem Law which are applicable to Hong Kong, and in turn fulfil the constitutional responsibility of HKSAR, I move that the Second Reading of the Bill be resumed, and hope that Members can support and pass the Bill.

I so submit. Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the National Flag and National Emblem (Amendment) Bill 2021 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

I declare the motion passed.

CLERK (in Cantonese): National Flag and National Emblem (Amendment) Bill 2021.

Council became committee of the whole Council.

Consideration by Committee of the Whole Council

CHAIRMAN (in Cantonese): This Council now becomes committee of the whole Council to consider the National Flag and National Emblem (Amendment) Bill 2021.

NATIONAL FLAG AND NATIONAL EMBLEM (AMENDMENT) BILL 2021

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

CLERK (in Cantonese): Clauses 1 to 18.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): If not, we now proceed with the voting.

I now put the question to you and that is: That the clauses read out by the Clerk stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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.

PRESIDENT (in Cantonese): All the proceedings on the National Flag and National Emblem (Amendment) Bill 2021 have been concluded in committee of the whole Council. Council now resumes.

Council then resumed.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I now report to the Council: That the

National Flag and National Emblem (Amendment) Bill 2021

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 Constitutional and Mainland Affairs be passed.

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

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

(Members raised their hands)

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

(No hands raised)

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

I declare the motion passed.

Third Reading of Government Bill

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

NATIONAL FLAG AND NATIONAL EMBLEM (AMENDMENT) BILL 2021

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I move that the

National Flag and National Emblem (Amendment) Bill 2021

be read the Third time and do pass.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the National Flag and National Emblem (Amendment) Bill 2021 be read the Third time and do pass.

Does any Member wish to speak?

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

I declare the motion passed.

CLERK (in Cantonese): National Flag and National Emblem (Amendment) Bill 2021.

Resumption of Second Reading Debate on Government Bill

PRESIDENT (in Cantonese): This Council resumes the Second Reading debate on the Personal Data (Privacy) (Amendment) Bill 2021.

PERSONAL DATA (PRIVACY) (AMENDMENT) BILL 2021**Resumption of debate on Second Reading which was moved on 21 July 2021**

PRESIDENT (in Cantonese): Ms Alice MAK, Chairman of the Bills Committee on the Bill, will first address the Council on the Bills Committee's Report.

MS ALICE MAK (in Cantonese): President, in my capacity as Chairman of the Bills Committee on Personal Data (Privacy) (Amendment) Bill 2021 ("the Bills Committee"), I now present its report.

The Personal Data (Privacy) (Amendment) Bill 2021 ("the Bill") seeks to criminalize doxxing acts and empower the Privacy Commissioner for Personal Data ("the Commissioner") to carry out criminal investigation and institute prosecution in doxxing cases and to serve cessation notices in respect of doxxing contents, so as to enhance the combat against the infringement of personal data privacy by way of doxxing. Members opined that doxxing had far-reaching repercussions on the victim and supported the expeditious passage of the Bill.

The Bill is targeted at combating the dissemination of doxxing information and also persons who commit doxxing with the intention of causing specified harm to the data subject or his family members or with reckless disregard for whether any such harm will be caused to them. Some members pointed out that it would be difficult for the prosecution to ascertain whether a doxxing act was intentional or reckless, and whether the victim had sustained any specified harm. Members were concerned that the conviction threshold under the Bill might hinder prosecution work and result in the acquittal of the defendant.

The Administration explained that the offences under the two-tier structure introduced by the Bill should be able to allay members' concern. In determining whether the disclosure of the relevant information had caused any specified harm to the data subject, the court will also take into account the victim's psychological report and medical practitioners' advice.

Some members considered that apart from causing harassment to the data subject and his family members, doxxing would also inflict harm on other people around the data subject. Therefore, they opined that the cohabiting partner and

working partners of a data subject should also be included as a protection target under the Bill.

The Administration stated that a cohabiting partner or working partner who sustained specified harm due to doxxing would be regarded as a data subject and directly protected under the Bill.

Another concern raised by members was about the Bill's proposal to empower the Commissioner to access an electronic device (such as mobile phones) and to stop, search and arrest a person without a warrant. Some members were concerned that the Commissioner might fail to give regard to the privacy and rights of the public in exercising the relevant powers. Some other members opined that the Office of the Privacy Commissioner for Personal Data ("PCPD") should consider the formulation of enforcement protocols to safeguard the rights of the public.

The Administration advised that the Commissioner or a person authorized by the Commissioner could exercise the powers concerned only when there was reasonable ground to believe that a person had committed a relevant offence. Besides, access to an electronic device without a warrant must comply with the privacy protection principle under the common law. Furthermore, an authorized officer would wear a warrant card or uniform to prove his identity. PCPD would also issue relevant guidelines on its website covering persons within the meaning of "authorized officer" for public information.

Members noted that if the discloser was outside Hong Kong or committed doxxing with pseudonyms, it would be difficult to carry out investigation and enforcement. Nevertheless, the Commissioner could serve a cessation notice on the Internet service provider to demand his removal of the doxxing contents in question with a view to minimizing the adverse impact to the data subject as well as the public at large. In this connection, members expressed concern about the practical effectiveness of the Bill in urging overseas social media platforms to remove weblinks containing doxxing contents.

The Commissioner advised that any person who was able to take a cessation action in relation to an electronic message (such as the operator of an online platform) would commit an offence under the Bill if he contravened a cessation notice, unless a defence could be established. As most of the overseas online platforms already had a policy that the contents of the platforms should comply

with the requirements of local legislation, it was expected that most of the online platforms would comply with the cessation notice.

Members noted the stipulation under the proposed section 66O of the Bill that it was a defence for a person charged with contravening a cessation notice to establish that there was a risk of incurring a civil liability arising in contract, tort, equity or otherwise. Some members were of the view that the proposed defence was too wide in scope, thereby undermining the Commissioner's power to issue, and capability to enforce, the cessation notice.

To allay members' concern, the Administration proposed to delete the defence under that particular provision and instead add a new section 66OA to include an immunity clause, so as to ensure that the recipient of a cessation notice would be protected from potential civil liability arising from compliance with the cessation notice, and that any doxxing information could be removed as soon as practicable. Members had no disagreement over this amendment.

Speaking of the investigative and prosecution powers conferred by the Bill upon the Commissioner, some members were concerned about the adequacy of PCPD's manpower resources to cope, and whether its existing staff had the relevant experience. Besides, some members considered it necessary for the Administration to set out clearly the division of work and delineation of responsibilities between the Police and PCPD over the handling of doxxing cases under the Bill. PCPD advised that in order to meet the additional demand for staff, PCPD would conduct internal redeployment, request additional resources according to the established mechanism, and invite the Police to provide relevant training courses to its staff. Speaking of work division, PCPD was actively holding discussions with the Police and intended to set up a coordination and cooperation mechanism with the Police.

Some members were concerned that since the contents of the Bill might not be clear or comprehensible to the public, people might break the law inadvertently. Members requested that after the passage of the Bill, the Administration should step up publicity and education to enhance people's knowledge about the Bill and increase the awareness of protecting personal data privacy among people (especially children and young people), and it should also remind the operators of the relevant websites, online social media platforms or discussion forums to prevent any abuse of their platforms.

Finally, the Bills Committee agreed to the amendments proposed by the Administration as above. The Legal Service Division did not find any legal or drafting problems with the amendments, and the Bills Committee will not propose any amendments. I must also thank the Clerk to the Bills Committee and its various members for their assistance in bringing the Bills Committee's deliberation to expeditious completion.

President, below are my views on the Bill. I have just reported on the work of the Bills Committee, and I will now speak on the Bill in my personal capacity. It can be said that the Bill introduced by the Government into the Legislative Council this time around to combat doxxing is better late than never. President, if Members still remember, I have already raised a number of questions in the Legislative Council about whether the Government has any existing legislation to combat doxxing ever since the onset of "black-clad violence". As a matter of fact, the contents of this legislation are actually nothing new. On the contrary, they pertain to problems that have been discussed for quite some time and have not been squarely addressed by the Government all along.

As I remember, ever since I joined the Legislative Council, whenever the Commissioner of each tenure presented his report in the Legislative Council—he has to present his report every year—we would invariably dismiss the Commissioner as a "toothless tiger" in our discussion each time as he was not vested with any prosecution and enforcement powers at all. Later, I received many cases involving unscrupulous financial intermediaries, and such cases could even serve as proof that the Commissioner was honestly nothing like a "fearsome warrior", so to speak. Obviously, the financial particulars of such assistance seekers had been stolen and sold out. But the Commissioner was unable to do anything about this. Later, when "black-clad violence" broke out in 2019, a large number of victims, such as police officers, officials and public figures with divergent political views, including those who are now present and also me, were subjected to doxxing, and our personal data were disclosed on the Internet. The wanton disclosure of our personal data by those who committed doxxing once again brought to the fore the Commissioner's lack of law enforcement power. Due to the publication of personal data, the victims concerned have to live their life in prolonged fear. Members should not think that they can stay out of all this if they are upright without any qualms. When we realize that the personal particulars of us and those around us, including addresses, vehicle registration numbers, telephone numbers, school names and workplace address, have been made public, we will invariably feel intimidated. We may still be alright as we are used to facing the public. But speaking of our family members and, for

example, the children of police officers, as the names of their schools have been made public, they have been boycotted and bullied by their classmates. They are utterly innocent, but they have to suffer unfair harm.

Besides, the possible appropriation of the disclosed personal data by lawless elements may cause financial loss to the victim, so we honestly feel it necessary and duty-bound to amend the law, so as to protect the personal privacy of everybody and avoid any harm to them. Therefore, the legislative exercise this time around is necessary, and we must proceed with it expeditiously with an accurate target. President, despite my absolute support for this legislative exercise initiated by the Government to combat doxxing, the contents of this amendment exercise actually involve a hasty attempt to deal with those issues which should and must be addressed, just as I mentioned during the scrutiny of the Bill by the Bills Committee. It has only dealt with a small part of the whole problem and failed to address many problems all the same.

The first problem concerns government public registers, such as those maintained by the Land Registry and the Transport Department. In fact, in many doxxing cases, the relevant personal particulars are obtained through access to government public registers. This problem has not been addressed in this legislative exercise. While information transparency is important, protecting personal data and preventing its abuse by lawless elements are of equal importance. The authorities should give serious thoughts to the questions of how to strike a balance, whether a limited access mechanism for public registers should be formulated, and whether the public register inspection systems of various government departments should be put under central coordination. The authorities must not avoid all such questions and should instead deal with them immediately.

President, in the olden days with mutual trust among people in society, we believed that everybody would adhere to professionalism and occupational ethics despite differences in their political stances. But as we can see, since the outbreak of "black-clad violence" in 2019, our society has lost its mind, and even some professionals have discarded the ethics expected of them. In order to fulfil their personal political objectives, some have even disregarded their occupational ethics and committed blatant theft of others' personal data for doxxing purpose. When self-discipline and mutual trust have been lost, we must enact legislation for stringent regulation.

Besides, the target of this legislative exercise is doxxing at the individual level, so the relevant legislation can deter individuals only. Organizations possessing substantial personal data and information are completely out of its scope. Some departments and organizations possess substantial personal data, but it looks like they have not done their best to protect the data concerned. As a result, their staff members may seize the opportunity and obtain the personal data of probably their service recipients or customers without much difficulty.

For example, there have been some cases where staff members of the Immigration Department ("ImmD"), the Hospital Authority ("HA") and an airline company took advantage of their job nature and obtained the personal data of some people, and they would disclose them to others afterwards. A former ImmD staff member once logged in to a government system and obtained the personal data of over 200 public officers without authorization, such as government officials, judges, police officers and their family members, including me—I was one of the victims. She even provided the data concerned to certain groups in Telegram, an instant messaging application, which then published them in its channel. Earlier on, she pleaded guilty to one count of misconduct in public office and was sentenced to 45 months' imprisonment in the District Court the day before yesterday. But the department she worked for, namely ImmD, has not faced any penalty even though its staff member obtained the data concerned without permission.

Another example concerns an airline company. During the outbreak of "black-clad violence"—as Members may still remember—its certain staff members disclosed the flight information of its passengers and called upon others to "pick them up at the airport". This is an example showing the failure of an organization to exercise diligent supervision over the abuse of its clients' personal data by its employees.

Another example involves HA staff members. Previously, there was a case where an HA staff member disclosed the personal information of patients. But what is more important is the disclosure of patients' medical conditions, one example being their X-ray films. It can be that their X-ray films are circulated online soon after their mishaps. All such organizations possess important personal data of many people. But have they done their utmost to ensure the safety of the personal data in their possession? Have they drawn up any guidelines or systems governing who can access such personal data?

After the commencement of the new law, such employees who disclose the personal data of others will have to assume criminal liability. But in the case of the organizations employing them, they are completely free from any legal liability and can stay out of the matter. Employees who commit doxxing should definitely be held liable. Why can the organizations concerned be free from any liability in their capacity as employers? Have they properly handled such data? Have they drawn up any proper guidelines? Have they properly required their employees to comply with such guidelines stringently and not to disclose any such data to others? Employers and organizations are absolutely duty-bound to protect our personal data securely as gatekeepers.

Therefore, I personally think that this legislative exercise is only the first step, and what we have done is still not comprehensive enough. Despite this, I certainly understand the urgent need to enact the legislation concerned in order to combat doxxing. This explains why the legislation this time is targeted at doxxing acts committed by individuals as a start. I absolutely understand and support this. Nevertheless, this does not mean that the legislation to be passed is comprehensive. The legislation still has much room for improvement, including the use of public registers as I talked about just now, the liability of organizations and government departments in protecting personal data, and even the right to be forgotten. We should continue to deal with all this.

The passage of the legislation this time does not mean an end to this task, and the Government still has much to do. I hope that the authorities can continue to follow up this task and expeditiously propose amendments in the next legislative session based on a review of the other aspects relating to the legislation, so as to refine the legislation as soon as possible.

Finally, President, after the enactment of legislation as the very first step, the Commissioner will no longer be a "toothless tiger" and instead be truly vested with powers. But we do not want her to become a "commander without soldiers". As it can be certain that a lot of work will have to be done for evidence collection and investigation after the legislation is enacted, the authorities must inject resources for increasing manpower, so as to enable the Commissioner to enforce the law in practicality and combat doxxing. That way, she can become a "tiger with sharp teeth" and also a "commander with soldiers". I hope to see the eradication of personal privacy infringement by way of doxxing in society.

President, with these remarks, I support the resumption of Second Reading of the relevant legislation.

MR CHAN CHUN-YING (in Cantonese): President, respecting personal privacy may not seem too difficult at first glance, but along with the free flow of information, Hong Kong and the global community alike are in fact faced with the same problem of doxxing.

The 2019 "black-clad violence" period saw an intensifying prevalence in Hong Kong of malicious doxxing, which became a powerful weapon for attacking others. Quite a number of public officers were the first to bear the brunt, with members of the disciplined services such as the Police Force and the Correctional Services Department being at the centre of the storm. We Legislative Council Members, teachers, and even business operators were not immune to it. Once caught up in this storm, those involved and their family members were severely affected and their personal safety would be endangered at some point. Today the Government has introduced the Personal Data (Privacy) (Amendment) Bill 2021 ("the Bill") precisely for the purpose of protecting the privacy of members of the public by means of legislation and thus rectifying the malicious trend of doxxing. I absolutely support the Bill.

As I have just mentioned, police officers and their families were at the forefront of doxxing attacks. In the worst of times, the Secretary for Justice and the Commissioner of Police applied for interim injunction orders to restrain persons from unlawfully and wilfully conducting doxxing activities, but many people still failed to comply with the orders. For example, four persons were convicted of contempt of court last year. As Ms Alice MAK mentioned earlier, a former clerical assistant of the Immigration Department obtained the personal data of 215 public officers, including government officials, judges, police officers and their family members, by logging into the Government's computer system without authorization and provided the data to an instant messaging service provider for publication. Although she was sentenced to imprisonment for 45 months on Monday this week, the offence she committed was misconduct in public office rather than an offence under the Personal Data (Privacy) Ordinance ("PDPO").

At present, PDPO does not include any offence specifically targeting doxxing. During the two-year period between June 2019 and June 2021, the Office of the Privacy Commissioner for Personal Data ("PCPD") handled a total of over 5 800 doxxing cases that intruded into personal data privacy. It also proactively approached operators of websites, online social media platforms or discussion forums, urging them to remove over 6 380 hyperlinks related to doxxing contents. However, as PDPO has no statutory power and is only of advisory

nature in this regard, only about 70% of such links to doxxing contents have been removed upon PCPD's request.

President, as I mentioned at the outset, the whole world is faced with the problem of doxxing. In fact, some countries have already addressed it by means of legislation. In New Zealand, for example, the Harmful Digital Communications Bill was passed in 2015 to make cyberbullying a specified criminal offence, and an independent non-profit organization called NetSafe was appointed as the Approved Agency to enforce the law while given a statutory role in preventing and addressing online harassment. In Singapore, the Protection from Harassment Act was enacted in November 2014, but as the number of harassment cases involving online disclosure of personal data continued to rise, the Protection from Harassment Court was additionally established to specifically deal with civil claims, provide an accessible and inexpensive means to apply for remedies, and grant expedited remedies within 24 to 72 hours so that victims suffering from serious abuse can receive timely protection.

As for Hong Kong, in order to more effectively curb doxxing acts, the SAR Government proposes to criminalize such acts as an offence under PDPO and confer on the Privacy Commissioner for Personal Data ("the Commissioner") new statutory powers to demand actions to cease or restrict disclosure of doxxing contents. The Bill also empowers the Commissioner to carry out criminal investigations and institute prosecution so as to strengthen enforcement.

The Government proposes to amend PDPO to confer on PCPD the statutory power to request such service providers to comply with the cessation notices in order that doxxing contents that intrude into personal data privacy are removed early, the purpose of which is also to prevent further dissemination of personal data and minimize the harm caused to the victims. The requests under the new legislation are aimed at expeditious handling of cases through a one-stop approach, but as the current practice is that doxxing acts involving intimidation or incitement which cause psychological harm to the victims are regarded as a criminal offence, and such cases are usually referred to the Police for investigation and follow-up, the Bill proposes to directly empower the Commissioner to carry out criminal investigation, collect evidence and institute prosecution, without the need to refer the cases to the Police to conduct investigation, with a view to expediting enforcement actions. However, I note that the Government intends to address the new challenges faced by PCPD only through internal redeployment of resources, which may affect the effectiveness of future enforcement actions. Although PCPD will consider employing retired law enforcement personnel and experienced criminal lawyers to carry out investigation and prosecution work, and even plans

to conduct joint operation with the Police in the future, anti-doxxing efforts are actually a race against time, so I hope that the Government ensures there will be adequate staffing in place. Moreover, the roles of the Police and PCPD, as well as the division of labour between them, must be rationalized in future. I also hope that the Government regularly examines whether the implementation is smooth and whether it is able to master the latest cyber knowledge in this regard.

In addition, I also note that the Government has addressed Members' concern by finally deciding to introduce a two-tier structure of doxxing offences in the Bill so as to avoid failures of conviction due to a rather high evidential threshold. The first tier offence, i.e. disclosing personal data without the data subject's consent, is punishable by imprisonment for up to two years. The second tier offence, which is committed if specified harm is caused to the data subject or his or her family member, is punishable by a fine of up to \$1 million and imprisonment for up to five years. Nevertheless, regardless of the severity of the penalties, public education is needed to eradicate the root causes of doxxing. According to Article 19 of the International Covenant on Civil and Political Rights, the freedom of expression may be subject to certain restrictions necessary for respect of the rights of others, such as the right to privacy. I hope the education sector will teach students from a young age that freedom does not imply carte blanche to do whatever they want without any bottom line and that doxxing is a wrong and illegal act.

President, I would like to quote the judgment handed down by the judge who heard the case of the former clerical assistant of the Immigration Department disclosing data of public officers: "The published data have spread beyond borders to the farthest reaches of the world. They will not disappear overnight, but remain forever in the virtual cyberspace like nuclear radiation". Therefore, I hope that doxxing, a kind of misconduct comparable to nuclear radiation, will disappear completely upon passage of this Bill.

I so submit. Thank you, President.

MRS REGINA IP (in Cantonese): I speak to express my support and welcome to the Personal Data (Privacy) (Amendment) Bill 2021 ("the Bill") proposed by the Government.

I believe that every Member in this Chamber, including the President, has been doxxed. None of us have been spared. As Ms Alice MAK pointed out earlier in her speech, 4 000 people including ourselves have been affected by the

recent case where a female clerk of the Hong Kong Immigration Department ("ImmD") was prosecuted for leaking personal data kept by ImmD.

Privacy is certainly very important. About 10 years ago, the community was already very concerned about a case of privacy leakage where it was discovered that if members of the public participated in the Octopus reward scheme, their personal data would be sold to advertisers. At that time, it caused an uproar because the community already knew that personal data has value and is a precious asset to all of us, and that it is wrong to sell it to others without our consent. However, the exacerbated development in recent years, namely the "black-clad violence" in 2019, has made us aware of the emergence in society of this behaviour called "doxxing", which is a new crime. As a result of the development, a large number of police officers and judicial officers and even some members of the public have been doxxed. I remember that hundreds of doctors published statements in newspapers to condemn the "black-clad violence" and support the Police in enforcing the law, but they were also doxxed and many members of the public were intimidated.

Starting from October 2019, the Department of Justice and the Commissioner of Police have applied for several injunction orders on behalf of the junior police officers at the rank-and-file level in the Police, considering that there was no legislation to curb these doxxing crimes at the time. The orders have been promptly granted by the court.

The judges have given a definition to "doxxing". In a 2019 judgment, Mr Justice POON and Mr Justice LAM defined doxing in English as "the extensive leaking of personal information and cyberbullying on the Internet and various social and other media". That means doxxing is the extensive leaking of personal information, online intimidation and abuse, and cyberbullying on the Internet and various social and other media. Therefore, doxxing is not just about making money out of our personal data, but is also a serious crime that physically and mentally hurts some people. For example, back then we received many complaints from police officers and their family members that their children were being slagged off and abused at school, that their family members were afraid to go home, and so on.

Particularly nowadays with the Internet in existence, once these news messages and personal data are uploaded onto the Internet, they will go viral very soon, causing great pressure and harm not only to the officers who have to enforce the law and perform public duties, but also to many decent members of the public.

For example, as I said just now, some doctors who have chipped in their own money to take out advertisements in newspapers to oppose the "black-clad violence" and support police officers have been doxxed, and their clinics were also subject to harassment. Therefore, this is a serious crime.

However, the Personal Data (Privacy) Ordinance ("PDPO"), which was enacted in 1995 and came into force in 1996, was actually one of the several human rights ordinances hastily enacted before the reunification. As the legislative process at that time might be rather hasty, PDPO has neither given the Privacy Commissioner for Personal Data ("the Commissioner") sufficient powers nor provided for the relevant offences to curb such shocking acts. Therefore, as we can see, when police officers and many public officers were doxxed, the only way the Government could help them was to apply for an injunction order. Nevertheless, the application for an injunction order was costly and remedies were not promptly available, although the judges were rather sympathetic towards and supportive of these affected police officers and soon issued them with temporary injunction orders, and the Registration and Electoral Office agreed not to disclose their information in the registers of electors.

From this it is evident that we really need to amend the legislation. Doxxing or disclosure of privacy information is already an offence at present, but the amendment introduces two tiers of offences to distinguish between an offence for disclosing another person's personal data with recklessness as to whether any harm would be caused or with an intent to cause harm, on the one hand, and a more serious offence for causing severe harm, on the other. The current wording of PDPO is inadequate as it mentions psychological harm only. By contrast, the two tiers of offences as revised refer to, firstly, disclosure of personal data without the data subject's consent, with an intent to cause any specified harm to the data subject or any family member of the data subject, or with recklessness as to whether harm would likely be caused to the data subject or any family member of the data subject; and secondly, disclosure of personal data without the data subject's consent where the disclosure would cause specified harm to any family member of the data subject, which is a more serious offence punishable on conviction on indictment by a fine of up to \$1 million and imprisonment for up to five years. I think there is a great need to make these amendments and give the Commissioner more powers to carry out investigations, conduct searches and request assistance, provision of information, or removal of such online data, so that the victims are not often left with no choice but to apply for an injunction order through civil proceedings.

As both Ms Alice MAK and Mr CHAN Chun-ying mentioned earlier, a female clerk of ImmD disclosed the personal data of hundreds of people without authorization. We can see that the Government had to charge her with misconduct in public office probably because there was no corresponding offence under PDPO. If and after PDPO is amended, there will be corresponding offences to sanction such acts, so the personal data of every member of the public can be more adequately protected.

I also agree with one of the points mentioned by Ms Alice MAK, namely that the incident of personal data leakage by this female clerk has led us to contemplate why ImmD had not taken proper measures to protect personal data. In actual fact, as far as I understand it, officers of different ranks should be able to individually obtain some access codes to enter the computer system only when they have a genuine need to retrieve information from it. So why was there such a loophole in this case? I hope that ImmD has already plugged this loophole. I notice that one of the principles of personal data protection in Schedule 1 of PDPO currently in force is security of data. It is obligatory for any organization storing personal data to protect the security of data. In fact, the General Data Protection Regulation passed by the European Union a few years ago already has very stringent requirements requiring organizations holding and possessing personal data to very carefully protect the data of the data subjects, otherwise they may be subject to very heavy penalties.

I hope that apart from ImmD, other relevant departments also pay attention to this point. In the future, we have to not just sanction and punish those crimes and misdeeds of unauthorized disclosure of other people's information resulting in cyberbullying towards those people, but also require all organizations in possession of personal data to take the necessary security measures in an appropriate manner.

With these remarks, I support the Bill.

MS YUNG HOI-YAN (in Cantonese): President, I rise to speak in support of the Personal Data (Privacy) (Amendment) Bill 2021 ("the Bill").

Since the onset of "black-clad violence" in 2019, the community has been plunged into dissension. At the time, doxxing was a prevalent means of bullying. The divulgence of others' personal data such as phone numbers, identity card numbers and addresses was often followed by harassment and bullying. Nevertheless, as all this took place online, law enforcement was actually very

difficult, and it was impossible to institute prosecution in many cases. Many in our legislature have fallen victim themselves, and police officers and their family members have even become the main target of attack. In some less serious cases, they have received harassing phone calls persistently, or "takeaways have been ordered for them". Their families and children have also been affected. The situation is very serious and worrying.

According to the information provided by the Legislative Council, the Office of the Privacy Commissioner for Personal Data ("PCPD") received and detected over 5 700 complaints about doxxing during the period from June 2019 to April 2021, and it referred over 1 460 suspected law-breaking cases to the Police for criminal investigation and its consideration of prosecution. Speaking of those cases, the Police arrested 17 suspected law-breakers, and two of them were convicted. One of them was sentenced to 18 months' imprisonment, and he received a combined sentence of two years' imprisonment together with his conviction for other offences.

When Members see the figures that only two people have been convicted in 5 700 doxxing complaints, they may think that the rate is seriously disproportionate. But Members may understand the reason: Perhaps it is impossible to conduct follow-up in many complaint cases; perhaps the data subject cannot be located; or perhaps there is utterly no way to help the victim. As we can see, many people have fallen victim ever since 2019. At present, prosecution against those who divulge others' personal data has actually come under many constraints. One example is PCPD's lack of criminal investigation and prosecution powers, and all such work must be entrusted to the Police. The arrangement is very circuitous. PCPD is not vested with the power to mandate the removal of doxxing information from websites. For all these reasons, it is all the more necessary to amend the ordinance this time around, so as to introduce new offences and confer more power upon PCPD to enhance its law enforcement against doxxing.

This ordinance must be forceful and really to the point when implemented. It must facilitate the prosecution process, and the maximum penalty must be imprisonment, so as to ensure sufficient deterrence. Therefore, I strongly support the introduction of new offences for doxxing under a two-tier structure, namely a summary offence with a maximum penalty of a \$100,000 fine and two years' imprisonment, and also an indictable offence carrying a maximum penalty of a \$1 million fine and a prison term of five years.

The Bill also confers criminal prosecution and criminal investigation powers upon PCPD as a means to enhance law enforcement efficiency. It also seeks to empower PCPD to require websites or online platforms to remove doxxing information, so as to enhance the protection of victims' personal data. In the past, PCPD could only issue letters to the relevant platforms and request their removal of information. If they refused to cooperate, it actually had no other means to follow up the matter, and the relevant information would remain online for people's access. Therefore, I will say that it was utterly stripped of any ability to protect the victims in the past.

If Members look at figures, they will see that PCPD has actually done a lot over the years. It has issued 297 letters to the operators of the 18 websites, online social media platforms or discussion forums in question to request their removal of over 5 900 weblinks. In the end, only 70%, or around 4 000, of such links have been removed. In other words, 1 600 weblinks have not been removed. I think this is undesirable, and this is also a reason for our amendment of the Personal Data (Privacy) Ordinance this time around.

Besides, I am also very grateful to the Government for heeding the views we put forth at the Bills Committee. Speaking of the cessation notice, I once wrote to the Government seeking its refinement. I did so because the scope of a defence in the original Bill, as I had argued before, was too wide. The original Bill states: "It is a defence ... to establish that—it was not reasonable to expect the person to comply with the cessation notice—because there was a risk of incurring a civil liability arising in contract, tort, equity or otherwise." In my view, if the defence is so broadly worded, it will be utterly impossible for the authorities to require him to fulfil the legal obligation of removal, and it is very likely that he will try to evade this legal obligation. Therefore, I welcome the prompt action taken by the Government this time around to update the provision. This can likewise reduce the risk of incurring any civil liability.

But despite this, if this defence is abused, it will virtually make this Bill useless. I also hope that the prosecution can carefully examine the likelihood of this possibility, or the possibility and chance of abuse in the enforcement process. If any such instances are detected, then further amendments should be introduced.

Another point is this. After heeding our views, the Government has revised the wording of this provision. But I also wish to ask one question: Why was it so worded in the very first place? That is to say, at the outset, how did the Government come up with the wording of exempting ... the wording that a defence could be established if the court accepted that the risk of civil liability was present?

What I mean is that in my view, the Government must examine afresh why that particular provision was so worded in the very first place. I say so because we once asked the Administration whether other ordinances ... whether it specified such a broadly worded defence after drawing reference from other ordinances. If members have not examined the provision so very prudently or considered the overall situation when scrutinizing the Bill, the overall enforcement or prosecution will sustain huge impacts due to the presence of this provision. For this reason, I hope that the Government can prudently consider the risk associated with a defence before it commences the drafting of any legislation or bills each time.

The second point concerns the definition of "family member", a problem I raised at a meeting. Actually, the Bureau concerned has also given us a reply. In our view, the definition of "family member" warrants more studies and consideration in the long run. The Government's reply also says that a definition of "family member" can be found not only in this ordinance, and that other ordinances have also specified the meaning of "family member". A family member refers to another person who is related to a person by blood, marriage, adoption or affinity. But we have seen some update and amendment in the Bill this time around, and its original meaning differs from the long-standing usage of the term "immediate family member". At present, we hope to protect the family members of a victim from the impact of data disclosure. But in the past before this amendment exercise, "immediate family member" was actually used in another way: when the authorities had to decide on the persons to be informed about how certain matters relating to a person should be dealt with. These are two different concepts.

Therefore, I think the Government can conduct further studies in this respect and examine whether cohabiting partners should be included as "family members" after the commencement of the Bill or under other ordinances. If it really wants to accord protection for them through the ordinance, or if this term now has another usage or meaning, then its definition can be expanded. I say so because when it comes to the meaning of "family member", cohabiting partners or carers are likewise regarded as family members these days. But I will not specify the meaning of "carers" because they are all referred to as "family members" somewhat generically. Those who live under the same roof or in the same household as another person are family members. Therefore, I think the Government must conduct studies and give thoughts to the matter in the long run in this regard.

I accept the Government's explanation this time around. While the meaning or definition of "family member" has not been expanded, the purpose is to offer protection for them because they can all be victimized or regarded as

victims. And they can be the data subject too. Actually, in the light of the social development trend, cohabitation as I just talked about has become quite common. If we adhere to the long-standing, conventional definition, we are honestly out of tune with the times. Therefore, I hope the Government can progress abreast of the times by reviewing the relevant definition and conduct thorough studies on ways to increase protection for cohabitation relationships under the law.

President, I so submit. Thank you.

MR MARTIN LIAO (in Cantonese): President, I speak in support of the Personal Data (Privacy) (Amendment) Bill 2021 ("the Bill").

During the past two years of social unrest and the epidemic in Hong Kong, the Internet has been flooded with doxxing, hateful and discriminatory comments that have violated moral and legal boundaries. A large number of people, including police officers, judges, lawyers, legislators, etc., as well as their spouses and children, have been doxxed. According to the data from the Police, between 2019 and 2020, in over 5 500 doxxing cases, 2 692 police officers and their 1 715 relatives were doxxed, and a total of 3 867 people became victims of doxxing.

President, doxxing is a means to weaponize personal information, but the real purpose is to intimidate and bully, so that the person being doxxed cannot live a normal life. Some children are afraid to go to school; some judges have been doxxed and threatened with death for refusing to release suspects on bail; and some witnesses are afraid to testify in court because they have been harassed by doxxing. All of these have seriously jeopardized the rule of law and social harmony in Hong Kong. Victims of doxxing and their family members suffer from psychological stigma and psychological damage. Some of them also suffer financial losses, and their personal information is stolen and used to apply for loans and even organ donations. In addition, once doxxing has occurred, the data is retained in the cyber world for a long time, without time or geographical restrictions, thus causing far-reaching trauma to the victims.

As privacy concerns grow, many countries around the world have enacted legislation to combat doxxing. Australia's Enhancing Online Safety Act 2015 empowers the Office of the eSafety Commissioner to enforce the removal of harmful communications. New Zealand enacted the Harmful Digital Communications Act in 2015, introducing an offence of causing harm by posting a digital communication. In 2014, Singapore enacted the Protection from

Harassment Act and amended it in 2019 to further expand the scope of regulation and enhance protection for victims of cyberbullying or doxxing.

President, in view of the seriousness of the doxxing problem in Hong Kong and the loopholes in the existing legislation, there is wide support in the community for enacting legislation to regulate doxxing. According to a survey conducted by the University of Hong Kong and commissioned by the Office of the Privacy Commissioner for Personal Data ("PCPD") last year, about two thirds of the people and organizations surveyed supported increasing the power of the PCPD to curb doxxing. In a ruling this week on the case concerning a former Immigration Department staff's dereliction of duty in cyber doxxing, the judge also said that the Government should consider legislation on online platforms without delay, such as streamlining the evidence producing process and plugging loopholes, with a view to punishing the people concerned.

The Bill precisely responds to these requests by introducing offences of doxxing under a two-tier structure. While it is a criminal offence for disclosing personal data without consent, the Privacy Commissioner for Personal Data ("the Commissioner") is also given statutory powers to conduct criminal investigations and prosecutions, to serve cessation notices, and to apply for injunctions.

President, the relevant amendments will facilitate the change of PCPD from being "toothless" to "having teeth" and having the actual power to deal with doxxing cases. After the amendment to the law, I will pay particular attention to whether the law can really achieve the purpose of curbing doxxing, and the authorities should review the need to step up the regulation and penalty after a period of implementation.

There are some concerns about this issue. The first concern is whether PCPD has sufficient manpower and capacity to handle doxxing cases. The Administration should take the initiative to review the situation and, whenever necessary, allocate additional resources to PCPD. While the Commissioner has indicated that she will examine the seriousness of each case to determine whether to exercise prosecution powers in her name or to refer more serious cases or cases suspected to have involved other offences to the Police or the Department of Justice for follow-up, there is no doubt that PCPD needs to provide more training to enhance its internal investigative and prosecutorial capacity to take on the burden of anti-doxxing work. In addition, as PCPD does not yet have frontline enforcement experience, there may be problems in the enforcement process in the future when it comes to more urgent cases, such as stopping, searching and arresting a person who is reasonably believed to have committed a crime without a

warrant, or accessing an electronic device without a warrant. PCPD should draw up enforcement guidelines and learn from the Police, and act jointly with the Police when necessary.

The second concern is about enforcement on overseas platforms. Under the new provisions added by the Government, the authorities are given extraterritorial jurisdiction, meaning that the Commissioner can serve a cessation notice to a person in Hong Kong or to a service provider outside Hong Kong, such as an overseas social media platform, regardless of whether the doxxing activity occurred in Hong Kong. However, overseas enforcement has always been complicated. According to past experience, about 70% of online platforms would cooperate with PCPD in removing doxxing content, but for the remaining 30%, the vast majority of which are platforms commonly used by Hong Kong people and operated overseas, the removal of doxxing content is not satisfactory. Following the passage and implementation of the Bill, complying with a cessation notice will become mandatory and non-compliance with it will be a criminal offence. Besides, the large multinational online platforms, during their operation in Europe, already have some experience of removing unlawful information and are capable of dealing with the situation. Nevertheless, there is no denying that PCPD can still foresee certain difficulties in overseas enforcement, particularly in relation to companies or persons completely unconnected with Hong Kong. What PCPD can only do is to strengthen its cooperation with its overseas counterparts and resolve the overseas enforcement problems together with them as far as possible.

President, in addition to the two aforementioned concerns about the ability of PCPD to enforce the law, I believe that the Bill strikes a reasonable balance between the protection of privacy and the flow of information or freedom of speech, as well as constrains the powers of the Commissioner. First, a reasonable excuse is a defense. For example, the authorities clearly state that the law is aimed primarily at people and information that is doxxing maliciously, not at any service provider, and that a cessation notice to remove doxxing content will only be served to those who have the ability to act on that information. Employees of companies in Hong Kong who are only responsible for general marketing or administrative work do not have the authority to take action with respect to such doxxing content and do not have to or need not be overly concerned about the legal liability. The Bill provides for an appeal mechanism for the cessation notices, with a channel for dealing with platform comments. In addition, the immunity provisions provided in the existing Personal Data (Privacy) Ordinance, such as the prevention or detection of crime (section 58), health (section 59), news activities (section 61), statistics and research (section 62), etc., will not be affected by the amendment. In other words, freedom of speech in Hong Kong is still protected by Article 27 of

the Basic Law and Article 16 of the Hong Kong Bill of Rights Ordinance (Cap. 383), and the business environment of Hong Kong will not be damaged.

President, the Bill is a response to the needs of the public. Not only does it respond to the voices of the victims who have been troubled by doxxing in the past two years, but it also provides institutional and legal protection for the effective safeguarding of people's privacy in the future. I support the passage of the Bill in the Second Reading to combat the egregious behaviour of doxxing in a targeted manner.

President, I so submit.

MS ELIZABETH QUAT (in Cantonese): President, I speak in support of the Personal Data (Privacy) (Amendment) Bill 2021 ("the Bill").

President, the Personal Data (Privacy) Ordinance ("PDPO") in Hong Kong is very backward. I often say that it is the Ordinance of the Stone Age, which has not been able to keep up with the times over the years. In addition, owing to the lack of deterrent effect of its penalties and the narrow scope of regulation, it has been criticized as a "toothless tiger". Previously, there has been leakage of personal data of many customers by some companies such as hotels and airlines, which we have not yet dealt with, but now, the situation is even more intense and worse. We have seen that during the period of "black-clad violence" in 2019, the "black-clad" people attempted to mutually destroy Hong Kong, and one of the tricks that they used was intensive doxxing against people with different political views.

Yesterday, the Technology Crime Division under the Cyber Security and Technology Crime Bureau of the Police announced that since June 2019, intensive online doxxing acts have been reported, and the victims' personal data, including names, phone numbers, identity card numbers, addresses, photos, family members' information, etc., have been illegally disclosed. Up to now, there are more than 4 200 victims, including members of the public, police officers, major government officials, judicial officers at all levels, lawyers, Legislative Council Members—i.e. including us—District Council members, etc. The victims and their family members have been harassed to varying degrees, including telephone harassment, and some of their personal data have even been used to apply for loans, organ donations and other public registrations.

President, I am a victim myself, but what I am most concerned about is that police officers and their family members are facing a particularly disgusting

behaviour of being doxxed. We learn that the personal data of at least 3 200 police officers and their family members have been made public, and even children have also been doxxed. At that time, many family members of police officers told us that they did not dare bringing their children to school for fear that someone would hurt their children as soon as they left home. Some children were bullied and targeted at school because they had been doxxed. The parents, family members and wives of some police officers received death threats. In order to protect them, injunctions have to be applied for. Although the injunctions are still in effect, the data already posted online have not been completely removed. Can the Privacy Commissioner for Personal Data ("the Commissioner") remove all such data? We know that the Commissioner has said that only 70% of the data can be dealt with, while most of the remaining data cannot be removed. We personally have really experienced a lot of nuisance in this area. My personal data has been posted on the Internet. In addition to being harassed by phone calls, I have been involved in registering for organ donations and my personal data has also been used for registering for COVID-19 testing services. Many legislators' family members have been harassed. They were even harassed at home, with people ordering takeaways incessantly for them. As a result, some legislators have to move homes. I myself was doxxed immediately by the airline and airport staff at the airport when I returned to Hong Kong, and they asked people online to come to "pick me up". My activities in different areas of the airport could be tracked instantly. As you can see, the situation was very severe and the family members of each legislator were very worried about the personal safety of the legislator. Therefore, the psychological damage and stress that the victims of doxxing have to endure can hardly be described in writing. They live in fear every day, so to speak.

What is the purpose of their doxxing behaviour? In fact, they want to spread fear and scare the other party, so that people are scared and are suspicious of each other. If people are scared, they dare not speak out. They hope to achieve the effect that "whoever is powerful and villainous has the say". They are villainous and are doxxing the other party, so they can speak out. Those who are being doxxed are threatened and scared, and thus dare not speak out. If this goes on, Hong Kong people will completely be devoid of freedom. They will have no freedom to express their political views, no freedom to travel, no freedom at all, and they will lose confidence in law and social order. If this continues, "mutual destruction" will be successful.

Hence, it has been our view that PDPO should be amended. Now according to the Government, since it will take a lot of work to amend the whole PDPO, the Government will first finish criminalization of doxxing.

Criminalization of doxxing is to stop those who have ulterior motives from weaponizing personal data, and thus I strongly agree to and support this exercise.

This amendment to the legislation has stipulated the offences against doxxing acts. The offences are under a two-tier structure, with the first tier a summary offence and the second tier an indictable offence. I think this is very reasonable. It has also provided the Commissioner with the power of criminal investigation and prosecution, because the Commissioner is at present just like a "toothless tiger", but in the future, he/she will have a few "teeth". In addition, the Commissioner is also given the statutory power to stop the disclosure of content involving doxxing behaviour. In other words, the relevant data posted online must be removed. With these statutory powers, I believe that more can be done.

However, as I said, the data uploaded to the Internet may be there forever, and it is very difficult to completely remove the data from the Internet. Hence, it is most important that the law must have some deterrent effect. We saw a recent case concerning the Immigration Department where a former clerical assistant was able to log into the Government's system and gain unauthorized access to the information of over 200 government officials, judges, police officers and their family members, and then uploaded it all to the Internet for doxxing purpose. Although she is now sentenced to three years and nine months of imprisonment, we still want to ask: Why would such a situation happen? When even the Government cannot safeguard personal privacy internally, it is clear that our society as a whole, including the Government, does not provide enough protection for personal data and personal privacy.

I think this legislation is a belated justice, because in fact, many overseas places have laws to protect privacy and regulate doxxing behaviour. As I have mentioned many times before, New Zealand already enacted the Harmful Digital Communications Act in 2015, which makes it an offence to post a digital communication with the intent to cause harm to others. In 2019, Singapore introduced the Protection from Harassment Act and proposed to criminalize doxxing and cyberbullying, with offenders liable to fines and imprisonment. Under the General Data Protection Regulation of the European Union, there is a "right to be forgotten", which allows all European citizens to request online companies to remove negative messages about the infringed person. The Mainland has also amended its Law on the Protection of Minors, which allows parents to request online companies to delete the leaked data of minors. From the above, we can see that many places have better laws in this aspect than Hong Kong, and we can make reference to them. Although there are still many inadequacies, this amendment is a step forward. I very much hope that the Government will comprehensively review and amend PDPO as soon as possible.

As I said, the current legislation is very backward. The laws of many places are in line with international standards in regard to what organizations can collect personal data, how much and what personal data can be collected, who can access, extract, touch and use such data, and the security in how to access such data. There should also be a regulation on the period of retention of such personal data. In case such data is leaked, there should be a statutory notification mechanism. Besides, the victims should also be notified—there is no such an arrangement at present, and no one will tell us even if our data are lost. When such data should not be retained, there should also be a way to destroy them in accordance with the international standards. Finally, when someone or an organization breaks the rules, there should be penalties with sufficient deterrent effect so as to make them collect, preserve and destroy all personal data in full compliance with the rules.

We have heard many people say that after this amendment to the legislation, IT companies and platforms will all leave Hong Kong, and then Hong Kong people will have no freedom of speech at all. First, it has been clarified many times and is also confirmed today that these online platforms have no intention to leave Hong Kong. Besides, many countries actually have the relevant laws, and these companies are used to working according to these laws. Second, President, freedom of speech and the freedom of each individual is regulated, and the freedom of an individual does not include the freedom to harm others. Therefore, this amendment to the legislation is highly necessary, and we strongly support it.

President, I so submit.

MR TONY TSE (in Cantonese): President, I am speaking in support of the Personal Data (Privacy) (Amendment) Bill 2021 ("the Bill"). The main objective of the Bill is to step up crackdown on disclosure of personal data of others without their consent which causes harm to others or benefits the person himself, namely "doxxing" acts, so to speak. The Bill proposes to criminalize such acts and to empower the Privacy Commissioner for Personal Data ("the Commissioner") to carry out relevant criminal investigation, enforce the law and institute prosecution.

Doxxing acts have emerged since the Internet and smartphones gained popularity. The problem of doxxing is not unique to Hong Kong but faced also by countries all over the world, which is getting more and more serious. In the case of Hong Kong, cyber doxxing initially targeted at public figures (including senior government officials and political figures) and is meant to intimidate, belittle and discredit the targeted persons to obstruct the Government's policy implementation and harm their opponents.

Doxxing acts have become widespread and weaponized following the occurrence of the Occupy Central movement and the "black-clad violence" incidents triggered by people's opposition to the proposed legislative amendments to the Fugitive Offenders Ordinance in recent years. The range of targets of doxxing has been extended to cover also police officers, judges and prosecutors, political figures, election campaign teams of the pro-establishment camp as well as their supporters and the members of related organizations. They might be doxxed as long as they supported the Central Government and the HKSAR Government, supported the Police in enforcing the law in accordance with the law, supported the prosecution and trial of rioters in accordance with the law, or supported the creation of land and the construction of infrastructure facilities. They might even be doxxed simply because they disagree to some of the words, deeds or propositions of those seeking mutual destruction. It was likely that one's personal address(es), phone number(s), occupation, driving licence reference number(s) and identity card number were posted on the Internet overnight, usually with the insertion of some false information, rumours and criticisms, hence causing great disturbance to the data subject.

The most outrageous thing is, especially during the "black-clad violence" period, not only those targeted by people seeking mutual destruction were doxxed, but even their family members, relatives, schoolmates, friends, supervisors, colleagues, as well as their companies' clients and suppliers might also fall victim to doxxing at any time. Their purpose was to cause huge embarrassment and trouble to their targets or those who disagreed with them, even making them feel that they were wrong or had done something wrong to cause trouble to so many people, so that they would eventually be forced to withdraw completely from the Internet or their own social circles.

Of those being doxxed, some of them (in particular the mentally immature persons desperately in need of recognition from their classmates and peers) have either got caught up in serious emotional problems or were forced to change their positions and become supportive of "black-clad violence" or even commit crime to "clear their names" in an attempt to secure peer recognition. The children of police officers were in the most miserable situation. Some of them were doxxed, isolated or even bullied, while some might quarrel with their families and turn against each other. Some happy families were shattered as a result, and some of the doxxed even experienced self-mutilation and became mentally ill.

To be fair, the doxxing acts targeted not only at the pro-establishment people. Some of the politicians belonging to the "mutual destruction camp", people arrested or prosecuted for allegedly engaging in unlawful "black-clad violence" activities,

media workers allegedly in favour of "black-clad violence", and even the staff of the United States Consulate general who were disclosed to have met with the leaders of Hong Kong's "mutual destruction camp" in secret have all complained about the nuisance caused by doxxing acts. However, regardless the fact that they themselves were victims and that a lot of Western countries which claim to respect human rights and freedoms have enacted legislation to crack down on doxxing acts, many of them opposed the enactment of anti-doxxing legislation in Hong Kong. They said that the HKSAR Government wanted to suppress Hong Kong people's freedom of speech and information through the current legislative amendment exercise. This serves to highlight once again the double standard held by these people.

Let us get back to the contents of the Bill. The Bill proposes to classify a doxxing act of which the discloser has an intent to or is being reckless in causing any harm to others as a first tier offence, where the person committing the offence is liable to a maximum penalty of two years' imprisonment and a fine of \$100,000; and to classify the doxing act having caused actual harm (including severe harassment, intimidation, bodily harm, psychological harm and damage to the property of the subject resulting from a malicious act of doxxing) as a second tier offence, for which a maximum penalty of five years' imprisonment and a fine of \$1 million may be imposed. The authorities also provided the Bills Committee with the anti-doxxing laws in such places as Australia, New Zealand and Singapore, showing to us that the elements of penalty and conviction of those places are similar to ours.

To effectively combat doxxing acts, it is more important to, apart from instituting prosecution afterwards, stop the acts in question as soon as possible and remove the data concerned to minimize the harm caused to the data subject. Therefore, the Bill authorizes the Commissioner to require the persons and organizations involved to provide materials, assist in investigations, and remove the data in question. In case of emergency, the Commissioner has the right to access the electronic device involved to prevent key evidence from being destroyed.

During the scrutiny of the Bill, a number of Members have expressed their concerns about possible abuse of the personal data contained in public registers maintained by the Government for doxxing purposes. According to the Government, all Policy Bureaux and departments were already required to review in full the procedures and arrangements for access to public registers. I am supportive of the above legislative and administrative improvement proposals. And also, I am of the view that the Government has struck a balance between

combating malicious doxxing activities and safeguarding human rights and freedoms.

Lastly, some Members were worried that the provision regarding the defence for "lawful" news activities in the Bill could be abused by bogus media, bogus reporters or those news agencies either taking an extremely biased stance or suspected to be manipulated by foreign countries. The Government explained that the provision in question was actually based on the court's earlier ruling on a doxxing case.

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

Yet, given that a 13-year-old teenager might as well claim himself to be a reporter who, with the support of the Hong Kong Journalists Association, was present at the forefront of the "black-clad violence" to cover news stories, and that a major Hong Kong-based media firm (which worked hand in hand with the "mutual destruction camp" to collude with external forces) was disclosed to have contributed both money and labour to and masterminded the scheme of besieging and sanctioning China, which even went further to "stage a self-scripted and self-directed play" afterwards and make a huge amount of related false reports to incite more support for "mutual destruction" and "black-clad violence", Members' such concerns are indeed legitimate.

I hope that the Administration, the Commissioner and the judges in charge of the adjudication of the relevant cases in the future will deal reasonably with the meaning of "lawful news activity" to ensure that it matches the fact, so that it will not be abused as a political tool for doxxing, retaliating against or intimidating people holding different views.

I so submit, Deputy President.

DR PRISCILLA LEUNG (in Cantonese): Deputy President, the Personal Data (Privacy) Ordinance was enacted in 1997 to protect our personal data. As the owners of our personal data, we can retrieve our data or stop other persons from providing our personal data to other people. This is a very useful ordinance. We can download the relevant form at the website of the Office of the Privacy Commissioner for Personal Data. We have helped many help seekers this way

because their employers or the public organizations concerned would not return their information to them; and this has been a very effective way to help them get back their information.

Two major incidents happened in 2012. As some colleagues already mentioned just now, one involved the sale of customer data by the Octopus Cards Limited for commercial purposes. The company ultimately donated \$44 million as some sort of self-punishment. Another major incident was the Lehman Brothers incident. At that time, many muddle-headed small investors were approached by way of direct marketing calls and these small investors were ultimately allowed to be exempted from the liabilities because the font sizes of the words on the documents they signed were so small that the words were almost illegible. So, the amendment to the ordinance at that time specifically dealt with these problems. For instance, the font sizes of the words on the forms to be signed must be bigger and legible for a normal person and the person concerned must be properly informed of the content.

Today in 2021, we have another series of amendments for discussion. I certainly support these amendments. However, I think there are still some inadequacies. We should still remember the incident in 2017, in which the personal data of 3.78 million voters, together with the data of the Election Committee members of the Chief Executive Election, went missing. The investigation did not come to any conclusion because the room concerned at AsiaWorld-Expo happened to have no CCTV installed. We subsequently discovered that the data of 8 000 voters of our colleague's constituency also went missing. We were very angry at that time, suspecting whether the loss of such data involved any criminal liabilities and whether any technical departments was involved, and how the data was handled. I put a question on the matter in the Legislative Council because the incident raised doubts as to whether, apart from negligence, someone committed the crime on purpose.

Deputy President, pardon me for linking up some incidents. We found in 2019 that some people were doxxing experts. They were able to know the professions of certain persons, who their relatives were and where their children or grandchildren went to school. In particular, police officers and public figures fell victim to doxxing. Would it be possible that the data of the 3.78 million voters have long been categorized? These people could upload the information of the target person whom they want to intimidate or threaten onto the Internet within half an hour. Maybe the target person had said something that the "mutual destruction camp" disagreed. To date, this is still a mystery. There were many other incidents ... For example, Cathay Pacific lost the information of its 9.4 million

customers, of which I was also a victim; the United Christian Hospital lost its patients' data; and there was also the incident at TransUnion involving bank loan data. But then, people talked about these incidents and then forgot about them.

How exactly have these disclosed data been used? First, we must continue investigation; and second, is there any systematic investigation? They lost a huge amount of data, but perhaps only a small percentage of the victims were being targeted. Of the 9 million-odd people, would some of them only be the "unfortunate victims"? Among the 3.78 million victims, perhaps only 200 000 of them were being targeted, and the rest were just the "unfortunate victims". I do not think the problem can be solved by simply using administrative means or by reassigning the negligent personnel.

What is even more worrying is that we are discussing this problem again today. It is because, as many colleagues have mentioned, a female staff member of the Immigration Department knowingly violated the law and stole personal data. Would there be a mole in the examples I just mentioned as well? Would the technical departments concerned be familiar with the operation? The technical staff might even know where computers should be put in order to avoid being monitored. Besides, had anyone been penalized after so many incidents had happened? Apart from the arrest of this female staff member, what about the others?

Hence, I was already very angry before the "black-clad violence" took place in 2019. I do not think the data of so many people should disappear just like that without a reason. So, on 22 May, I moved a motion on "Keeping up with technological development and enhancing the protection of people's privacy". And today, the subject of discussion is about privacy and it is definitely related to doxxing. We are exposed and others have hidden themselves. On Internet forums like LIHKG and the Hong Kong Golden Forum, information is spread quickly. When a person is mentioned on these forums, he will quickly be doxxed and his data will be posted. Also, on these forums like Telegram or some small groups under it where messages about the victims are posted, some people are like wolves, and I have dealt with such cases of assistance being sought from me. These people cyberbullied the victims, which might force these young victims to a dead end. This is what doxxing is all about.

Actually, apart from police officers, I know people in other sectors were in a similar situation. Their family members, or a young celebrity, might have expressed their views and they were only speaking from their conscience ... I said I liked the rule of law in 2019, but I could not even say so ... all of us were

immediately doxxed. It was horrifying and sad indeed. We are public figures and I know there is no rose without thorns. However, this is no fair. We should also be protected by the law.

We lag behind the general trend. The European Union enacted the General Data Protection Regulation ("GDPR"), which we just mentioned. The European Union set out clear and detailed regulations on the security, legal and ethical aspects in 2016. Actually, I know those working as data providers or website hosts are worried because we only make one step forward this time. What does it mean by "specified harm"? Apart from actually proving psychological harm is inflicted on a person, acts of pestering, threat and intimidation, among others, are also subject to regulation. Regarding the data subject and his family members, I think the data subject and his family members are specific in meaning. They mean "family members", while friends or cohabitants should be another matter. So, comparatively speaking, I buy the present version.

But then I think it is only reasonable to amend the law. If harm is caused to a victim, the offender shall be liable to a fine at level 5. Actually, the European Union, pursuant to GDPR, requested Facebook to pay a fine of €\$1.6 billion for negligence and failure to properly protect its clients and their information. The U.S. Federal Trade Commission also requested Facebook to pay a US\$5 billion fine. Just imagine how different their scales are from ours. Our fine is very small compared to theirs.

Moreover, regarding efficiency, I have helped many people by invoking the Personal Data (Privacy) Ordinance. I have also discussed this subject with the Privacy Commissioner for Personal Data for a number of times, but they are a "toothless tiger". I said at the debate on the motion I proposed last time that he found it a necessity to be empowered to prosecute and to mete out administrative penalties. If he is vested with the latter, he can order the expeditious removal of the disclosed data without the need to wait for the Department of Justice ("DoJ") to initiate prosecution. But he is not vested with the power to mete out fine. I hold that in the future, we can still consider along this direction ... and the Secretary has also heard this point today ... I certainly welcome the big stride forward that we will make today, but there is much more the Privacy Commissioner for Personal Data can do. There is no need to pass each case to DoJ for consideration because the sooner the disclosed personal data is removed, the less harm it will inflict on the data subject, and there will be greater effect and deterrence.

Deputy President, I so submit.

MR HOLDEN CHOW (in Cantonese): Deputy President, I rise to speak in support of the Personal Data (Privacy) (Amendment) Bill 2021 ("the Bill").

Deputy President, different Members in this Council have long since been very eager to combat doxxing, hoping that the Government can tackle and combat doxxing acts through legal means effectively. Certainly, all of us can recall—something still fresh in our memories—that during the "black-clad violence" in 2019, various doxxing activities caused considerable harm to many people. Not only public figures but also—as far as we can recall—many police officers and their family members were doxxed, victimized, and possibly subjected to intimidation eventually. All those cyberbullying activities are still vivid in our memories. So, Deputy President, we welcome the fact that the Government finally responds to the Legislative Council's request and really makes an attempt to combat doxxing by formulating this Bill.

Deputy President, it is worth noting that when the Government first proposed the Bill for combating doxxing acts—as I can recall, it was at the Panel on Constitutional Affairs—there was no such arrangement as classifying the relevant offences into two tiers. We are all aware that the present arrangement proposed by the Government will classify the relevant offences and criminal penalties into two tiers under which a doxxing act which has been proved to have been committed with a clear intent to cause harm to the data subject or his/her family members is punishable by the criminal penalty of imprisonment for a maximum term of two years, while the penalty will basically be raised to a higher level of five years of imprisonment if such act is proved to have caused actual harm to the data subject or his/her family members.

Regarding this two-tier structure, back then in the Panel on Constitutional Affairs, I myself and many members thought that the Government probably sought to introduce it to provide for an effective means to tackle doxxing acts. The very initial version of the Bill required conclusive proof of harm caused to the data subject or his/her family members by the doxxer's act before a conviction could be secured. As I can recall, upon hearing the first version, many colleagues in the Panel opined that it was actually difficult to adduce evidence for the harm which was required to be proved. In light of this, we were deeply concerned that many unscrupulous elements, doxxers, could end up exculpating themselves by exploiting the legal loopholes resulting from the impossibility to prove what was referred to as harm. I welcome the fact that the Government has taken on board the views we expressed in the relevant Panel meetings of the Legislative Council and has specifically included this two-tier structure as we can see in the Bill this time. This will make it possible to get a doxxer convicted for doxxing even without having to prove that his/her act has caused harm to the data subject and

his/her family members. The rationale is that any such act should be punishable as long as the main intent is to dox the others. I think this is an appropriate approach and can really serve a deterrent effect. If the initial version of the Bill, the version without this two-tier structure, is adopted, a doxxer will get convicted only when his/her doxxing act causes harm to the data subject or his/her family members. In this case, I am afraid that many unscrupulous elements can easily get themselves off the hook. So, I think the Government's proposal of this two-tier structure shows that it has heeded and readily accepted our views.

Deputy President, I noticed that during the scrutiny of the Bill by the Bills Committee, many members put forward a lot of views which I found to be invaluable, including the one point—I noted that Ms YUNG Hoi-yan just mentioned this point—about the defence provision in the original version of the Bill which is too lenient. To put simply, if the authorities request a platform to stop further uploading certain information and to remove the information concerned—something as simple as that—the platform may put up a defence to get rid of some civil liabilities. Definitely, this is understandable as it is merely an arrangement made in compliance with the requirements of the Ordinance. But then, we noticed—as expressed by various colleagues in the Bills Committee—the possibility that the defence provision or the relevant exemption might be "too leniently enforced" when we looked at the wording of the provision in the original version. What we referred to as "too leniently enforced" was that a recipient of a cessation notice might not fully comply with the notice concerned. We note that the Administration has proposed the present amendments upon hearing our views. Perhaps, other colleagues may speak on this point again during the debate on the amendments later. Anyway, I think it is a desirable move for the Government to take on board Members' views and make appropriate amendments.

Another point which I wish to raise is about manpower deployment in the future because we know that more power will be conferred upon the Privacy Commissioner for Personal Data. We often talk about the need to have adequate staffing and support to go with adequate power for law enforcement. There must be adequate staffing and support as we mentioned. After all, the number of doxxing-related crimes is not negligible indeed.

Deputy President, as you know, though we can see that ... just two days ago, there was finally a case ... a staff member of the Immigration Department who was arrested for her doxxing act was convicted of criminal offence at last. We know that this may just be the tip of the iceberg, and the various doxxing activities which we have witnessed before still exist. So, to effectively combat and tackle doxxing acts, there must be adequate manpower for the relevant law enforcement work in

addition to this piece of legislation. Otherwise, this will just be a futile piece of legislation. Anyway, without the law enforcement departments taking it seriously, I am worried that the relevant legislation will end up failing to serve its purpose. With this in mind, I think there should be adequate manpower to go with the amendments proposed by this Bill, so as to combat the crime of doxxing in a truly effective manner. I think this is absolutely necessary.

Deputy President, with these remarks, I support the Bill. I so submit.

IR DR LO WAI-KWOK (in Cantonese): Deputy President, I rise to speak in support of the passage of the Personal Data (Privacy) (Amendment) Bill 2021 ("the Bill"). This Bill seeks to amend and enact legislation against offences relating to disclosing personal data without consent, and confer new law enforcement power upon the Privacy Commissioner for Personal Data ("the Commissioner") in response to the surge in doxxing activities on the Internet in recent years.

Deputy President, under the existing Personal Data (Privacy) Ordinance (Cap. 486), a person commits an offence if he/she discloses any personal data of a data subject obtained from a data user without the data user's consent, and the disclosure causes psychological harm to the data subject. Still, there has been a surge in doxxing activities in recent years, especially since June 2019 when disturbances arising from the opposition to the proposed legislative amendments arose. Many government officials, law enforcement officers, public figures, and their families and friends have been subjected to doxxing. With their personal data being frequently spread and reposted on online platforms, the data subjects concerned have suffered from various harassment and extremely unreasonable treatment. For example, the children of some police officers were subjected to prejudice and even got bullied at their schools after being doxxed, thus traumatizing their young minds. While the court has granted a number of interim injunction orders to protect specific groups or persons from being doxxed upon the applications by relevant parties, any breach of the injunction orders will not result in any criminal record as injunctions are by nature civil remedies. Meanwhile, as the existing provisions under Cap. 486 are not intended for addressing this type of doxxing cases, the Office of the Privacy Commissioner for Personal Data ("PCPD") and the Police are often unable to ascertain the identity of the data user and whether the personal data was obtained from the data user without the data user's consent, which cause great difficulties to their law enforcement actions. Therefore, it is not just a strong demand from the community, but also a pressing need of the law enforcement authorities that the existing ordinance should be amended expeditiously to curb doxxing acts in a more effective manner.

The Bill was introduced into this Council on 21 July this year and a Bill Committee was subsequently formed to scrutinize it. As a member of the Bills Committee, I think the main content of the Bill and some of the controversies involved warrant our attention.

Regarding the disclosure of personal data without the data subject's consent, the Bill introduces two new offences under a two-tier structure. The first tier offence is a summary offence. A discloser commits the first tier offence and may be liable to a fine at level 6 (i.e. \$100,000) and imprisonment for two years if he/she has an intent to cause any specified harm, or is being reckless as to whether any specified harm would be caused to the data subject or his/her family members. The second tier offence is an indictable offence. A person commits the offence if, in addition to the elements of the first tier offence, any specified harm is actually caused to the data subject or his/her family members as a result of the disclosure. Any person who is convicted on indictment may be liable to a fine of \$1 million and imprisonment for five years. Under these offences, "specified harm" means harassment, molestation, pestering, threat or intimidation to the person; bodily harm or psychological harm to the person; harm causing the person reasonably to be concerned for the person's safety or well-being; or damage to the property of the person. According to the information provided by the Administration to members, the penalties for doxxing offences in other jurisdictions such as Singapore, New Zealand and Australia are similar to those proposed in the Bill.

It is worth noting that at present, PCPD lacks investigative and prosecution powers in handling criminal cases under Cap. 486. With criminal investigations being conducted by the Police and the prosecution, if required, being initiated by the Department of Justice, PCPD is inevitably regarded as a "toothless tiger" by some people. The Bill will confer investigative and enforcement powers in relation to the relevant offences upon the Commissioner, and at the same time, the Commissioner can prosecute certain offences in his/her own name. All of us support this change, but some members have been concerned whether PCPD has adequate manpower resources and the relevant experience to undertake the new investigation and prosecution work. The authorities have advised that PCPD will request additional resources, employ qualified staff with expertise, and step up the relevant training for its staff. Where necessary, it will conduct joint operation with the Police.

Furthermore, the Bill also confers a new power upon the Commissioner to serve a cessation notice on the relevant individual or entity (such as an online platform operator) that is able to take cessation action. This mechanism aims at expeditiously removing doxxing messages in order to reduce the harm caused to

the data subjects and their family members. However, there is a defence under the original proposed provisions and that is: it is a defence for a person charged with violation of a cessation notice to establish that it was not reasonable to expect him/her to comply with the notice because there was a risk of incurring a civil liability. Some members have questioned whether such defence is too wide in scope that it may undermine the relevant power and capability of law enforcement of the Commissioner. The Administration has been receptive to their views and has made it clear that it will propose a Committee stage amendment to delete the aforementioned provision, and replace it with a new immunity clause which will protect the recipient of a cessation notice from potential civil liability arising from compliance with the cessation notice. To conclude, the Bills Committee supports the resumption of the Second Reading of the Bill and the amendments which the Administration intends to move.

Deputy President, in order to effectively curb various doxxing acts which have become increasingly rampant in recent years, the Government should strengthen public education and publicity to promote anti-doxxing messages in addition to making legislative amendments to enhance the law enforcement power and capability of PCPD and the Commissioner. In particular, it should step up its efforts in promoting among children and young people the importance of protecting their personal data privacy and respecting that of the others. Also, operators of relevant websites and social media platforms should be reminded that they should stay vigilant to prevent their platforms from being abused as a tool for infringing personal data privacy, so as to avoid violation of the law. What is more, different sectors of society should work at spreading positive energy and resisting undesirable social trend and online behaviours together by making it a habit to say "no" to doxxing acts in a resolute manner. It is only in this way that we can hopefully resolve the problem both expediently and permanently.

With these remarks, Deputy President, I support the passage of the Bill.

MR CHAN KIN-POR (in Cantonese): Deputy President, I support the Personal Data (Privacy) (Amendment) Bill 2021 ("the Bill"). The purpose of the Bill is to criminalize doxxing acts and empower the Privacy Commissioner for Personal Data ("the Commissioner") to carry out criminal investigations and institute prosecution in relation to doxxing acts.

At the Commissioner is currently not empowered to combat doxxing acts, she can only write to the online platforms concerned to request the removal of doxxing contents. As the requests are not legally binding, only about 70% of the

online platforms are willing to remove such contents. The Commissioner is in fact a toothless tiger because she has to refer any problems to the Police for investigation and to the Department of Justice ("DoJ") for prosecution. This approach is indeed costly in terms of both time and effort, so it fails to effectively combat doxxing acts. After the legislative amendment, the Commissioner will have criminal investigation and prosecution powers to single-handedly enforce the law, thus greatly speeding up the crackdown and becoming a real tiger again.

Deputy President, doxxing is a cowardly act aimed at silencing the victims, putting them under immense psychological pressure and even threatening their personal safety. Information about their names, residential addresses, telephone numbers, identity cards, vehicle licence numbers, and even family members and children will be fully made public. Once a person's privacy information is made public, they will be pilloried and intimidated by lawless netizens, and even have their information stolen to borrow money. To cap it all, their children may become targets of bullying at school. The victims will have to live in fear. Moreover, once the information is uploaded onto the Internet, there is no way to remove it completely, which may affect the victims for the rest of their lives. Under the threat of doxxing, those who wish to speak out have no choice but to hold their tongues if they do not want their privacy information to be made public. Therefore, doxxing is definitely an act against freedom of speech. It is a shameful intimidation that has eventually become a tool for "black-clad violence" perpetrators to combat political dissidents.

In fact, from June 2019 to June this year, the Office of the Privacy Commissioner for Personal Data ("PCPD") received and proactively uncovered over 5 800 doxxing-related cases, of which a large number involved "black-clad violence" perpetrators targeting law enforcement officers and even judges and Legislative Council Members to the extent of lawlessness. PCPD had referred over 1 400 cases to the Police for investigation, and a total of 17 suspects had been arrested by the Police, but only two of the suspects were convicted. Moreover, between November 2019 and April this year, PCPD referred 60 doxxing cases on suspicion of breaching the court's injunction orders to DoJ. Among these cases, four defendants were convicted. Judging from the figures, the number of doxxing cases has already grown to an intolerable extent, but successful prosecutions are few and far between.

Besides, on Monday, the court imposed a heavy sentence of 45-month imprisonment on a staff member of the Immigration Department ("ImmD") who repeatedly logged into ImmD's system to steal the data of 215 government officials,

judges, police officers, Legislative Council Members and artistes and provided the data to some doxxing channels for publication. The judge berated the defendant for her behaviour bordering on "cyberterrorism" and describing it as vicious because the leaked information would be circulated permanently, leaving a large number of public officers to suffer from psychological trauma and fear. However, it must be noted that the defendant in this case was duly punished because she was charged with misconduct in public office, which is of significant gravity, rather than an offence related to doxxing. Nevertheless, it is clear from this case that criminalization of doxxing is crucial.

Furthermore, the Bill also requires that the Commissioner be empowered with criminal investigation powers to apply for warrants to search premises and electronic devices, and to stop, search and arrest a person without warrant in urgent circumstances. A two-tier structure will be set up for the offence of doxxing. As some colleagues have already elaborated on this earlier, I will not repeat it. I believe that the adoption of a two-tier structure is necessary. It is an effective approach to set a relatively low conviction threshold for the first tier, because if the threshold is too high, it may not provide adequate deterrence and will eventually become something existing in name only.

In addition, PCPD plans to set up a criminal investigation unit after the legislation is passed. In an interview, the Commissioner said that the manpower requirement would be met by internal redeployment and that if necessary she would consider recruiting people with criminal investigation experience to assist in law enforcement. I believe that PCPD has sufficient powers now, but if there is a lack of experienced people to enforce the law, eventually resulting in failure to arrest suspects or secure convictions, the legislation will likewise exist in name only. Therefore, it is highly advisable for PCPD to directly recruit experienced law enforcement officers. I believe that Members will be happy to approve the funding.

Thank you, Deputy President.

MR MA FUNG-KWOK (in Cantonese): Deputy President, I speak in support of the Second Reading of the Personal Data (Privacy) (Amendment) Bill 2021 ("the Bill").

The Bill makes clear at the outset that it targets doxxing behaviour. It proposes to criminalize doxxing acts as an offence under the Personal Data (Privacy) Ordinance ("PDPO"), empower the Privacy Commissioner for Personal

Data ("the Commissioner") to carry out criminal investigations and institute prosecution, confer on the Commissioner statutory powers to serve cessation notices and apply for injunctions, and so on. I hold that this amendment is a case of belated justice, but it is better late than never. In fact, most of our colleagues and I are also victims of malicious doxxing. The disclosure of personal data such as residential addresses and telephone numbers has caused various inconveniences to individuals and their families, and even left them worried about their personal safety. However, it is difficult to trace the leaker, and the platform where the leaked data is posted does not have to bear any responsibility. This is a great injustice to the victims of data leakage.

A recent case involves a clerical assistant of the Immigration Department abusing her power to obtain personal data of 215 people, including government officials, political dignitaries, judges, police officers, Legislative Council Members and even artistes, for online publication in a doxxing group. As a matter of fact, doxxing activities have intensified and emerged as a general trend in recent years. In particular, the year before last saw rampant street violence being triggered by the movement of opposition to the proposed legislative amendments, hatred and violence spreading to the online world, and members of the community with different political views being doxxed. Personal data was published and used everywhere for targeting, bullying, harassment and intimidation, turning privacy protection into lip service.

Between June 2019 and April this year, the Office of the Privacy Commissioner for Personal Data ("PCPD") received and proactively uncovered over 5 700 doxxing-related complaints. Over 30% of the doxxed victims were police officers and their family members. The leaked data included identity card numbers, residential addresses and telephone numbers, which were systematically and illegally disclosed. Moreover, from time to time before the implementation of the Hong Kong National Security Law, there were people on the Internet who advocated killing the family members of police officers, and even made such extravagant remarks as that "calamities will surely befall their wives and children as well".

The existing PDPO targets data users, and the threshold for conviction is whether the disclosure is "without the data user's consent". However, in the vast majority of doxxing cases, the data is dispensed and shared freely on online platforms. As the data has been reposted repeatedly, the source is untraceable, making it difficult for PCPD to take further follow-up actions under section 64 of the existing PDPO.

Separately, while PCPD has requested the online platforms to remove weblinks related to doxxing contents and some online platforms have complied with PCPD's requests, such requests are not mandatory from the legal perspective. Data shows that PCPD has actively approached the operators of 18 websites, platforms or discussion forums concerned, urging them to remove 5 905 hyperlinks, but only about 70% have been removed. In other words, 30% of the leaked data are still available for public browsing in the online world.

Worse still, PCPD had referred over 1 460 cases to the Police for criminal investigation and consideration of prosecution, but only 17 persons were arrested for suspected contravention and only two were convicted. This shows that it is very important and urgent to update the existing legislation by criminalizing doxxing acts so as to more effectively curb doxxing and cyberbullying.

In fact, this Council has directed the authorities to expeditiously study how to amend the legislation in order to more effectively curb doxxing behaviour. In the current amendment, two new offences under a two-tier structure are introduced, respectively a summary offence and an indictable offence. The former targets disclosure of personal data without the data subject's consent, where the discloser has an intent or is being reckless as to the causing of any specified harm to the data subject or any family member of the data subject by that disclosure. The latter, carrying a heavier penalty, targets disclosure of personal data causing specified harm to the data subject or his or her family member. The amendment has taken an extra step to update the existing offence under section 64(2) of PDPO by providing protection to not only the data subject but also his or her family members, thus reflecting more proportionately the seriousness of the doxxing act.

Moreover, the Bill does not stop at bringing doxxing perpetrators to account. The platforms concerned will also be held criminally liable if it fails to remove the relevant data as required by law. In the past, the Commissioner encountered difficulty in requesting overseas platforms to remove weblinks involving doxxing content, because after all, the parties involved were in jurisdictions outside Hong Kong, hence depriving the notices of any actual effect. After the legislative amendment, the Commissioner will have the power to exercise extraterritorial jurisdiction. Regardless of whether the data discloser is in Hong Kong or overseas, the Commissioner can mandate Internet service providers to block access to overseas websites with doxxing content, as well as overseas social media platforms to remove doxxing content, within a designated time frame. Offenders may be liable to a fine of \$100,000 and imprisonment for two years. Although

the community and even the Bills Committee are concerned that the enforcement of extraterritorial jurisdiction after the passage of the Bill may not go smoothly, it is believed that with a clear legal basis to request the platforms to remove data, the relevant follow-up work will at least be smoother than before.

Over the past few years, some colleagues of this Council have been advocating in the Panel on Constitutional Affairs that PCPD should be given criminal investigation and prosecution powers, so as to more effectively handle criminal cases under PDPO without necessarily referring the cases to the Police and further to the Department of Justice for prosecution. The current amendment empowers the Commissioner to carry out criminal investigation and institute prosecution in the Magistrates' Courts for less serious cases. It also empowers the Commissioner to apply for a warrant to enter and search premises, and access an electronic device without a warrant in urgent circumstances. The Commissioner will also be able to stop, search and arrest a person without warrant in reasonable circumstances, thus greatly enhancing the efficacy and efficiency of enforcement action against doxxing offences.

In response to large-scaled or repeated commissions of offences under section 64 of PDPO, the Commissioner may even apply to the court for injunctions to prohibit the ongoing or future doxxing activities. This move will be able to prevent the recurrence of previous large-scale doxxing activities, or even prevent doxxing activities from occurring in the first place.

Deputy President, apart from updating the legislation and ramping up enforcement, PCPD should surely also reinforce online inspections, step up publicity and education on the possibility of doxxing acts constituting a criminal offence under PDPO, and assist operators of websites, online social media platforms or discussion forums to understand the new legislation so as to prevent their platforms from being abused as a tool for infringing personal data privacy. As regards efforts to step up education, the authorities should place special emphasis on explaining the concept of personal data privacy to primary and secondary students and reminding them to avoid committing doxxing-related criminal offences. In particular, as the habit of doxxing people and sharing weblinks on online discussion forums and social software platforms is quite common nowadays, young people should understand the risk of incurring certain legal liabilities for such acts. The authorities also need to prevent doxxing acts from causing nuisance and harassment to students, teachers and other staff in the school environment. For the purpose of effective implementation of the aforesaid

legislation, it is certainly necessary to provide additional resources and strengthen the enforcement capacity as appropriate.

Deputy President, the weaponization of personal data has serious repercussions on the victims. Once the data is leaked, it is tantamount to permanent disclosure, which will constitute substantive nuisance, harassment and threats to the victims and their family members, and cause psychological and mental harm to them as well. Quite a few people are unable to express their views openly for fear of being doxxed. A civilized society should absolutely not tolerate such behaviour. Looking ahead, it is essential that the SAR Government updates Hong Kong's data protection regime more frequently and introduces more comprehensive protection to meet the challenges posed to personal data privacy by the rapid development and application of new technologies.

Deputy President, with these remarks, I support the Bill.

MR CHRISTOPHER CHEUNG (in Cantonese): Deputy President, let me make this clear from the outset: I am speaking in full support of the Personal Data (Privacy) (Amendment) Bill 2021 ("the Bill"), and I hope that the current legislative amendment exercise will effectively curb doxxing acts and bring the deleterious trend of "weaponizing" personal data in society to an end.

During the period of controversy over the proposed legislative amendments to the Fugitive Offenders Ordinance a couple of years ago, we all witnessed how the "black-clad" thugs created white terror by doxxing those people holding different views from theirs through various channels in order to attack, bully and intimidate them. Those thugs then went on to disclose on the Internet the personal data of government officials, pro-establishment Members and police officers that they had gathered, thus rendering the data subjects (i.e. officials, legislators and police officers of whom the personal data was exposed) subject to much harassment and disturbance.

The most shameful thing is that the "black-clad" thugs would not spare even the old, the feeble, women or children. They targeted not only people holding different political views but also their family members in that they uploaded also the latter's personal data onto the Internet and even threatened to bring along sacks to pick up the police officers' younger children from school. In committing such misdeeds, not only have they contravened the Personal Data (Privacy) Ordinance ("PDPO"), they have also overstepped the limits of a civilized society in terms of

moral standards. Hence, it is absolutely necessary to amend PDPO in order to more effectively protect people's privacy and crack down on such evil acts of doxxing.

Deputy President, the Bill covers three major aspects: first, it is to criminalize doxing acts as an offence; second, to empower the Privacy Commissioner for Personal Data ("the Commissioner") to carry out criminal investigations and institute prosecution; and third, to confer on the Commissioner statutory powers to serve notices to demand actions to cease or restrict disclosure of doxxing contents ("cessation notices"). In my opinion, these amendments made in response to the rampant doxxing acts in reality can not only combat doxxing more effectively, but also enable the Office of the Privacy Commissioner for Personal Data to investigate doxxing cases and institute prosecution in a more expeditious and effective manner. Moreover, they can effectively prevent the spread of the doxxing contents. And so, they are worth our support.

One thing I particularly agree to and support is, given that PDPO has always focused only on protecting the rights and interests of data subjects, the current legislative amendment exercise seeks to include also the family members of data subjects in the scope of protection and, in a targeted manner, deal with the evil doxxing acts that have caused harm to data subjects and their families. I consider it a rather humane amendment exercise which is reasonable and in line with public expectation.

The Bill proposes to introduce the doxxing offence under a two-tier structure: for the first tier offence (i.e. the discloser has an intent or is being reckless as to the causing of any specified harm to the data subject or any family member of the data subject by that disclosure), any person who commits the offence is liable on summary conviction to a maximum penalty comprising a fine at level 6 (i.e. \$100,000) and imprisonment for two years; for the second tier offence, any person who commits the offence is liable on conviction on indictment to a maximum penalty comprising a fine of \$1 million and imprisonment for five years. I very much support the proposal of a two-tier structure because I think that the low cost in committing crime has been the main reason for the rampant doxxing acts in the past. Evidently, the Bill is meant to enhance deterrence against doxxing acts and better improve PDPO by criminalizing doxxing acts and introducing the doxxing offence under a two-tier structure. This very proposal has my full support, of course.

Besides, under clause 66N of the Bill, if the person concerned has objections to the cessation notice served on him, an appeal may be made to the Administrative Appeals Board ("AAB") against the cessation notice not later than 14 days after the notice is served, and the appeal process does not affect the operation of the cessation notice. By adding this provision, I think a balance can be struck between protecting the legitimate rights and interests of data disclosers and law enforcement. It is indeed appropriate to do so.

The only flaw is that the Bill only provides for a 14-day deadline for appeals, without prescribing the time frame for processing appeals by AAB. I believe that many members of the public share the same feeling, that is, the work efficiency of government departments has been quite low and efficiency is even out of the question when it comes to handling complaints, hence always giving people the impression of extremely low efficiency. For example, it often takes half a year to one whole year for completing the processing of a simple complaint before the outcome is known, which may easily lead to a negative perception of the Government by the public.

Therefore, in my opinion, if the Bill can add in provisions prescribing a time frame of a specific length (e.g. one month, three months, etc.) within which AAB must reply to the appellant upon receipt of the appeal, I believe it will definitely have wider recognition and support.

Deputy President, despite society's extensive support for cracking down on doxxing acts, I have noticed that many people still do not have a thorough understanding of the Bill as some people are worried that the Bill will affect press freedom and restrict citizens' rights. Earlier on, some foreign media attempted to manipulate the Bill to stir up controversy by citing it out of context, stating that some overseas Internet service platforms would stop providing services in Hong Kong due to this legislative amendment exercise. This has aroused much concern from all quarters of society. Fortunately, the Government and relevant agencies have taken prompt action to make clarifications so that further fermenting of the issue was curbed. Thus, I hope that the authorities will step up publicity so that the public can have a correct understanding of the Bill and will not be misled by some false reports.

With these remarks, I support the Bill.

MR CHUNG KWOK-PAN (in Cantonese): Deputy President, we definitely support the Personal Data (Privacy) (Amendment) Bill 2021 ("the Bill").

Members should still remember that the pro-establishment Members present here today were affected and became victims in 2019 during the period in which "black-clad violence" incidents occurred, where the biggest issue being that our addresses were all made public, and some people even threatened to "greet" us near our homes, which were far too outrageous. Therefore, it is certain that we give our absolute support to the Bill on combating doxxing offences today.

We have discussed several issues at the Bills Committee meetings and yet, the Government has still failed to provide to us a full explanation on the relevant law enforcement arrangements, especially those involving the Office of the Privacy Commissioner for Personal Data ("PCPD"). Considering that the staff of PCPD used to carry out clerical duties in the past, do they have the relevant experience and ability required to handle the work upon their switching to undertake law enforcement actions in future? Regarding this, we are much worried particularly about law enforcement process, which may involve the use of force or face physical resistance. Who should the authorities hire to deal with such situations then?

The authorities may say that they will hire retired police officers or disciplined services personnel to handle such situations. This is feasible for sure, but we are concerned whether this will really help. Will the Police be asked to provide support accordingly at the same time? Yet, the Government did not give us a clear reply on this.

Hence, we still have a little concern as far as law enforcement is concerned particularly regarding some unexpected cases. Under normal circumstances, a law enforcement officer can apply to the court for a search warrant to inspect the mobile phone or computer in question if he suspects that the mobile phone or computer belonging to someone or someplace contains doxxing contents, but this is not possible for an emergency case which can only be dealt with immediately. However, that may involve dangers. And do the officers of PCPD have any experience of dealing with such cases? I hope that the Secretary will study this in detail so as to increase our confidence.

The second point is about the fact we may not be in a position to deal with cases involving data released outside Hong Kong through overseas platforms. As mentioned by the Privacy Commissioner for Personal Data ("the Commissioner"), 70% of the cases can be processed at present. Of course, many such platforms may be receptive to the authorities' exhortation letters issued and offer help as required, but it is still not comprehensive enough. Some data cannot be taken back once it is released and this will have significant impact and psychological pressure on the data subjects concerned. We understand that the cyber world has no boundaries. If we want to fully block the disclosure of certain data, we have to rely on foreign platforms' assistance. That is to say, it may not be 100% workable and we can only do our best.

The third point is about immediate law enforcement actions against and arrests of suspected persons. As we have mentioned some foreign examples previously, there was a case in the United States in which law enforcement officers asked the suspected person to log in on his mobile device but the person was unwilling to act accordingly. The mobile device was an Apple iPhone and when asked to give a hand by the law enforcement agencies, Apple Inc. was also unwilling to do so. It took a long time for the court to finish dealing with the case in the end, but the data has already been leaked and is still circulating. What safeguards do the victims/data subjects have, may I ask?

Concerning the case above, I hope that the Secretary will have some more information to add later. I want to know how they are going to tackle these loopholes. In case the suspected person gets a restraining order under another piece of legislation to stop a law enforcement officer from instantly logging in on his computer or mobile phone, there is indeed no way to block at once the continued spread of data that should not be disclosed, and this may also cause harm to the data subject concerned. Ultimately, however, neither did the Government nor the Commissioner give us a comprehensive reply at the Bills Committee meetings.

Anyway, the Bill deals squarely with the issue of doxxing with the aim of protecting everyone from harm. I hope that this legislative amendment exercise will enhance deterrence against doxxing offences and prevent some people from continuing to hurt others with cyber "weapons".

Thank you, Deputy President.

MR SHIU KA-FAI (in Cantonese): Just now, Deputy President, the Members present here have already put forth a lot of their views on the Personal Data (Privacy) (Amendment) Bill 2021 ("the Bill") as we ourselves are essentially the main stakeholders and victims in question.

I remember one day during the period of "black-clad violence", a good friend of mine WhatsApped me out of the blue, saying that he just came to realize how close we were living to each other. After making an enquiry, I learned that someone had made public my residential address. Of course, it was not only mine but also the residential addresses of all Members of the Legislative Council were made public, including that of the President's as well. I did not know what had happened at the time, but my friend told me that the residential addresses of all Members of the Council were already widely circulated on the Internet, and as just told by the Leader of my political party Mr CHUNG Kwok-pan, people were discussing on different platforms about ways to find us.

Deputy President, why did they do so? The answer is pretty simple. All that they have done was meant to intimidate us to the point of keeping quiet, so that only their voices could be heard in society. That way, everyone could hear only their voices. And so, whenever those people with different positions spoke up, they would employ such tactics to silence them, coupled with textual propaganda (e.g. "Lennon Walls", etc.). Even though this only offers a glimpse of what those people did in the 2019 Hong Kong version of the "color revolution", I will definitely give my full support to the Bill today.

Looking back, officers of the disciplined services, in particular the Police, were among those suffered most from being doxxed at that time of course. I remember there was once a case of attempted grabbing of a police gun that happened in Sai Wan Ho, in which the police officer fired a shot to subdue the suspect. But later in the afternoon of that day, all the personal data of the police officer concerned was already spread on the Internet, and everyone knew even which school his son was attending. White terror of this kind immediately created invisible pressure on them. As far as all the police officers on duty at the front line were concerned, the braver they were, the more likely their personal data would all be made public since then.

I still remember that my good friend, who was a senior police officer, called me one day and asked me to help find another school for his son who was attending primary school. According to him, his son must change school because everyone

in the school he was then attending already knew who his son was, so it was necessary to change school immediately. Hence, I promptly contacted my former school principal. Fortunately, I managed to get in touch with Mr FONG, the Principal of Kiangsu & Chekiang Primary School (my home school) and tell him my friend's situation. He quickly helped arrange for the son of my friend (i.e. the senior police officer) to attend another school, thus setting my friend free from worries at the moment.

However, Members may think about this: my friend is a very senior police officer, and even though his son's problem was resolved, did he still have other cares? He was at the forefront then and everyone could see him speaking on TV very often. For this reason, did he have to worry about the personal safety of his family members and consider ways of protecting them? The answer is in the affirmative. And in case I have failed to help his son change school, can you guess if he would be weighed down by all his cares while performing his duties? And so, do Members find their trick of "doxxing" vicious? Well, of course it is vicious. And is it effective? In fact, it is really effective in that it will cause people to worry. If the Bill is passed today, the law enforcement agencies will then be given greater power to investigate those people having committed the doxxing offence and bring them to justice.

Secretary, I was still browsing this web page a moment ago—I thought that data involving privacy should have been removed from it recently, but I just found out that such data is still available there—I am talking about the platform called "老豆搵仔" (which was specifically known for doxxing police officers during the period of "black-clad violence"). At first, I thought this kind of data had been thoroughly removed. Well, you may check it out on the Internet and will still find it there. Take for instance Mr LEE, the police commander in charge of the case concerning the Yuen Long incident back then, whose personal data is still available on the Internet. I am so surprised indeed. Besides, there is "Wa Kee" as well, who is really outspoken, and all his personal data is still there on the Internet right at this moment.

Why is this so? Well, those people wanted to post others' personal data online ahead of the completion of relevant legislative amendment exercise, but I would say that this will not work anyway. Given that Hong Kong has already enacted legislation on the Hong Kong National Security Law and on improving electoral system, they are now left with only two options, one of which being the choice of leaving the city soon, or else they had better get ready to be put behind

bars. I just hope they would come to their sense and stop stirring up trouble. Otherwise, I believe that the departments concerned will certainly take a heavy-handed approach and bring them to justice. Specifically, upon passage of the Bill today, law enforcement agencies will be able to investigate and arrest those who have committed doxxing offence on stronger legal grounds.

Thank you, Deputy President.

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

(Mr KWOK Wai-keung indicated his wish to speak)

DEPUTY PRESIDENT (in Cantonese): Mr KWOK Wai-keung, please speak.

MR KWOK WAI-KEUNG (in Cantonese): Deputy President, I speak in support of the Personal Data (Privacy) (Amendment) Bill 2021 ("the Bill").

Deputy President, why should we turn the acts of doxxing into a criminal offence? The answer is simple. We do so to respond to people who have turned the acts of doxxing into a weapon. Apart from introducing penalties, it is hoped that by so doing, a deterrent effect can be achieved and that education, especially community education, and the quality of Internet content can be enhanced, so as to prevent the recurrence of these situations.

(THE PRESIDENT resumed the Chair)

President, the Personal Data (Privacy) Ordinance was enacted in 1995. Many colleagues have criticized that the ordinance, which is like a toothless tiger, is "good to look at but not good to use". And now, we obviously have to equip this tiger with teeth. What is the problem exactly? We all agree that Hong Kong experienced the worst turmoil and the darkest days during the colour revolution and "black-clad violence" in 2019. A group of people would lose their moral and civilized standards when they were carried away by political enthusiasm. No matter how high their civilized and moral standards appeared to be under normal

circumstances, these standards collapsed in front of political enthusiasm. They were so obsessed with justice lawbreaking that they totally embraced this brainwashing propaganda on "black-clad violence".

Another problem is that the acts of doxxing, which were widespread, are also one of the situations that reflected the collapse of moral and civilized standards. A judge recently said in a ruling that the act of doxxing or disclosure of personal data is not only a dereliction of duty, but also of a broader and more malicious intent. Although the person who released the information just typed a few words and then pressed the button and that she would not have blood on her hands, was her action simply out of ignorance? Was it a mere prank? Or was it an act simply to express discontent? Definitely not.

Why do I ask these questions? It is because the persons being doxxed were mainly police officers and their family members, and also judges, public officers, Legislative Council Members and other public figures. But why were those doxxed mostly police officers? The answer is simple. As the judge said in the ruling, this is a psychological warfare of cyberterrorism, which seeks not only to undermine the morale of the police force to enforce the law and stop violence and control chaos, but also to silence people of opposite opinions; and there is a more radical intention behind it as well, which is to encourage other "comrades" to commit evil-doings. We still remember in the beginning of the "black-clad violence", a kindergarten teacher was found beating students. These so-called "comrades" may be around you. Hence, the intention behind releasing such information is absolutely malicious, and to attract or appeal to irrational people to perform evil-doings. Hence, these situations should not be condoned and must be expeditiously dealt with.

President, as many of our colleagues have mentioned, we can see several points from a recent case, which is about a former clerical assistant of the Immigration Department. The judge made a particular point, and that is, the offender committed five betrayals. She betrayed the basic ethics of Hong Kong people; she betrayed what she was taught at school; she betrayed the nurturing of her parents; she betrayed the mission of civil servants; and she betrayed the trust of the Immigration Department. Another point is that her access to the personal information alone had caused a disastrous impact and the information of at least 215 public officers was disclosed. After the arrest of this offender, acts of Internet doxxing have dropped by 90%.

President, in other words, as many of our colleagues have pointed out, all government departments as well as private organizations that possess personal data apparently should have the responsibility to take good care of such data. Even if staff members need access to such data, there should be multiple-level restrictions to prevent the recurrence of cases where departments which do not need to have access to the data have access to such data. I believe we will have to revisit this topic in the future.

Next, we must also talk about the extent to which the level of our current moral standards has fallen. We may all notice that during the "black-clad violence", some people who claimed to have been injured at the riots were sent to the hospital. However, information about their injuries was soon disclosed upon arrival at the hospital. I wonder why such information was not subject to the restriction of personal data privacy. The details on the injuries, how the injuries were caused and the latest conditions were all disclosed to the public. However, their medical reports were never made public for the sake of protecting their personal data privacy. This good-and-evil situation has precisely contributed to the "girl with a ruptured eyeball" incident. It is an unresolved case. The case gave people an impression of her injury before the investigation actually took place. The incident was blown up out of proportion, and in turn instigated the riots. How should this situation be handled?

I said that from the perspective of public interests, the Hospital Authority should have the responsibility to disclose part of the information to stop rumours which would instigate riots from further spreading. But to date, why is this still not yet done? Why were the whereabouts of the "girl with a ruptured eyeball" disclosed only after she had left Hong Kong? How should we explain this? Should these be regarded as personal data? In my opinion, to prevent the recurrence of "black-clad violence", the Government must review from the perspective of public interests how to disclose information that is conducive to stopping riots, so as to prevent these situations from happening again.

The Bill this time around can combat the acts of doxxing. It gives the Privacy Commissioner of Personal Data the power to conduct criminal investigations and initiate prosecutions and request service providers to remove within a specified period of time the doxxing content which infringes on personal data, with a view to expeditiously stopping the harm on the data subject. This is a good follow-up. However, the judge who ruled on the case also says that the data uploaded onto the Internet would be transferred to other locations, and it is very difficult to uproot the data; and it is like radiation and will never go away.

President, many people claim that the Bill undermines people's right, that is, the right to disclose other people's information, in the name of privacy protection. I think this comment is unreasonable and distorted. Many places worldwide have already introduced legislation to regulate the acts of doxxing. In New Zealand, the Harmful Digital Communications Act was enacted in 2015 to make cyberbullying a specific criminal offence. The European Union also enacted the General Data Protection Regulation in 2018, which explicitly gives social platform clients "the right to be forgotten", or the right to erasure of their data. And the Singapore authorities passed the amendments to the Protection from Harassment Act in 2019 to include doxxing and cyberbullying as a criminal offence. The amendments expanded the scope of redress for victims of cyberbullying and the offenders are liable to fine and imprisonment upon conviction. And today, we in Hong Kong are only catching up with others with the introduction of the Bill. I hope that upon enactment of the amended ordinance, people, especially our law enforcement officers, will no longer be under the threat of doxxing.

I so submit.

MR LEUNG CHE-CHEUNG (in Cantonese): I speak in support of the Personal Data (Privacy) (Amendment) Bill 2021 ("the Bill").

As we all know, the "black-clad violence" incidents in 2019 have aroused widespread concern about the failure of public officers to take enforcement actions as a result of their being doxxed. Everyone knows that doxxing is like an invisible weapon which can bring people performing public duties under serious attack. The situation has indeed aroused grave public concern, and it is hoped that punitive measures can be imposed under the law on people engaging in doxxing activities, thereby combating such malicious acts.

However, very regrettably, the authorities have waited until today to start legislating against doxxing. It is of course better late than never, but can we really curb the evil act of doxxing through legislative means? According to the figures provided by the Government, in the absence of relevant legislation at present, about 70% of weblinks related to doxxing contents have been removed upon receipt of a warning, but 30% of the data subjects are still victimized. This has indeed prompted us to think that only by legislating against doxxing as early as possible can we expeditiously rectify these unethical practices.

I think that the current legislative will have certain deterrent effect, because the Privacy Commissioner for Personal Data ("the Commissioner") will be empowered to investigate into and take enforcement actions against the offences

prescribed, meaning that apart from enacting a piece of regulatory legislation, a public officer will also be designated for its enforcement. In addition, the proposed offences will be handled under a two-tier structure to avoid time-consuming litigation. The first tier offence is a summary offence for which the penalty level is not very high, and any person who commits the offence may be liable to a fine of \$100,000 and imprisonment for two years. As for the second tier offence, which is an indictable offence, any person who commits the offence may be liable on conviction on indictment to a fine of \$1 million and imprisonment for five years. What I mentioned above are the arrangements relating to the proposed offences.

During deliberation by the Bills Committee formed to study the Bill, I have indicated to the Secretary that for doxxing activities conducted outside Hong Kong, such as those carried out by Taiwanese people on Hong Kong people, we may of course have access to the doxxing contents spread in online platforms, and after complaints have been lodged and with the intervention of the Commissioner, weblinks involving doxxing contents will of course be removed, but we can in no way impose punishments on those who have conducted such doxxing activities. When consideration was given to enacting legislation in this respect, I am sure it was the aim of the authorities to put a stop to doxxing activities immediately and contain the damage done at once through legal means, but with regard to persons who have carried out doxxing acts, can punishments be imposed on them extraterritorially from Hong Kong? The answer is in the negative.

We all know that at present, the online world is borderless, but we cannot impose punishments on persons carrying out doxxing acts. The ultimate purpose of the proposed legislation is to take punitive actions under a two-tier structure as I mentioned earlier, but someone can escape the long arm of the law in the end because online platforms will only take immediate actions upon request to remove links to doxxing contents within 14 days as required by the law, while the personal data of those affected has basically been made public, and persons harbouring ulterior motives may have even saved the data.

As some fellow colleagues have mentioned just now, children of some police officers have been doxxed, and they have not only become subjects of gossips at school but also encountered much inconvenience when going to and leaving schools. These sorts of invisible pressure have made us feel that the sooner we curb doxxing acts the better. This has already been made possible now with the enactment of this law, but how should we penalize persons who harbour ulterior motives and conduct doxxing activities? The authorities have so far been unable to put forward a legal remedy to address the problem that I have raised.

In my opinion, another problem is the provision that allows a time frame of 14 days for the removal of links to doxxing contents. Administratively speaking, it is a usual practice in Hong Kong to allow around 14 days for response after a specified request has been made, but such a time frame of 14 days will enable the information about the personal data involved to be spread immediately and widely. In this connection, I think the sooner we stop the spread of such information the better, but the proposed arrangements fail to satisfy the need for urgency in this respect. I therefore consider it necessary to examine carefully whether prior notices should be given to the websites or platforms involved for the immediate removal of links to the doxxing contents concerned before law enforcement actions are taken, thereby preventing the further and wide spread of the information involved and reducing the harm caused to the doxxing victims.

President, I so submit.

MR PAUL TSE (in Cantonese): President, anyone who bothers and can find the time to listen to our speeches in the debate today will surely have the feeling that there is really only one voice in this Chamber now, because Members have kept repeating such arguments as the "weaponization" of doxxing, the "black-clad violence" incidents, the need to step up legislation and enact legislation immediately. Just take a look around and we should all notice that some former colleagues who have been valuing freedom of speech more importantly, or some who have background in fighting for civil rights are actually absent in this legislature now, and there is indeed a phenomenon which makes me feel that it may be necessary to strike a balance. Hence, although I am personally in support of the Personal Data (Privacy) (Amendment) Bill 2021 ("the Bill"), it would be necessary for me to play the role of a devil's advocate, and touch on lightly certain viewpoints that have so far not been expressed by other colleagues.

I am particularly worried and have noticed that it may be necessary for all Members and public officers present in this Chamber, or even the judges in the Judiciary to declare interest, because all of us are victims of doxxing activities, and have therefore unconsciously developed a tendency to favour suppression and legislative means against such activities, which must be done, earlier, quicker and more stringently. I am afraid that this is only a biased sample which represents the prejudice that some of us may have, and hence the failure on our part to take into account the overall situation when judging the whole matter.

Furthermore, there should be a representative of the Information Technology constituency in the Legislative Council but unfortunately, the voice representing

this sector has already been missing here for quite some time. Therefore, as far as the views of the sector are concerned, although we are lucky enough to have perused some papers and submissions like the one submitted by the Asia Internet Coalition, which I have already studied in detail to obtain a rough understanding of some different views, more comprehensive information is still not available in this respect, and neither can we get to know the issues that are of particular concern to the relevant sector.

Certainly, President, I am also of the view that it is usually not the most opportune time to legislate when the heat is on. Some fellow colleagues would of course consider that as "black-clad violence" has run rampant for quite some time and caused much harm to so many people, why can we not do something about it? This is well said indeed, because it is true that the existing legislation is always behind the times, but this is by no means totally bad, bearing in mind that by legislating for a particular purpose when the issue concerned is still under heated debate in the community, our legislation may fail to maintain a proper balance. A case in point was a series of new legislation enacted by the United States Government soon after the September 11 incident, which was subsequently found to be totally imbalanced, failing to safeguard various freedoms highly valued by the United States.

Therefore, although I am in support of the current legislative exercise, there are certain issues that merit our special concern. For example, there are actually three points that we are most concerned about. First of all, using personal data obtained from a data user for doxxing activities without the data user's consent could lead to relatively serious consequences, and we are all familiar with this requirement which is already covered under the existing regulatory regime. The Bill proposes to add another two new offences for disclosing personal data without the authorization of the data subject and thus causing harm to the data subject. In this connection, the offences are dealt with under a two-tier structure, and as some fellow colleagues have given a detailed explanation about this just now, I need not repeat. In short, while there is no need to prove that any harm has been caused by the first tier offence, the second tier offence involves actual harm caused to the data subject. Basically, the elements of these two offences are largely similar, with the only difference lying in whether or not any specified harm has actually been caused.

However, with regard to the term "specified harm", I am afraid that the level of its consistency may not be as great as that provided for in similar provisions found in other countries, and why do I say so? It is because our stipulations in this respect are relatively vague, resulting in the possible absence of certain safeguards in some areas. What, for example, are the safeguards involved?

Some places have clear definitions as to what kind of harm is regarded as specified harm, and the degree of severity required for specified harm. Some countries have even included the element of "violence" in specified harm, while some have put emphasis on the repetitive nature of the related acts to the effect that an offence element will only be satisfied when two or more such acts have been made. Hong Kong, on the contrary, has so far provided for the element of causing specified harm only, and although the authorities consider this sufficient, I am afraid that it is not that reliable. However, a chance is still available because interpretation made by the court can help us clarify the issue, but we have to wait and see what will be the final outcome in this respect.

Besides, a number of colleagues have also spoken on the issue of the exercise of powers. The executive authority in question is a civilian department which usually adopts a softer approach, and although the Secretary present used to be a disciplined services officer before his transfer to the present civilian post, it does take time for a civilian officer to adapt to a disciplinary officer post, and the same is true for a civilian department which is tasked with the work of disciplined services officers. A number of colleagues have mentioned this point and I need not repeat. However, what I am more concerned about is the issues relating to search warrant, because apart from exempting the application for a search warrant in urgent circumstances, it is also stipulated that although a mechanism has been put in place for applying for a search warrant, the officers concerned may be exempted from doing so if certain criteria can be met. What then are the criteria specified?

For example, under section 66H, a search can be conducted without a warrant under certain circumstances, and section 66G(8)(c) also stipulates that an exemption should be granted in the circumstances prescribed. My only concern is about the unclear definitions given for such exempted cases. For example, section 66G(8)(c) stipulates that an exemption will be granted if a delay caused by an application for a search warrant is likely to defeat the purpose of taking the relevant actions, but this actually involves a rather subjective judgment. "It is not reasonably practicable to make an application" is another criterion specified, but this will in fact encourage frontline officers to use this as an excuse for not making an application intentionally or unintentionally by arguing that it is not reasonably practicable to do so even though circumstances actually permit.

Such being the case, in the end, will it be possible for anyone holding a mobile phone on the street to be searched for a suspected breach of the law? The officers concerned may simply do so by claiming that it is not reasonably practicable to make an application for a warrant, that the suspected person may

have already left and disappeared without a trace when a warrant is obtained, that the relevant data can be deleted any time by pressing just a button, etc. Hence, the principle concerning reasonably practicable can be easily abused and misuse, and how should a judgment be made during enforcement? Some colleagues have already put forward their requests, and I also wish to point out once again that I am looking forward to the provision of clearer and more stringent guidance and training for enforcement, as well as the stepping-up of follow-up actions, otherwise we may give up under the general principle for combating doxxing activities too many due safeguards for the freedom of speech, or too much personal freedom that we should all enjoy.

President, due to time constraints, I cannot say too much, but another issue of concern which I would like to bring up is the proposed statutory defences available, among which the one relating to news activities has certainly aroused much concern among journalists. In this connection, according to the wording used in the Bill, it would be a defence if the disclosure is "solely" (i.e. entirely or purely) for the purpose of a "lawful" (i.e. legitimate) news activity, and it is in the public interest to do so. First of all, can this possibly cover all of the reasons involved? As there are always a mix of public and private needs for people to do certain things, it is problematic to require the person concerned to prove that the disclosure is "solely" for the purpose concerned.

Secondly, it is even more puzzling as to what exactly is a lawful news activity? The authorities have explained to the Bills Committee that the proposed amendment is made with reference to the wording used previously in the various injunction orders made by the court for some civil cases. I understand that this is sometimes an interactive process, where court decisions in precedent cases may prompt us to draw reference from the wording used by the court during our legislative process. However, conversely, after the enactment of legislation, the court may also be required sometimes to adopt certain terms used. In the case in question, it seems that the authorities have repeatedly adopted the wording used previously by the court when issuing warrants or injunction orders, and used the terms concerned as a basis for its legislative work. However, since they may involve unilateral applications, it is possible that the issues concerned have never been subject to any thought-provoking debates, and no adequate time has been given to examine the relevant background and the appropriateness of these terms. Therefore, I am concerned that the casual use of such wording may result in the legislation enacted being too stringent.

All in all, President, as there is not much time left, I just wish to point out that I am in support of the legislative exercise in principle, and consider it necessary to take actions to combat doxxing activities, while a balance in this respect should be struck in society. However, as far as law enforcement is concerned, since the current legislative exercise has been done relatively hastily, there is not much opposition voice, and we do not have enough time to consider more stringently other possible loopholes or pitfalls. I therefore hope that the authorities will devise guidelines as far as practicable after the enactment of the legislation, and review the need for further amending and tightening the law on a timely basis, so as to achieve a proper balance (*The buzzer sounded*) ... Thank you, President.

PRESIDENT (in Cantonese): Mr Paul TSE, please stop speaking.

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 Constitutional and Mainland Affairs to reply. Then, the debate will come to a close.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I would like to express my sincere gratitude to the Chairman of the Bills Committee on Personal Data (Privacy) (Amendment) Bill 2021("the Bills Committee"), Ms Alice MAK and members of the Bills Committee, as well as the Legislative Council Secretariat for their support in enabling the Bills Committee to convene three meetings in August and to complete its scrutiny work effectively and expeditiously. I would also like to thank Members and the public for their input on the Personal Data (Privacy) (Amendment) Bill 2021("the Bill").

Since 2019, doxxers have been recklessly disclosing personal information of other people who held different political views, which amounts to weaponizing personal data. Since the Government introduced the Bill into the Legislative Council on July 2021, there has been more in-depth discussions on the Bill, and the community generally recognizes the importance and urgency of combating doxxing in order to protect personal data privacy. In fact, the cyber world is so vast that doxxing messages can easily be spread through social media platforms, online forums or communication software, and so on. These messages often

involve threats, intimidation or harassing comments, which can cause great harm to the data subject and his/her family. Doxers are good at stirring up emotions and hatred among the public, using the victim's political stance to gauge what is right or wrong, trying to seize the moral high ground, and even using the excuse of "breaking the law to achieve justice" to cover up the fundamental fact of malicious doxing act; they are really despicable.

The main areas of amendment to the Bill this time around include: (a) to criminalize doxing acts as an offence; (b) to empower the Privacy Commissioner for Personal Data ("the Commissioner") to carry out criminal investigations and institute prosecution; and (c) to confer on the Commissioner statutory powers to demand actions to cease disclosure of doxing contents. Today, I would like to respond succinctly to the concerns expressed by members of the Bills Committee.

First, members were concerned about the difficulty in establishing the threshold of psychological harm under the definition of "specified harm". They cited the example that politicians were generally of a better mental quality and therefore it might be more difficult for the prosecution to prove that a politician had suffered psychological harm. In this regard, we have accepted Members' earlier comments in the Panel on Constitutional Affairs by introducing to the Bill a two-tier system of doxing offences. The first-tier offence is an offence for disclosing personal data without the data subject's relevant consent as long as the discloser has an intent to cause any specified harm or is being reckless as to whether any specified harm would be caused to the data subject or his/her family members. The second-tier offence is an offence, in addition to the elements of the first-tier offence, for a person to disclose personal data which has caused any provable specified harm to the data subject or his/her family members as a result of the disclosure. The two-tier offence of doxing is more effective in combating doxing by determining the seriousness of the case in terms of whether the data subject or his family has suffered specified harm. The definition of "specified harm" in the Bill is broadly consistent with the wording used in an earlier injunction order filed by the Secretary for Justice in the High Court to curb doxing.

Secondly, members pointed out that the prosecution would need to prove that the doxer had an intent or was being reckless as to the causing of any specified harm to the data subject or any family member of the data subject by that disclosure, which might pose a challenge to the prosecution. In this regard, we would like to point out that it is generally necessary for the prosecution to prove to the court that the defendant intended to commit the offence. This is also a common practice in other legislation. For example, under the Offences against the Person Ordinance, it would be an offence if a person, with intent to cause grievous bodily harm to

another, unlawfully and maliciously injures any person or causes grievous bodily harm to any person in any manner. I would like to take this opportunity to remind members of the public that even if the personal data of a data subject is forwarded to a private group without the consent of the data subject and with the intention or recklessness of causing specified harm to the data subject or his family, he may still have committed the offence of doxxing.

Thirdly, members were concerned whether the Commissioner could effectively exercise the relevant criminal investigation and prosecution powers under the Bill to combat doxxing offences after the passage of the Bill. In this regard, the Office of the Privacy Commissioner for Personal Data ("PCPD") has applied for additional manpower and resources in accordance with the established mechanism and will consider recruiting lawyers with criminal prosecution experience or retired law enforcement officers to cope with future criminal investigation and prosecution work. Where necessary, PCPD will also conduct joint operations with the Police to combat doxxing offences and has already invited the Police to share their experience and provide corresponding training to PCPD officers to facilitate its enforcement.

I have also noticed that individual Members, such as Mr CHUNG Kwok-pan, expressed concern that whether or not PCPD officers, when given the power to investigate and prosecute, would be able to enforce the law without the support of the Police. In fact, I would like to reiterate on this point that even though PCPD officers are granted criminal investigation and prosecution powers, it does not mean that the Police will no longer support PCPD in their enforcement actions. If necessary, depending on the circumstances of the case, such as its risk, danger and complexity, the Police will still provide support to PCPD officers when necessary. I believe the Police will provide more support in this regard, especially in the early stages when PCPD officers are not yet fully accustomed to it.

In addition, a member asked whether the relevant legislation could prompt overseas online platforms to comply with the cessation notice by removing the relevant doxxing content. In this regard, according to the Commissioner's past experience, most overseas online platforms have their own corporate policies which stipulate that the content on their platforms must not violate the respective local laws. Therefore, we are confident that the vast majority of overseas online platforms will comply with the cessation notice issued under the law after the Bill is passed. In extreme cases, PCPD may request the relevant Internet service provider to block the doxxing website and remove the doxxing message as soon as possible to minimize the harm to the data subject or his family.

In addition, we have carefully considered the suggestions made by Ms YUNG Hoi-yan in the Bills Committee during the scrutiny process as we considered them to be reasonable and desirable. A relevant amendment will therefore be proposed at the Committee stage later on to remove the risk of incurring civil liability as a defence for breaches of the cessation notice and instead add an exemption from any civil liability that may be incurred as a result of complying with the cessation notice. This amendment was supported by the Bills Committee. This will help to remove the doxxing message as soon as possible and address any concerns about civil liability arising from compliance with the cessation notice.

President, I implore Members to support the passage of the Second Reading of the Bill and the amendments to be proposed by the Government later on, so as to combat the doxxing acts that divide our society as soon as possible and to better protect personal data privacy. After the Bill is passed, PCPD will step up publicity and education of the legislation to deter the occurrence of doxxing offences on the one hand, and to enable the public to understand the spirit and requirements of the legislation so that they will not be caught by the law inadvertently on the other.

Moreover, in response to Members' concerns earlier that the Government should conduct a comprehensive review of the Personal Data (Privacy) Ordinance ("PDPO") as soon as possible and keep abreast of the latest developments. I would like to reiterate that, apart from the amendments made in response to the doxxing offence, we actually have plans to make comprehensive improvements and amendments to PDPO. The current major directions of amendment include (a) establishing a mandatory data breach notification mechanism; (b) setting a time limit for data retention; (c) adding the power of the Commissioner to impose administrative fines; and (d) regulating data processors, and so on. After we have refined the relevant amendments to doxxing, we will proceed with other amendments as soon as possible and submit the draft amendments to the Legislative Council for scrutiny. After PDPO is further improved, we believe that it will further enhance the protection of the privacy of the general public.

Furthermore, as mentioned by Mr Paul TSE earlier, we should have a clear standing instruction on the specific enforcement work after this legislative amendment. We will review the situation in due course and will not exclude the possibility of making appropriate adjustments and amendments at any time if the situation warrants.

I so submit. Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Personal Data (Privacy) (Amendment) Bill 2021 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

I declare the motion passed.

CLERK (in Cantonese): Personal Data (Privacy) (Amendment) Bill 2021.

Council became committee of the whole Council.

Consideration by Committee of the Whole Council

CHAIRMAN (in Cantonese): This Council now becomes committee of the whole Council to consider the Personal Data (Privacy) (Amendment) Bill 2021.

Members may refer to the Appendix to the Script for the debate and voting arrangements for the Bill.

PERSONAL DATA (PRIVACY) (AMENDMENT) BILL 2021

CHAIRMAN (in Cantonese): Members have been informed that the committee will conduct a joint debate on the clauses and amendments.

I now propose the question to you and that is: That the following clauses stand part of the Bill.

CLERK (in Cantonese): Clauses 1 to 14.

CHAIRMAN (in Cantonese): The Secretary for Constitutional and Mainland Affairs will move amendments which seek to amend clause 10.

Members may refer to the Appendix to the Script for details of the amendments.

CHAIRMAN (in Cantonese): Members may now proceed to a joint debate on the clauses and amendments.

CHAIRMAN (in Cantonese): I will first call upon the Secretary to speak, but he is not required to move the amendments at this stage. Then I will call upon Members to speak.

Upon the conclusion of the joint debate, the committee will first vote on the clauses with no amendment standing part of the Bill, and then vote on the amendments.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Chairman, I will move an amendment to the Personal Data (Privacy) (Amendment) Bill 2021 ("the Bill") to propose that the defence of any civil liability arising from compliance with a cessation notice be removed from the Bill and replaced by an exemption provision exempting from civil liability to third parties that may arise from compliance with a cessation notice. The purpose of the amendment is to address the concerns expressed by the Bills Committee on the Personal Data (Privacy) (Amendment) Bill 2021 ("the Bills Committee") in relation to the scope of the cessation notice defence.

The proposed cessation notice mechanism under the Bill aims to remove the doxxing message as soon as possible in order to prevent or minimize harm to the data subject and his family. At present, the Bill's proposed section 66M expressly provides that if the Privacy Commissioner for Personal Data ("the Commissioner") has reasonable ground to believe that (a) there is a subject message as defined in the proposed section 66J, and (b) a Hong Kong person or (if that is an electronic message) a non-Hong Kong service provider is able to take a cessation action in relation to the message (e.g. online platform operators), the Commissioner may serve a cessation notice on the person or service provider by directing the person or the service provider to take the cessation action.

A member of the Bills Committee pointed out that the scope of one of the defences in the Bill (proposed section 66O(2)(b)(iv)) in relation to the offence in relation to contravention of cessation notice was too wide and would undermine the intended effect of the Bill.

Having examined the local legislation, it is noted that there is no defence similar to the proposed section 66O(2)(b)(iv) in other existing legislation in Hong Kong. Instead, there are immunity clauses for protecting persons who comply with certain requirements imposed on them from potential civil liability owed to third parties. Examples can be found in section 380 of the Securities and Futures Ordinance (Cap. 571) and section 54 of the Financial Reporting Council Ordinance (Cap. 588).

To address Members' concerns, we propose to delete the defence under the proposed section 66O(2)(b)(iv) and instead adding an exemption clause accordingly (the new proposed section 66OA). In practice, this would ensure the doxxing message can be removed in an expeditious manner, while protecting the recipient of the cessation notice from potential civil liability arising from compliance with the cessation notice. This approach is preferred to the defence originally provided under the proposed section 66O(2)(b)(iv) of the Bill.

We have briefed the Bills Committee on the above amendments and the Bills Committee has indicated its support. I implore Members to support the amendments to be moved. Thank you, Chairman.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): If not, the committee now first votes on the clauses with no amendment standing part of the Bill.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the clauses with no amendment set out in the Appendix to the Script 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): The committee now votes on the amendments.

Secretary for Constitutional and Mainland Affairs, you may move your amendments.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Chairman, I move the amendments set out in the Appendix to the Script.

Proposed amendments

Clause 10 (See Annex I)

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the amendments moved by the Secretary for Constitutional and Mainland Affairs be passed.

CHAIRMAN (in Cantonese): I now put the question to you as stated. 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 amendments passed.

CLERK (in Cantonese): Clause 10 as amended.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the clause as amended just read out by the Clerk 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.

PRESIDENT (in Cantonese): All the proceedings on the Personal Data (Privacy) (Amendment) Bill 2021 have been concluded in committee of the whole Council. Council now resumes.

Council then resumed.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I now report to the Council: That the

Personal Data (Privacy) (Amendment) Bill 2021

has been passed by committee of the whole Council with amendments. 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 Constitutional and Mainland Affairs be passed.

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

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

(Members raised their hands)

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

(No hands raised)

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

I declare the motion passed.

Third Reading of Government Bill

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

PERSONAL DATA (PRIVACY) (AMENDMENT) BILL 2021

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I move that the

Personal Data (Privacy) (Amendment) Bill 2021

be read the Third time and do pass.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Personal Data (Privacy) (Amendment) Bill 2021 be read the Third time and do pass.

Does any Member wish to speak?

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

I declare the motion passed.

CLERK (in Cantonese): Personal Data (Privacy) (Amendment) Bill 2021.

SUSPENSION OF MEETING

PRESIDENT (in Cantonese): I now suspend the meeting until 9:00 am tomorrow.

Suspended accordingly at 6:43 pm.

Annex I

Personal Data (Privacy) (Amendment) Bill 2021

Committee StageAmendments moved by the Secretary for Constitutional and Mainland Affairs

<u>Clause</u>	<u>Amendment Proposed</u>
10	In the proposed section 66O(2)(b)(ii), by adding “or” after “person;”.
10	In the proposed section 66O(2)(b)(iii), by deleting “; or” and substituting a full stop.
10	By deleting the proposed section 66O(2)(b)(iv).
10	In the proposed Part 9A, in Division 4, by adding— “66OA. Immunity from civil liability A person who complies with a cessation notice served on the person does not incur any civil liability, whether arising in contract, tort, equity or otherwise, to another person only because of that compliance.”.