



## DAILY INFORMATION BULLETIN

ISSUED BY GOVERNMENT INFORMATION SERVICES  
BEACONSFIELD HOUSE, HONG KONG. TEL.: 2842 8777

Thursday, June 27, 1996

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Transcript of the Governor's media session

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Following is the transcript of the remarks made to reporters by the Governor, the Rt Hon Christopher Patten, after speaking at the Far Eastern Economic Review's "Countdown to 1997" Conference today (Thursday):

Question: You used to talk about putting up panes of glass etc, etc Why not put up some more panes of glass in different ways, for example by revealing the secession and sedition clauses on article 23 which China says will be the basis on drawing distinction between advocacy and expression?

Governor: The Legislative Council has asked us to prepare proposals on that issue. We're doing so at the moment. We'll then put those proposals to China and in due course I look forward to putting them to the Legislative Council.

Question: Mr Patten, because recently the UC members bought some Kwong On Bank share ... discussion in the society. Do you think the credibility of the UC members ...?

Governor: I can't comment on that case.

Question: ... change of the Queen's Birthday to the end of June. What is the reason for that? Will that make the celebrations happier?

Governor: Good sense, and the flexibility of Her Majesty.

End

Transcript of Governor's question-and-answer session

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Following is the transcript of the Governor, the Rt Hon Christopher Patten's question-and-answer session after speaking at the Fair Eastern Economic Review's "Countdown to 1997" conference today (Thursday):

Question (Far Eastern Economic Review): Governor, I wonder what advice you would give to the whole host of businesses in Hong Kong, be it the airlines or Dow Jones and others in the information business who find themselves in a situation vis-?-vis China where their regulator is potentially their competitor as well? What advice to you have to those categories of businesses?

Governor: Well, the advice I give them must be advice for their commercial activities in Hong Kong rather than for their commercial activities in China.

And so far as Hong Kong is concerned, we've seen Hong Kong in the last couple of decades move from being a rather closed colonial society to being an open, international city and it's an international city in which the world does business. The world does business here on the basis of a level playing field and a playing field which we are attempting and will continue to attempt to make ever more competitive. That's what we've been trying to do recently in the telecommunications sector, as I mentioned in my speech. It's what we've been trying to do in the transport sector and it's what we're trying to do elsewhere too.

The reason why so many companies establish their regional headquarters here, the reason why so many people invest so much money in Hong Kong, is because they do believe that it's a clean place to do business and a place in which they don't, for example, suffer unfair competition from a regulator. If Hong Kong were to lose that reputation, then it would be appallingly damaging for Hong Kong's continuance as an international business centre, as a magnet for business from around the world. The best way in which Hong Kong can hold on to that position is, as I said in my speech, by vigorously asserting its autonomy, not least in economic matters and if it were to lose that it wouldn't only lose the reputation with business for being an excellent place to base themselves, it would also lose the justification it has at present for having independent membership of so many international organisations. So standing up for Hong Kong's autonomy in economic and trading matters is essential and so long as Hong Kong does that, it'll be able to ensure that it continues to have a level playing field for business.

Question: Governor, one of the prerogatives that people have attending this meeting is that if they don't want to ask a question themselves, they can get through to the adjunct organisation and get someone else to ask it for them. Now this question was actually designed for the previous two speakers, Mr Martin Lee and Mr James Tien, but I don't see why it's not appropriate for you too. Unfortunately, time did not permit them to be asked the question.

The question is, what would be the most effective way of preserving Hong Kong's autonomy and rule of law post 1997 and are you confident that the west and in particular the US, will back Hong Kong and what can be done if China reneges on the 1984 Joint Declaration?

Governor: In two minutes! Well, let me answer as I'm sure James Tien did or would have done and Martin I'm sure would have been much more eloquent than I'm going to be. Martin's in the audience, James isn't!

It is absolutely essential that people don't connive at the destruction of the things that make Hong Kong so special and make Hong Kong so successful. It's therefore imperative that people, as I mentioned earlier, stand up for that high degree of autonomy which Hong Kong was promised and stand up for the rule of law which is the spinal cord in Hong Kong's system. You don't have to explain what the rule of law means to people out there. Two-thirds to three-quarters of the people who live in Hong Kong, refugees or the family of refugees, are here because of the rule of law. They're here because of the difference between rules and laws on the one hand and the rule of law on the other.

Now those messages can come best and most effectively from those whom China asks to advise it. I think one of the sadnesses is that the understandable difficulties of comprehension, which I think some Chinese officials have when it comes to the nature of a free society, but they're not helped through those problems by the sort of advice that they sometimes get from Hong Kong. Advice about the importance of a politically neutral civil service, advice about the importance of an independent judiciary and the rule of law. Advice, for instance, that if you're serious about Hong Kong people running Hong Kong, what better way of putting muscle on the pledge than to have a step by step process of democratisation as we've been attempting under the Joint Declaration and the Basic Law.

Back in the early 80's when Britain and China first started to discuss the handover in 1997, Chinese officials originally wanted a rather vestigial, a rather skeleton treaty. A slim document which would just spell out the essentials. It was people in Hong Kong, leaders of the community in Hong Kong, leaders of the business community in Hong Kong who insisted that everything had to be spelt out. That they wanted written into that treaty the most detailed description of Hong Kong and the guarantees that were made for its future. Their voice was heard then and I think their voice could still be heard now whenever it happened to be raised.

What will the rest of the world do after 1997? I hope that it will watch Hong Kong continue to thrive and prosper but clearly for, for example, the United States there is a continuing interest, not just a commercial, an economic interest, there's a continuing interest in seeing Hong Kong survive as the sort of society which the United States should want to see right across Asia. Open markets, open minds, rule of law, political stability. I don't think that after 1997, the rest of the world is going to stop taking an interest in Hong Kong as a great international city. Quite the reverse.

But it's Britain which has the principle and the greatest moral responsibility to Hong Kong. A responsibility which is the result of the treaty that we signed in 1984. That treaty was lodged at the United Nations and were it to be broken I'm sure that either party would wish to take up the matter internationally as vigorously as possible. It's neither fair to China nor politically sensible for me or a British Minister to calibrate precisely what sort of action we would take if the Joint Declaration was breached. It would depend on what sort of breach, whether it was a large breach or a small breach, whether there was a pattern of breaches by China. I very much hope that that won't happen but I know perfectly well that Britain is going to be held accountable for anything that might go wrong by many in the international community and that Britain will therefore be expected to make its own position clear should there be any breach. I repeat, I very much hope that there won't be but on June 30, 1997, Britain's interest in Hong Kong doesn't end as a commercial interest and as a moral interest as well.

End

#### Reports on the case of two VM girls made public

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The Government today (Thursday) made public the reports of the enquiries into the circumstances of the two Vietnamese migrant (VM) girls who were separated from their parents following the riots in the Whitehead Detention Centre on May 10 to 11. The enquiries were carried out by the Correctional Services Department (CSD) on the instruction of the Governor.

Two separate reports were compiled. Both emphasise the difficulties faced by the staff in the Whitehead and High Island Detention centres on May 10 and 11 as well as in the immediate succeeding days.

In the case of the three-year-old girl, who was transferred to the High Island Detention Centre, the report concludes that her relatives were largely accountable for her prolonged separation from her parents.

Nonetheless, the report is critical of the unsympathetic handling of the case by CSD staff and recommends that procedures should be reviewed.

In the case of the five-year-old child transferred to Victoria Prison, the report concludes that her parents did report she was missing to the management of the Whitehead Detention Centre and recommends that disciplinary action should be taken against two CSD officers. It also recommends that procedures should be re-examined.

A government spokesman confirmed that all the recommendations made in the reports would be implemented as quickly as possible, including the instigation of disciplinary proceedings against the two officers concerned. "We very much regret what happened to these two little girls and we are determined to do everything possible to ensure that there are no repeat incidents," he said.

The spokesman expressed appreciation for the speed with which the reports were compiled.

"What is important is that we learn from the lessons of these two cases. The findings of the reports are fair and reasonable and CSD can be counted on to see through the recommendations made," he said.

End

#### Hong Kong's economic possibilities after 1997

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The Secretary for Financial Services, Mr Rafael Hui, said the Government would provide the necessary market infrastructure and the appropriate regulatory framework to fully exploit Hong Kong's potential and opportunities as a leading financial centre in Asia in the next century.

Speaking at Far Eastern Economic Review's third annual "Countdown to 1997" conference this (Thursday) morning, Mr Hui said the Government had been engaging on a number of important projects to enhance the efficiency and robustness of Hong Kong's financial markets and the market infrastructure.

He said: "For example, we are implementing a new Real Time Gross Settlement (RTGS) for our interbank payment system to reduce settlement risks.

"The new system will provide real time Delivery Versus Payment capability for securities transactions and, with suitable linkages with real time payment system of other currencies, Payment Versus Payment capability for foreign exchange transactions."

Mr Hui said the Government was pursuing the proposal to set up a mortgage corporation in Hong Kong in order to enhance banking stability, monetary stability and debt market development.

"Also we are taking an active part in international and central banking forums to ensure that we are fully aware of the latest developments in these areas and to contribute to greater co-operation amongst the central banks in Asia," he added.

As for the economic possibilities of "one country, two systems", Mr Hui said this could only be assessed by looking at the economic fundamentals of Hong Kong and China.

"For those of us working in the financial services sector, the transfer of sovereignty on July 1, 1997 has no real significance because what we do, both in terms of infrastructure building and investment decisions, goes well beyond this date," he said.

He said the World Bank had predicted that China would become the biggest economy in early next century.

"Hong Kong, strategically located in this fastest growing region, will continue to prosper and excel in the next century as a leading financial centre in Asia.

"The opportunities are already here for people to exploit and develop," he said.

End

### Special team to enhance private slope safety

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The Buildings Department has set up a dedicated team to monitor private slope safety and to take actions against potentially dangerous ones.

The Slope Safety Section (SSS), comprising a Chief Building Surveyor and a team of 28 professional and technical staff, will implement statutory actions in respect of potentially dangerous private slopes arising from the Government's accelerated Landslip Preventive Measures Programme.

"An annual average of 200 dangerous hillside orders (DHO) will be issued in the coming five years, a significant increase over an annual average of 40 orders in the past five years," the Assistant Director of Buildings (Specialist), Mr Lau Yiu-wah, said today (Thursday).

"The SSS will also actively participate in publicity campaigns on slope safety with a view to promoting public awareness on the importance of preventive measures through regular maintenance of slopes," he said.

Property owners should keep a close watch at their private slopes and carry out the necessary maintenance and repair works to protect their own safety, Mr Lau reiterated.

"Maintenance responsibility for a slope rests with the property owner or the person who has an obligation under the lease to maintain the slope. Regular maintenance is the key to slope safety," he said.

Mr Lau explained that DHO were served under the Buildings Ordinance requiring investigation, remedial and stabilisation work to be carried out on potentially dangerous private slopes.

Upon receipt of the order, property owners should appoint an authorised person (AP) to co-ordinate the investigation work, and, based on the findings, submit work proposals to the Building Authority to render the slope safe.

After approval of their proposals, owners should also appoint a registered building contractor (RC) to carry out the repair work under the supervision of the AP.

Mr Lau said the Buildings Department would be glad to offer assistance or advice to owners if they have difficulties in abiding by DHO.

They can either make direct enquiries to SSS on the 15th floor of Pioneer Centre in Mong Kok or by calling the department's 24-hour building safety hotline 2626 1234.

A list of the AP and RC is available for public inspection at the Buildings Department or various District Offices.

"Owners may also approach the building professional bodies, such as the Hong Kong Institution of Architects, Hong Kong Institute of Surveyors, or Hong Kong Institution of Engineers, for enlisting the professional services," Mr Lau said.

End

#### Opening of construction waste recycling facility

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A Construction Waste Recycling Facility, located at the South East New Territories (SENT) Landfill, is officially opened today (Thursday) by Legislative Councillor, Mr Ronald Arculli.

The \$38-million facility, the first of its kind in Hong Kong, has been provided by the Environmental Protection Department to separate inert construction materials from mixed construction wastes requiring disposal at the landfill.

The facility can process up to 2,000 tonnes of mixed construction wastes a day. The materials which are recovered will be used within the landfill itself as daily cover, access road base, general filling and landscaping.

The setting up of the recycling facility is one of Government's initiatives to reduce waste and to prolong the life span of landfills.

In addition, the Government has recently completed a consultancy study on waste reduction and obtained feedback from interested parties on the findings and recommendations. Based on the feedback, the Government will formulate a waste reduction plan later this year.

Speaking at the opening ceremony, Mr Arculli said that the facility at SENT was a positive response from the Government to address the needs of the community and the construction industry.

He said the sorting plant provided the construction industry with a convenient facility for the reuse and recycling of construction waste and demonstrated the technical feasibility of such operations in Hong Kong.

"Even with the Construction Waste Recycling Facility in operation, the construction industry recognises that on-site segregation and sorting at source remain the most cost-effective approach and the construction industry will continue this long standing practice whenever it is feasible," he said.

Mr Arculli noted that it was through the co-operative efforts of the Government and the construction industry that the medium and long-term measures for construction waste management would be created to protect our environment.

Also present at today's opening ceremony were the Director of Environmental Protection, Mr Robert Law, and the Managing Director of Pacific Waste Management Limited, Mr Joe Zorn.

End

#### Coroner's Court to move to Eastern Law Courts

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The Coroner's Court will move to the 10th floor of Eastern Law Courts, 29 Tai On Street, Sai Wan Ho, from Monday (July 1), a spokesman for the Judiciary said today (Thursday). The Coroner's Court, now situated at the Wan Chai Law Courts, will be closed this Saturday for the relocation.

The move is to make room for the expansion of the District Court. It will also improve the facilities for the Coroner's Court, the spokesman said.

A new hotline 2886 6871 for the Coroner's Court will be operational from Monday.

End

Honorary award

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The following press release is embargoed until 0001 hours tomorrow (Friday, June 28). The media should not attempt to contact the recipient before that time:

The Queen has approved the award of MBE (Member of the Most Excellent Order of the British Empire) (Honorary) to Mr Ng Ying-noon, formerly Assistant Director of Urban Services.

Mr Ng joined the Government service in 1955 and was appointed a Health Inspector in the Urban Services Department in 1958. He was promoted Assistant Director of Municipal Services in 1993 and was an expert on all aspects of environmental health and hygiene. He retired at the end of last year.

End

Provisional statistics of restaurant receipts and purchases

\* \* \* \* \*

The value of total receipts for the restaurants sector in the first quarter of 1996, estimated at \$13.6 billion, increased by 3% when compared with the same quarter in 1995, according to the provisional statistics released today (Thursday) by the Census and Statistics Department.

After discounting the effect of price changes over the period, total receipts went down slightly by 1% in volume terms.

The value of total purchases of restaurants, estimated at \$4.9 billion, increased by 5%.

Among the different types of restaurants, the total receipts of non-Chinese restaurants and fast food shops both rose by 12% in value. In volume terms, they increased by 7% and 5% respectively.

Meanwhile, the total receipts of miscellaneous eating and drinking places recorded an increase of 5% in value, but showed virtually no change in volume. Those of bars increased by 1% in value but decreased by 4% in volume. On the other hand, the total receipts of Chinese restaurants recorded a decrease of 2% in value and 5% in volume.

Comparing with the preceding quarter, and bearing in mind that the comparison is affected by seasonal factors, total receipts for the restaurants sector in the first quarter of 1996 increased by 2% in value and 1% in volume. Restaurant receipts in volume terms are derived from receipts in value terms after adjusting for price changes. The relevant components of the Consumer Price Index are used as deflators.

Table 1 presents the revised figures for the total receipts and total purchases of the restaurant sector for the fourth quarter of 1995 and the provisional figures for the first quarter of 1996.

Table 2 shows the value and volume indices of total receipts by type of restaurant for the first quarter of 1995, the fourth quarter of 1995 and the first quarter of 1996, with the quarterly average from October 1989 to September 1990 taken as 100.

Also tabulated are comparisons of the results of the first quarter of 1996 with those of the fourth quarter of 1995 and the first quarter of 1995.

The Report on the Quarterly Survey of Restaurant Receipts and Purchases for the first quarter of 1996 is now on sale at \$4 per copy at the Government Publications Centre, Queensway Government Offices, Low Block, ground floor, 66 Queensway; and the Publications Unit of the Census and Statistics Department, 19th floor, Wanchai Tower, Wan Chai.

Enquiries about the survey results may be directed to the Wholesale and Retail Trade Statistics Section of the Census and Statistics Department on 2802 1258.

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TABLE 1 :TOTAL RESTAURANT RECEIPTS AND PURCHASES

		4th Qtr 1995 (Revised figures)	1st Qtr 1996 (Provisional figures)
Total restaurant receipts	(HK\$ million)	13 387.5	13 627.9
Total purchases by restaurants	(HK\$ million)	4 851.2	4 902.7

TABLE 2 : VALUE AND VOLUME INDICES OF RESTAURANT RECEIPTS FOR 1ST QUARTER, 4TH QUARTER 1995 AND 1ST QUARTER 1996

(Quarterly average of Oct. 89 - Sept. 90 = 100)

Type of Restaurant	Type of Index	Index Number			% Change	
		1st Quarter 1995 (Revised figures)	4th Quarter 1995 (Revised figures)	1st Quarter 1996 (Provisional figures)	1st Qtr 1996 compared with 4th Qtr 1995	1st Qtr 1996 compared with 1st Qtr 1995
		(Point)	(Point)	(Point)	(%)	(%)
Chinese restaurants	Value	139.2	134.0	136.8	+2.1	-1.7
	Volume	86.4	80.4	81.7	+1.7	-5.4
Non-Chinese restaurants	Value	160.3	173.3	179.6	+3.6	+12.1
	Volume	100.5	105.1	107.6	+2.4	+7.0
Fast food shops	Value	218.0	248.9	243.7	-2.1	+11.8
	Volume	146.4	160.3	154.1	-3.9	+5.2
Bars	Value	263.5	261.8	266.3	+1.7	+1.1
	Volume	157.2	149.8	151.0	+0.8	-3.9
Other eating and drinking places	Value	240.7	253.2	253.0	-0.1	+5.1
	Volume	148.7	150.6	148.6	-1.4	-0.1
All restaurant types	Value	153.7	155.8	158.6	+1.8	+3.2
	Volume	96.6	94.6	95.4	+0.9	-1.2

End

Summary results of survey

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The import/export and hotels (including boarding houses) industries registered considerable growth in 1994, with their total receipts (that is sales and other receipts) both increased by 12% when compared with 1993.

In the same period, the total receipts of the retail, wholesale and restaurants industries also went up moderately, by 8%, 5% and 5% respectively.

These are some of the major results of the 1994 Survey of Wholesale, Retail and Import/Export Trades, Restaurants and Hotels released today (Thursday) by the Census and Statistics Department. The Survey was conducted from May 1995 to early 1996.

All value figures in this press release are expressed in current price terms. The percentage changes derived from these figures have not been adjusted for price changes. Caution should therefore be taken in interpreting the survey results.

In 1994, there were 101 900 import/export establishments in operation, an increase of 2% over 1993. The total receipts generated by these establishments amounted to \$1 965 billion, 12% higher than in 1993.

Total operating expenditure - comprising compensation of employees, operating expenses and value of purchases of goods for sale - incurred by import/export establishments accounted for 95% of the total receipts. Net of the expenditure, the gross surplus amounted to 5% of the total receipts, which was 0.2 percentage point lower than the corresponding figure for 1993.

The value added of these establishments, which is a measure of the industry's contribution to Hong Kong's Gross Domestic Product, grew considerably by 14% from \$156 billion in 1993 to \$179 billion in 1994. It constituted 9.1% of the total receipts, a marginal increase of 0.2 percentage point over 1993.

In the hotels industry, there were 1 290 hotels and boarding houses in operation in 1994, a decrease of 12% compared with 1993. Despite a decrease in the number of establishments, the total receipts generated amounted to \$19.8 billion in 1994, 12% higher than in 1993.

The total operating expenditure of the hotels industry accounted for 77.3% of the total receipts, which was one percentage point higher than the figure for 1993. The gross surplus made up the remaining 22.7%.

The value added of the hotels industry was \$11.7 billion in 1994, an increase of 12% over 1993. It accounted for 58.8% of the total receipts, which was close to the figure of 59% for 1993.

In the retail industry, there were some 58,400 establishments in operation in 1994, an increase of 1% over 1993. The total receipts generated by these establishments amounted to \$256 billion, 8% higher than that for 1993.

The total operating expenditure of the retail industry accounted for 93.2% of the total receipts, which was 0.6 percentage point lower than the corresponding figure for 1993. Net of the expenditure, the gross surplus amounted to the remaining 6.8%.

The value added of retail establishments was \$35.9 billion in 1994, an increase of 16% over 1993. It accounted for 14% of the total receipts, which was one percentage point higher than that for 1993.

In the wholesale industry, there were some 21 700 establishments in operation in 1994, 7% lower than in 1993. However, these establishments generated \$179 billion of total receipts in 1994, an increase of 5% over 1993.

The gross surplus and total operating expenditure of the wholesale establishments accounted for 3.9% and 96.1% of the total receipts respectively. These percentage shares were broadly similar to those for 1993.

On the other hand, the value added of these establishments increased by 4% to \$14.6 billion in 1994. It accounted for 8.2% of the total receipts, which was also similar to that for 1993.

In the restaurants industry, there were some 10 300 restaurants in operation in 1994, a decrease of 5% over 1993. These establishments generated \$63 billion of total receipts, an increase of 5% over 1993.

The gross surplus and total operating expenditure of the restaurants industry accounted for 7.6% and 92.4% of the total receipts respectively. The percentage share of the former was 0.9 percentage point higher than the corresponding figure of 6.7% for 1993.

The value added of the restaurants industry increased by 7% to \$24.5 billion in 1994. It accounted for 38.8% of the total receipts, which was also 0.9 percentage point higher than the percentage share of 37.9% for 1993.

More detailed results together with the background and methodology of the survey will be given in a full report to be published in around August 1996.

It will be on sale at the Government Publications Centre of the Information Services Department, Low Block, ground floor, Queensway Government Offices, 66 Queensway, Hong Kong; and the Publications Unit of the Census and Statistics Department, 19th floor, Wanchai Tower, 12 Harbour Road, Hong Kong.

Enquiries regarding these survey results may be directed to the Wholesale and Retail Trade Statistics Section of the Census and Statistics Department on 2802 1248.

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#### Quarterly report on general household survey

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The Quarterly Report on General Household Survey for January-March 1996 is now available for sale.

The bilingual report contains statistics on employment, unemployment and underemployment for the first quarter of 1996.

It also contains detailed analysis of the characteristics of members of the labour force, including their age, sex, educational attainment, activity status, occupation, industry, hours worked per week and monthly employment earnings. Data on reasons for unemployment and duration of unemployment for the unemployed are also presented.

Copies of the report at \$53 each can be obtained from the Government Publications Centre, Queensway Government Offices, Low Block, ground floor, 66 Queensway, Hong Kong.

The General Household Survey is a continued exercise conducted by the Census and Statistics Department every quarter with the aim to collect information on the labour force, unemployment and underemployment. In addition, special enquiries on various selected social topics are also included in its supplementary part.

For the coming survey to be conducted between July and September, an official letter will be sent to the sampled households prior to each survey month to explain the purpose of the Survey and to seek their voluntary co-operation.

Officers of the department will visit the households concerned to collect the required information. When visiting households, they carry with them a government identity card and an official certificate for conducting the Survey. They will make such documents available for inspection by households.

To make it more convenient for both the households and the department, the sampled households could telephone the department to make prior appointment for visit by the interviewers.

End

#### Fellowships and scholarships for overseas studies announced

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The Sir Edward Youde Memorial Fund Council today (Thursday) announced that its fellowships and scholarships for overseas studies for the academic year 1997-98 will be open for application from June 28.

The fellowships and scholarships are aimed at encouraging the best students to pursue further education in reputable institutions overseas.

Successful candidates for the awards are expected to have a strong sense of commitment to Hong Kong and be ready to contribute significantly to the community upon return from their overseas studies. They will be required to work in the territory for at least three years upon graduation.

The fellowships are for studies leading to postgraduate degrees either by research or by coursework, the scholarships are for undergraduate studies leading to first degrees.

The applicants will be responsible for fulfilling all application procedures and admission requirements of the academic institutions of their choice.

The value of fellowship is about \$218,000 per year for up to three years for doctoral degree or two years for master degree; the value of scholarship is about \$200,000 per year for up to three years.

Application forms and information notes are available at the following addresses:

- (a) Student Financial Assistance Agency ninth floor, National Mutual Centre 151 Gloucester Road, Wan Chai, Hong Kong
- (b) Education Department Careers and Guidance Services Section Room 206, Mong Kok Government Offices 30 Luen Wan Street, Mong Kok, Kowloon

Enquiries can be made on 2802 1638 or 2802 1639.

The closing date for all applications is September 27. Short-listed applicants will be required to attend the initial interview in Hong Kong to be conducted in January 1997. Suitable applicants will be requested to attend the final interview in February/March 1997.

End

#### Job Matching Centre moves to Mong Kok

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The Labour Department's Job Matching Centre (JMC) will move from Causeway Bay to Mong Kok next week.

To facilitate the removal, the Centre will be temporarily closed from 9 am to noon on Saturday (June 29).

Normal services will be resumed on Monday (July 1) at the new office in Room 2410 - 2415, Park-In Commercial Centre, 56 Dundas Street, Mong Kok.

JMC processes applications under the Supplementary Labour Scheme. Local job seekers interested in vacancies registered under the scheme can approach the Centre for free placement service. Public enquiries about JMC's service can be made on 2576 1616 during office hours.

End

BN(O) application for 1982-1986 born citizens to close soon

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The final date for Hong Kong British Dependent Territories citizens (BDTCs) born between 1982 and 1986 to apply for British National (Overseas) (BN(O)) passports will be this Saturday (June 29), a government spokesperson reminded the public today (Thursday).

Hong Kong BDTCs (such as persons born, naturalised or registered in the territory) must obtain a BN(O) passport if they wish to continue to travel on British passports beyond 1997.

As specified in the Second Schedule to the Hong Kong (British Nationality) Order 1986, applications for BN(O) passports must be submitted on or before the final dates relevant to their age groups.

Parents or legal guardians of eligible children born between 1982 and 1986 must submit their applications on or before June 29. They should apply for a Hong Kong permanent identity card on behalf of the children at the same time.

Further publicity will be made in respect of BDTCs born in other years (that is between 1987 and June 30, 1997) so that they may submit their applications by phases according to their age groups. They are free to submit their applications now.

Persons who do not comply with the relevant cut-off dates will not be able to travel on British passports beyond 1997. An application made after the final date will only be accepted if the applicant can show that there are special circumstances which justify his late application.

A BN(O) late registration appeals advisory committee has been established to advise the Governor on those late applications which have been rejected by the Immigration Department.

The spokesperson emphasised that those who already had a BN(O) passport, either the conventional hard-cover type or the burgundy red machine readable type, need not apply again.

Applications for BN(O) passports may be submitted to the Immigration Department either by post or in person.

Applicants may also deposit their applications into the drop-in boxes at the Immigration Headquarters or at any immigration branch offices throughout the territory. Application forms are available at all immigration offices and district offices. Hong Kong BDTCs living, working or studying abroad, are also required to observe the cut-off dates if they want to apply for a BN(O) passport. However, they are not required to return to Hong Kong for their applications.

They should submit their applications to the nearest British passport issuing office either by post or in person. The required overseas application forms can be obtained at those offices or the Hong Kong Immigration Department.

For more information, member of the public may telephone 2824 1177 (English) or 2824 1717 (Chinese).

End

Hong Kong Monetary Authority money market operations

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	\$ million	Time (hours)	Cumulative change (\$million)
Opening balance in the account	1,952	0930	+5
Closing balance in the account	1,732	1000	+5
Change attributable to :		1100	+5
Money market activity	-10	1200	-10
LAF today	-210	1500	-10
		1600	-10

LAF rate 4.00% bid/6.00% offer TWI 124.5 \*+0.0\* 27.6.96

Hong Kong Monetary Authority

EF bills		EF notes				
Terms	Yield	Term	Issue	Coupon	Price	Yield
1 week	5.16	2 years	2805	6.30	99.94	6.43
1 month	5.10	3 years	3904	6.30	98.93	6.83
3 months	5.26	5 years	5106	7.23	99.50	7.49
6 months	5.50	7 years	7305	7.60	99.60	7.82
12 months	5.86	5 years	M502	7.30	99.24	7.64

Total turnover of EF bills and notes - \$13,595 million

Closed June 27, 1996

End



# DAILY INFORMATION BULLETIN

ISSUED BY GOVERNMENT INFORMATION SERVICES  
BEACONSFIELD HOUSE, HONG KONG. TEL.: 2842 8777

## SUPPLEMENT

Wednesday, June 27, 1996

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CS's North America visit

\* \* \* \* \*

Following is the speech by the Chief Secretary, the Hon Anson Chan, on her recent visit to North America in the Legislative Council today (Wednesday):

Mr President,

My recent visit to the United States covered seven cities. I visited Seattle, San Francisco and Boston before launching a major Hong Kong promotion in New York, Dallas and Los Angeles. My last stop was Washington D C.

The objectives of the visit were firstly, to promote business ties between Hong Kong and the USA; secondly, to enhance cultural links; thirdly, to increase understanding of and discuss concerns about, the transitional arrangements and recent developments in Hong Kong; and fourthly, to follow up on the Governor's earlier visit to Washington to lobby for unconditional MFN extension for China.

In Seattle, San Francisco and Boston, I met with Government leaders, local businessmen and academics. Specifically I spoke at Stanford University, Harvard University and MIT on Hong Kong's transition.

New York was the first leg of the Hong Kong-USA '96 promotion. This was my fourth major overseas promotion. Since 1993, similar promotions have been organised in Europe, USA and Japan.

The key element in the promotion was the business conference held in New York, Dallas and Los Angeles organised with customary efficiency by the Hong Kong Trade Development Council. Entitled "Hong Kong - Strategic Business Partner for the Pacific Century", the conference featured top Hong Kong businessmen and senior government officials as speakers. I also delivered a keynote speech at each of the three conference luncheons. In addition, there were workshops on financial services, high-tech manufacturing and tourism in Hong Kong.

Other promotion-related activities included gala dinners, receptions, fashion shows featuring the work of Hong Kong designers, film festivals, concerts by the Urban Council's Hong Kong Chinese Orchestra, the Hong Kong Tourist Association's "Hong Kong Wonders Never Cease" promotion and a HK-TVB variety show featuring some of Hong Kong's top singers at the Universal City Walk in Hollywood, which was broadcast in Hong Kong and through cable network in the United States. I also spoke to academics at the University of California in Los Angeles.

Concluding my US tour, I visited Washington DC where I held meetings with senior officials of the US Administration including Secretary of State, Warren Christopher, Secretary for the Treasury, Robert Rubin and the National Security Adviser, Anthony Lake. I also met with key members of both the House and the Senate including the Chairman of the Senate Finance Committee, William Roth, Chairman of the House Asia and Pacific Subcommittee, Doug Bereuter and the newly elected Senate Majority Leader, Trent Lott. My purpose was to emphasise the importance to Hong Kong of unconditional MFN renewal for China, to discuss the prospects of permanent MFN, to stress our commitment to the protection of intellectual property rights and to explain how we were preparing for the transition and some of the challenges ahead.

Over a period of three weeks, I delivered 26 speeches and held numerous meetings with US government officials, local government leaders, politicians, influential members of think tanks, chambers of commerce, business associations and community organisations which have a particular interest in Hong Kong. On the media side, I held six press conferences, and gave eight media interviews and met with seven editorial boards. We also published a special Hong Kong supplement in each of the three cities covered by the promotion. All our promotion events received extensive coverage in the media and were very well attended.

The visit was well worthwhile and I believe met all of the objectives which I referred to earlier. The active participation of members from both the public and private sectors in the promotion enabled us to make a far greater impact on our American audiences than either party could achieve on its own. Together we were able to underline Hong Kong's strategic role in the Asia Pacific region, our economic strength and generally to instil confidence in continued investments in Hong Kong after 1997.

It is clear that there is continuing strong interest in Hong Kong and considerable support for everything that we are doing to secure our future. I stressed the USA's increasing stakes in Hong Kong and therefore the importance to the US of a smooth transition. All my contacts made it clear that they look forward to full and faithful implementation of the Joint Declaration and Basic Law. Inevitably I was asked to respond to specific concerns over the transition, including the threat of a provisional legislature, protection of human rights, press freedom, etc. I dealt frankly with these concerns. At the same time I drew attention to how much had been achieved in the past twelve years since the signing of the Joint Declaration to turn the promises of a "high degree of autonomy" and "Hong Kong people ruling Hong Kong" into a reality. On the whole, I was able to project a reasonably positive picture of Hong Kong's future whilst acknowledging that there were still difficulties which remain to be resolved to ensure that the key elements of Hong Kong's success remain intact after 1997.

End

CS's question-and-answer session in LegCo

\* \* \* \* \*

Following is a transcript of the Chief Secretary's question-and-answer session on her recent visit to North America in the Legislative Council today (Wednesday):

Dr Leong Che-hung: Thank you Mr President. There is no doubt that the Chief Secretary has gone through a very tiring and yet successful trip on behalf of Hong Kong and I am sure all members of this Council would join me to thank her for doing this for us.

In her address, especially in the last paragraph, the Chief Secretary mentioned that she dealt frankly on issues concerning the threat of a Provisional Legislature, protection of human rights and press freedom. I wonder whether the CS could expand on this?

CS: Mr President, it is perhaps not surprising to this Council that the main concern raised with me during my tour of the United States was the threat of a Provisional Legislature to replace the current Legislature. I took the opportunity to reiterate the Government's very clear stance on this and I will repeat this now.

The Government's position on the Provisional Legislature is that we remain opposed to the establishment of a Provisional Legislature. We consider a provisional legislature to be both unnecessary and unjustified. The current Legislature was elected in open and fair elections in September of last year. We had a record turnout of voters at that election. The current Legislature clearly enjoys the support of the entire community and in terms of continuity and confidence within the community, it is clearly desirable for the current Legislature to transit 1997 and for members to be able to serve our their full four year term.

But perhaps not surprising either, the question was put to me that many people have now asserted that it is inevitable that the Provisional Legislature would be established and what was the Government's stance on this. I took the opportunity again to restate that if the Chinese insist on proceeding - and I said at the same time that we were hoping very much to continue to persuade the Chinese not to proceed with a Provisional Legislature - but if they were determined to do so, then I think it is for the Chinese side to explain to the community in Hong Kong and to the international community exactly how the Provisional Legislature would conform with the Basic Law and the Joint Declaration and, more importantly, how it would implement the principle of Hong Kong people ruling Hong Kong.

I also made it clear at the same time that this Government is unable to provide any assistance for the establishment of a Provisional Legislature, nor would this Government do anything to undermine the functioning and credibility of the existing Legislature. In this context we welcomed Mr Qian Qichen's statement that on this side of 1997 only the Governor, the Privy Council and the current Legislature will exercise power and that there will not be two power centres.

On the question of protection of human rights and press freedom, I went through, in a fair amount of detail, what the Administration has done to ensure that human rights, including press freedom, will be protected after 1997. But at the same time, insofar as press freedom is concerned, I also pointed out that whilst the Government will do its share and remain committed to ensuring that nothing remains on our Statute Book that in any way inhibits press freedom, and that all our laws are fully consistent with the Bill of Rights Ordinance, I did at the same time point out that of course practitioners in the media, including journalists, reporters and publishers, also have a role to play in defending and upholding the integrity of their profession.

Mr Martin Lee: Mr President, I see that the Chief Secretary told us that she met with various people in Washington, instead of met various people in Washington. Is it the intention of our Government now, to introduce some Americanism into this Chamber to make Hong Kong really an international city?

The President: I am not sure American is allowed in this Chamber. Only Cantonese and English can be used verbally - orally.

CS: Mr President, I am not quite sure that the question really requires an answer. Nor am I sure that met with is in any way very Americanised.

Dr Yeung Sum (in Chinese): Mr President, the Chief Secretary, today and before, has mentioned the stance of the Hong Kong towards the Provisional Legislature. However, myself and many Hong Kong people are still concerned about the following. First of all, Hong Kong Government does not support the Provisional Legislature and will give it no assistance. However, in foreign countries you say that you wish that if it is to be set up it will be widely represented. I would like to know, does it signify a softening in the stance of the Hong Kong Government towards the Provisional Legislature because of political reality?

CS: Mr President, could I make it clear that the Government's position on the Provisional Legislature has not changed and remains as I have state in my reply to an earlier supplementary question. Of course, when I was in the States the question was put to me: If the Chinese insist on proceeding with a Provisional Legislature what will be the concerns? And I think I am reflecting the concerns of the people of Hong Kong and indeed the concerns of the international investing public, in saying that clearly one of the concerns would be to see in what way, if the Provisional Legislature is established, it would actually implement the principle of Hong Kong people ruling Hong Kong and in what way it would conform with the requirements of the Basic Law.

Mr Howard Young: Mr President, judging from the Chief Secretary's reply, I think there is still a need to eradicate some confusion over reports and headlines such as 'The Chinese Are Disbanding the Current LegCo'. I had better ask my question in Cantonese, Mr President.

Mr Howard Young (in Chinese): Mr President, during the visit, I would like to know whether the CS has taken the opportunity to clarify the confusion over the present Legislature and the Provisional Legislature with regard to the constitutional stance. Because if we are to say that the present Legislature shouldstraddle 1997, there is going to be a constitutional question because unless the Letters Patent and Royal Instructions can also straddle 1997 then you can't say the present Legislature can straddle 1997. And if you are saying that the present lawmakers can straddle 1997, then it would be more reasonable and it could also avoid and steer clear of certain constitutional confusion. I would like to know whether you have taken the opportunity during your visit to clarify this point?

CS: Mr President, the constitutional position of the current Legislative Council is abundantly clear and I do not think requires any further clarification. On the other hand, if questions are asked about the Provisional Legislature, then I think that is really for the Chinese side to establish its constitutional position. And I repeat what I said in my two replies to the supplementary questions put to me just now.

Mr Lee Wing-tat (in Chinese): Mr President, in the US the CS mentioned the Provisional Legislature and that caused confusion in the minds of Hong Kong people because in Hong Kong she said that she was clearly opposed to the Provisional Legislature. However, in the US, the Chief Secretary said that if it was to be set up then it should be widely represented. I would like to know, when she said that, did she mean that even if a Provisional Legislature is to be appointed and if it is widely appointed, do you take it that it is widely representing Hon g Kong's views and do you think that a Legislature that is elected by 1.5 million people in September last year could be replaced by such a Provisional Legislature?

CS: Mr President, could I make clear that the question of "If there is a Provisional Legislature", is not a question that I have, as it were, raised on my own. It was a question that was put to me in my numerous contacts with people in the United States and I was attempting to answer that question.

Miss Emily Lau (in Chinese): Mr President, recently, Mr Lu Ping, the Director of the Hong Kong and Macau Affairs Office, has given two interviews to US TV channels and it gives people the impression that Hong Kong people are very much concerned about Hong Kong's future. I would like to ask the CS, during your two-week visit in the US did you see that within the American Administration or within the American Community there are a lot of people who are worried about Hong Kong's future, especially with regard to corruption, freedom and the rule of law and so on and so forth?

CS: Mr President, I did indeed encounter the concerns that the Honourable Emily Lau raised just now. I think the chief concern centres broadly round China's commitment to implementing the high degree of autonomy and Hong Kong people ruling Hong Kong after 1997. And specifically, the concerns revolve around continuity in our Legislature, China's commitment protecting human rights, press freedom, etc.

End

#### Births and Deaths Registration Ordinance

\* \* \* \* \*

Following is the speech by the Secretary for Security, Mr Peter Lai, in moving the motion on the Births and Deaths Registration Ordinance in Legislative Council today (Wednesday):

Mr President,

I move the first motion standing in my name on the Order Paper. This motion proposes increases in the fees specified in the Births and Deaths Registration Ordinance for the registration of births and deaths and related matters.

A recent review of fees and charges conducted by the Immigration Department indicates that there are three areas in the services delivered by the Department for which there is under-recovery of cost. These are: registration of persons services, where the average shortfall is about 12%; registration of births, deaths and marriages, where the average shortfall is about 19%; and issue of travel documents, where the average shortfall is about 43%.

It is the Government's policy that fees and charges should in general be set at levels sufficient to recover the full cost of providing the services to which they relate. However, in order to minimise the impact which such increases may have on the general public, fee increases in the order of 9% to 13% only are proposed for most services in this revision exercise. Details of all the fee increases were already tabled in this Council on 5 June 1996. The current and the two subsequent motions are concerned with fees for the registration of births, deaths and marriages.

The fees payable under the Births and Deaths Registration Ordinance were last revised in July 1995. We propose to revise them by 9%. In dollar terms, the actual increases range from \$5 to \$50. If approved, the new fees will be effective from 15 July this year.

Mr President, I beg to move.

End

#### Foreign Marriage Ordinance

\* \* \* \* \*

Following is the speech by the Secretary for Security, Mr Peter Lai, in moving the motion on the Foreign Marriage Ordinance in Legislative Council today (Wednesday):

Mr President,

I move the second motion standing in my name on the Order Paper. It seeks to increase the fees specified in the Foreign Marriage Ordinance.

The Foreign Marriage Ordinance provides a means whereby a Commonwealth citizen can give a notice of marriage in Hong Kong even though the marriage is to take place at a British Embassy abroad. Fees are payable for the issue of a certificate by the Registrar of Marriages. The fees were last revised in July 1995. It is now proposed to increase them from \$55 to \$60 for a certificate by the Registrar of Marriages given under Section 5, and from \$540 to \$590 for a Governor's licence given under Section 6 of this Ordinance.

Mr President, I beg to move.

End

### Legitimacy Ordinance

\* \* \* \* \*

Following is the speech by the Secretary for Security, Mr Peter Lai, in moving the motion on the Legitimacy Ordinance in Legislative Council today (Wednesday):

Mr President,

I move the third motion standing in my name on the Order Paper. It seeks to increase the fees specified in the Schedule to the Legitimacy Ordinance.

The Legitimacy Ordinance provides for the re-registration of the birth of legitimated persons. Fees collected relate to the re-registration of births and the issue of certified copies of entries of the birth of legitimated persons. The fees were last revised in July 1995. It is now proposed to revise the fees from \$270 to \$295 for re-registration of births, and from \$110 to \$120 for a certified copy of an entry of the birth in the register of births.

Mr President, I beg to move.

End

### Anti-drugs co-operation to be extended to Thailand

\* \* \* \* \*

An amendment order seeking to extend the bilateral co-operation in the suppression of drug trafficking to the Kingdom of Thailand has been approved by the Legislative Council today (Wednesday).

Details are contained in the Drug Trafficking (Recovery of Proceeds) (Designated Countries & Territories)(Amendment) Order 1996.

Moving a resolution to seek the Council's approval of the Order, the Secretary for Security, Mr Peter Lai, said the amendment order would add the Kingdom of Thailand to the list of countries and territories designated under the Drug Trafficking (Recovery of Proceeds) Ordinance, so as to enable their confiscation and related orders to be enforced in Hong Kong, and to allow assistance to be provided in relation to their drug trafficking investigations.

"Drug trafficking is an international problem and co-operation among governments in confiscating the proceeds of drug trafficking acts as a major deterrent," Mr Lai said.

"Hong Kong has already concluded agreements and arrangements with 11 other jurisdictions.

"As a result of this bilateral co-operation, about \$208 million worth of assets related to drug trafficking have been seized in Hong Kong."

The Administration has recently initialled a similar agreement with the Kingdom of Thailand concerning mutual assistance in the suppression of drug trafficking. Hong Kong needs to designate the country under the ordinance before the signing of the agreement.

Hong Kong has so far concluded agreements with Australia, Canada, Malaysia and the United States, and equivalent arrangements with the United Kingdom and a number of its dependent territories.

End

#### Drug Trafficking (Recovery of Proceeds) Order

\* \* \* \* \*

Following is the speech by the Secretary for Security, Mr Peter Lai, in moving the amendments to the Drug Trafficking (Recovery of Proceeds)(Designated Countries and Territories) (Amendment) Order 1996 in the Legislative Council today (Wednesday):

Mr President,

I move the motion standing in my name on the Order Paper.

The Drug Trafficking (Recovery of Proceeds) Ordinance has strengthened our ability to combat domestic and international drug trafficking, by providing us with the means to trace, restrain and confiscate the proceeds of drug trafficking. Section 28(1) of the Ordinance provides for the Governor in Council, with the approval of the Legislative Council, to designate countries and territories outside Hong Kong, so as to enable their confiscation and related orders to be enforced here; it also allows assistance to be provided in relation to their drug trafficking investigations.

Drug trafficking is an international problem and co-operation among governments in confiscating the proceeds of drug trafficking acts as a major deterrent. Hong Kong has already concluded agreements and arrangements with eleven other jurisdictions; which have all been designated under the Drug Trafficking (Recovery of Proceeds) Ordinance. As a result of such bilateral co-operation, about \$208 million worth of assets related to drug trafficking have been seized in Hong Kong.

We have recently initialled a similar agreement with the Kingdom of Thailand, concerning mutual assistance in the suppression of drug trafficking. The agreement will come into effect when it is signed by both Governments after they have notified each other that all the requirements for its entry into force have been completed. One of these requirements for Hong Kong is the designation of the Kingdom of Thailand under the Ordinance.

This resolution seeks this Council's approval of the Drug Trafficking (Recovery of Proceeds) (Designated Countries and Territories) (Amendment) Order 1996, made by the Governor in Council on 4 June 1996. The Amendment Order will add the Kingdom of Thailand to the list of designated territories, and so apply the provisions of the Ordinance to confiscation orders made by the courts in Thailand. Confiscation orders made by the Hong Kong courts will similarly be enforceable in Thailand on a reciprocal basis.

Mr President, I beg to move.

End

#### Dangerous Drugs (Amendment) Regulation

\* \* \* \* \*

Following is the speech by the Secretary for Security, Mr Peter Lai, in moving the amendments to the Dangerous Drugs (Amendment) Regulation 1996 in the Legislative Council today (Wednesday):

Mr President,

I move the motion standing in my name on the Order Paper. The Dangerous Drugs Regulations set out, inter alia, record-keeping requirements to be adhered to by an authorised person when supplying a dangerous drug. This is to ensure that full particulars of the acquisition and supply of dangerous drugs are recorded for monitoring purpose. As part of the Administration's efforts to tackle the problem of illicit sale of dangerous drugs, we have proposed to tighten the record-keeping requirements through the Dangerous Drugs (Amendment) Regulation 1996 which was tabled in this Council on 22 May 1996. One of the tightening measures proposed is to require the entering of the identity card number of the patient to whom dangerous drugs are supplied.

The proposal to include the patient's identity card number in the register is intended to provide a more reliable means of identifying the true identity of the patient to whom the dangerous drugs have been supplied, so as to facilitate investigations and law enforcement actions. It also serves to deter the patients from purposely providing false particulars and therefore offers better protection to doctors. It represents an improvement over the present arrangements whereby only the name and the address of the patient are required to be recorded.

However, the House Committee has expressed concern that there may be emergency situations or exceptional circumstances which make it impracticable for the authorised person to comply with the Regulation through no fault of his own. To address this concern, we propose to add a statutory defence provision to the Dangerous Drugs (Amendment) Regulation 1996, to the effect that it will be a defence for an authorised person to satisfy the court that he has done everything reasonable and has exercised due diligence in the circumstances to comply with the law. We would also assure Members that the Government does not initiate prosecutions lightly. Not every technical breach of the record-keeping requirements will automatically result in a prosecution. The situation where innocent authorised persons are prosecuted for minor breaches through no fault of their own should not occur.

The motion before Members seeks this Council's approval by resolution of the proposed amendment to the Dangerous Drugs (Amendment) Regulation 1996. With the proposed amendment, authorised persons are accorded better protection in complying with the record-keeping requirements introduced in the Amendment Regulation.

Mr President, I beg to move.

End

#### Legal Services Legislation Bill 1996

\* \* \* \* \*

Following is the speech by the Attorney General, the Hon Jeremy Mathews, in moving the second reading of the Legal Services Legislation (Miscellaneous Amendments) Bill 1996 in the Legislative Council today (Wednesday):

Mr President,

I move that the Legal Services Legislation (Miscellaneous Amendments) Bill 1996 be read a second time.

The main purpose of this Bill is to implement most of the proposals in the Report on Legal Services that involve legislative amendments. Before describing the proposed amendments, I would like to sketch in for Members the background to this Bill.

### The background

In January 1993, the Law Society published a paper on "The Future of the Legal Profession". The paper was very critical of the existing system, (I quote) -

"We believe that the rules which regulate the two branches of the profession and the relationships between them, and between them and their clients in general, increase cost, inhibit access to advice and representation and, frequently, protract proceedings. These outcomes arise, on average, without commensurate benefits in the quality of the product delivered. The current system has many in-built inefficiencies which would be avoided by alternative approaches."

The main proposal in the Law Society's paper was that there should be a unified legal profession.

A year after the Law Society's paper was published, the Bar Association published its Position Paper, which rejected the Law Society's proposals. We therefore had conflicting views from the two branches of the legal profession in respect of the unification of the legal profession. At the same time there were and remain other important issues relating to legal services that needed to be addressed - issues such as cost, access and the responsiveness of the legal profession to client needs.

The Administration decided that it should take the lead in bringing together all these issues and in reflecting the views of the community on them.

I need hardly restate the importance of the rule of law, the continuity of our legal system, and the vital role played by the legal profession. We need a strong and independent legal profession. But the legal profession exists to serve the community. If legal services do not meet the needs of the consumer, or if they are too expensive, or inefficient, the community may lose faith not only in the legal profession but in our legal system itself. That is not a development that any of us wishes to see.

As Hong Kong prepares to enter the twenty-first century, we must be sure that the legal services available are the best that can be provided in this dynamic, international city. We must not be complacent about the present quality and standard of professional services. There are many aspects of professional practice that are obsolete or obsolescent and have been abandoned elsewhere; many restrictions on the ways in which legal services may be offered; and many practices that are anti-competitive and are not in the public interest.

### The Consultation Paper on Legal Services

In order to seek the views of the community on a wide range of issues relating to legal services, in March 1995 the Administration published the Consultation Paper on Legal Services. That paper contained 40 provisional recommendations.

Response to the Consultation Paper was good. 87 submissions were received, of which -

37 came from institutions, including the Law Society and Bar Association

29 came from lawyers

21 came from individual members of the public.

Additional feedback in respect of some of the provisional recommendations was obtained through a Public Opinion Survey of 1,000 households, conducted by the Department of Applied Statistics and Operational Research, City University of Hong Kong; and from the views reported in the press.

Of the 40 provisional recommendations there was clear public support for 34; there was clear public opposition to 1; and public views were evenly divided in respect of 5. Details of the feedback received from the consultation exercise, and the Administration's proposals for the way forward, were set out in the Report on Legal Services, published in February 1996.

### The Report on Legal Services

Many of the proposals set out in the Report can be implemented by the legal profession without legislation. For example, there are proposals in respect of improvements to client care and complaints-handling procedures, and in respect of the elimination of touting and commission-taking. The Administration is following-up these proposals with the two professional bodies. With regard to touting and commission-taking in respect of criminal defence work, the Law Society has had an opportunity, over the past year, to tackle this problem by using its audit trail procedures and inspector's powers. The Independent Commission Against Corruption is now making an assessment of the extent of the problem. By the end of the year, the Administration should be in a position to decide whether there is a need to criminalise this type of behaviour.

So far as legislative proposals are concerned, the Report on Legal Services proposed that a Bill should be introduced into this Council in the current session to implement six of the proposals. The Bill that I am today introducing into this Council contains provisions in respect of five of those proposals, together with certain other amendments that I will describe in a moment. The one legislative amendment that was proposed in the Report but is not included in the Bill relates to the criteria for admission as a barrister.

The Report proposed that the criteria should be amended so that they are objective, reasonable, non-discriminatory and standards-based. This is necessary for Hong Kong to fulfil its obligations as a member of the World Trade Organisation. The Administration has for some time been pressing the Bar Association for its suggestions for new criteria, but these were received only after the Bill was gazetted. The Administration is now studying the Bar Association's suggestions, with a view to introducing appropriate Committee Stage amendments to the Bill.

### The Bill

I would now like to outline the main provisions in the Bill.

Clause 2 adds a new Part IIAA to the Legal Practitioners Ordinance relating to solicitor corporations. This new Part will implement the proposal in the Report on Legal Services that, subject to rules, solicitors should be permitted to incorporate their practices with either limited or unlimited liability. Given this proposed development, it is logical to permit foreign lawyers also to incorporate their practices, and clause 5 so provides. These two proposals follow recent changes to the law that permit accountants similarly to incorporate their practices.

Clause 7 of the Bill deals with interest on solicitors' clients' accounts. This provision implements the proposal in the Report on Legal Services that solicitors should be required to pay interest to clients, where it is reasonable to do so, in respect of clients' money held by the solicitor. The circumstances in which there will be such a requirement will be set out in rules to be made by the Council of the Law Society.

Clause 8 of the Bill relates to the proposed new status of Senior Counsel, which will, with effect from 1 July 1997, replace the title of Queen's Counsel. This provision will implement the proposal in the Report on Legal Services that the status of Queen's Counsel should (under a different name) be retained. I would add that the new section will not affect the existing system of appointing Queen's Counsel, which will continue until 30 June 1997. It will therefore be possible for one last batch of Queen's Counsel to be appointed before that date.

Clauses 9 to 13 of the Bill contain minor amendments to the Legal Practitioners Ordinance in the respect of the Barristers Disciplinary Tribunal. These amendments have been included to deal with practical problems that have emerged since the relevant provisions were enacted in 1992.

Clauses 14 and 15 add new sections to the Ordinance, providing for notaries public and solicitors to enter into multi-disciplinary practices. The Report on Legal Services proposed that solicitors should be permitted to enter into such practices, and it is consistent with this approach to permit notaries public to do likewise. Multi-disciplinary practices offer several advantages: they offer clients the convenience of "one-stop shopping" for a broad range of services; they may reduce costs for the consumer and provide a quicker and more effective service; and they may enable lawyers to operate more efficiently, and to be in a better position to compete with other suppliers of professional services.

Clause 16 adds a new section 56A to the Ordinance, which invalidates any non-statutory scale of charges prescribed by the Law Society that must be charged by solicitors for undertaking non-contentious business. This follows from the Administration's belief that mandatory scale fees are wrong in principle, as being unfair to consumers and anti-competitive.

Clause 17 of the Bill amends section 74 of the Legal Practitioners Ordinance to broaden the composition of the Costs Committee, and to prohibit it from setting scale fees for conveyancing work. The Costs Committee is currently empowered to make rules, with the prior approval of the Chief Justice, to provide for the remuneration of solicitors in respect of non-contentious business. At present, the Committee consists of a High Court judge (who is chairman); the Registrar or a deputy registrar of the Supreme Court; the Director of Lands or the Director of Intellectual Property (or either Director's representative); and the President and one Vice-President of the Law Society, and one member of the Law Society. The Bill amends the constitution of the Committee so that, in addition to the current membership, it will include four to six other persons. At least one of these must be someone who represents the interests of consumers of legal services, and the others must have substantial experience in banking, accounting or some other commercial activity. The effect will be that some members will represent the solicitors profession or consumer interests, and others (including the representatives of the Judiciary) will act as independent arbiters.

Clause 18 of the Bill adds a new section 34A to the Conveyancing and Property Ordinance, which invalidates any contractual provisions that require a purchaser to pay the vendor's legal costs, if the sale is of a unit in an uncompleted development, or if the sale is by the developer of a completed development. This implements another of the proposals in the Report on Legal Services.

### Abolition of scale fees

Clause 20 and Schedule 2 of the Bill repeal the scale fees prescribed for conveyancing work. The main arguments for and against the abolition of scale fees for conveyancing were set out in the Consultation Paper on Legal Services. The feedback received during the consultation exercise indicated that there was public support for abolition. Apart from the submissions from the Law Society and some individual solicitors, there were only 4 written submissions that opposed abolition. Nearly half of the respondents to the Public Opinion Survey who had previously consulted lawyers were dissatisfied with the scale fees system.

The Report on Legal Services set out the Law Society's reasons for opposing the abolition of scale fees, and also set out the counter-arguments. The Report proposed that legislation should be prepared to abolish scale fees in respect of conveyancing work but if, before the legislation was introduced into the Legislative Council, the Law Society were to make alternative proposals in respect of fees for conveyancing that were fair to consumers, the Administration would give them careful consideration before deciding on the way forward.

On 17 May 1996, the Law Society submitted its proposals to the Administration in the form of a Position Paper. The Law Society recognised that, since the last revision of scale fees in 1983, "an escalating property market may have caused the scale structure to become somewhat out of balance." It suggested that the appropriate way in which to address the problem would be for the Costs Committee to be reconvened to determine the acceptable level and structure of the fee system.

In view of the Law Society's response to the Consultation Paper on Legal Services and subsequent correspondence and discussions with us, the Administration had expected that the paper that the Law Society would eventually put forward would contain specific proposals in respect of the fees for various types of transactions, such as project conveyancing, and conveyances where a solicitor acts in the purchase and mortgage of the property. It had also expected that those specific proposals would be supported by detailed empirical data, including the report prepared by consultants commissioned by the Law Society.

This was not the case. The Law Society merely recommended that the Costs Committee should determine the level of fees, without producing any specific proposals. Although the Law Society's Position Paper suggested that "it would be appropriate in general terms for an 'across the board' reduction of 20% of the existing scale in respect of purchaser's costs," it did not give any reason for this.

The Law Society failed to put forward specific proposals, supported by empirical data. It cannot therefore be said that the Law Society's proposals are fair to consumers and are not anti-competitive. There is nothing for the Administration to evaluate except a proposal that the Costs Committee should decide the level and structure of the fee system. The Administration does not believe this proposal meets community aspirations and has therefore included in the Bill the provisions to abolish scale fees for conveyancing work, a move which has wide community support.

Since the Report on Legal Services was published, the Law Society and some individual solicitors have argued strongly against the abolition of scale fees. Let me respond to some of the arguments they have raised.

One point that is repeatedly asserted is that the abolition of conveyancing scale fees in England has been a "disaster", in that it led to a price war, which resulted in shoddy work, increased claims for negligence, and the bankruptcies of many solicitors. I would like to set the record straight.

Scale fees were abolished in England in 1973. 6 years later a Royal Commission undertook a comprehensive study of conveyancing throughout the country. There is no reference in the report to any of the problems I have just mentioned.

In recent years, England has suffered its worst recession this century and this has inevitably affected solicitors in many areas of their work. The volume of domestic conveyancing halved between 1988 and 1992. Prices fell in real terms between 1986 and 1993 by 45%.

An equally profound change occurred in the financial services industry, where keen competition developed for the sale of a wide range of complex financial products. This development gave financial institutions a considerably enhanced influence over all aspects of the housing market.

It is clear that solicitors in England have been faced with serious difficulties in recent years, and many have become bankrupt. But there is no basis for linking those difficulties with the abolition of scale fees in 1973. Nor is there any basis for assuming that things would have been different had scale fees still been in place. On the contrary, in March 1994, a report of the English Law Society's special working party on conveyancing services included the following statement -

'We have concluded that compulsory and recommended fee scales would be unworkable and ineffective.'

Those in favour of retaining scale fees have said that the abolition of scale fees will lead to a vicious price war, in which fees will drop below an unprofitable level and solicitors will produce shoddy work. There is no empirical evidence to support this assertion. And just analyse what is being said. It is that solicitors, whose professional training and discipline are said to justify their monopoly over conveyancing work, cannot provide proper and professional conveyancing services unless their fees are artificially fixed by reference to the price of the property conveyed. That is an astonishing argument for a profession to put forward and is untenable.

Some have pointed to the fact that Singapore has decided to retain a modified form of scale fees for conveyancing. They argue that Singapore's background is similar to that of Hong Kong. However, in Singapore only a relatively small segment of the population own or intend to acquire private housing. 87% of the population live in flats provided by the Housing Development Board, which provides legal services for sales, purchases and mortgages of those flats. The two places are not therefore comparable in respect of their housing markets.

The Law Society has also referred to the abolition of scale fees as "the English experiment". This is misleading. Scale fees have been abolished not only in England, but also in New Zealand, Canada and most parts of Australia. Moreover, the Administration is not aware of any place that has abolished scale fees and has subsequently re-introduced them.

If scale fees are abolished, solicitors will be required to charge conveyancing fees that are fair and reasonable "having regard to all the circumstances of the case". Consumers will therefore be charged on the basis of the work done, not on the value of the property concerned. This will improve the efficiency and cost - effectiveness of conveyancing services. The quality of the services provided depends on the expertise and professionalism of the solicitor concerned. Scale fees do not guarantee quality, and the abolition of scale fees will be no excuse for poor quality. The solicitors are members of a profession and must observe professional standards. The Law Society has a duty to discipline any of its members who fail in this respect. Other professions, trades and industries can provide quality services without price fixing, and there is no reason why solicitors cannot do so.

It has recently been suggested that the abolition of scale fees would undermine the independence of the legal profession. This Bill does not do that. No one is seeking to interfere with the way in which legal practitioners do their work. But it is quite legitimate for the legislature to step in and remove a pricing arrangement that is anti-competitive and unfair to consumers. Moreover, the monopoly that solicitors have in respect of conveyancing is conferred by legislation. The legislature is entitled to amend that legislation to prevent price-fixing in respect of conveyancing.

Public support

Mr President, as I have explained earlier, this Bill is the product of several years of debate, a debate that involves all sections of the community. This is only right. Members of the community are the consumers of legal services and they have every right to express their views on legal services in Hong Kong. The reforms contained in this Bill reflect those views and have wide public support.

Most of the proposed reforms are also supported by the two branches of the legal profession. This is not surprising, given that the Bill offers new opportunities for those who supply legal services. Solicitors and foreign lawyers will be permitted to operate from within new business structures - incorporated and multi-disciplinary practices. These structures will offer greater flexibility than the present regime, both in terms of raising capital and sharing profits, and in meeting clients' needs for a wide range of services. Similar developments are occurring elsewhere in the common law world. Legal practitioners in Hong Kong must have the ability to compete with other places in respect of the quality and variety of their services. I am pleased that the Law Society supports these reforms.

I assure members that the Bill is put forward by the Administration in the belief that all its provisions are in the public interest. They will benefit members of the public, who are consumers of legal services, and will offer opportunities for legal practitioners to provide quality legal services in ways that are more cost-effective, competitive and flexible than at present.

Mr President, I commend this Bill to the Council.

End

Administration of Justice (Miscellaneous Provisions) Bill

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Following is the speech by the Attorney General, the Hon Jeremy Mathews, in moving the second reading of the Administration of Justice (Miscellaneous Provisions) Bill in the Legislative Council today (Wednesday):

Mr President,

I move that the Administration of Justice (Miscellaneous Provisions) Bill 1996 be read the second time. The Bill aims to amend four Ordinances relating to the administration of justice and to security which are obsolete or anomalous and to repeal five Ordinances which are no longer needed or do not suit Hong Kong's present circumstances.

The Bill amends the Supreme Court Ordinance to enable solicitors to be appointed as recorders and to give the Chief Justice the power to appoint temporary deputy registrars and temporary assistant registrars.

The Bill also amends the Jury Ordinance to abolish the requirement that the Registrar of the Supreme Court must state to the court or the judge his reasons for excusing a person from attending on a jury.

The opportunity is also taken to amend provisions in two security-related ordinances and to repeal five others. They are obsolete, anomalous, or have long fallen into disuse.

The Bill proposes to repeal the Secretary of State for Defence (Succession to Property) Ordinance. The Ordinance provides for the control and succession of property vested in the Secretary of State for Defence. The building lot covered in the Ordinance was sold in 1969 and the provisions are no longer required.

The Air Armament Practice Ordinance, which permits practice bombing in Sai Kung, is wholly outdated. Such activities ceased in 1966. Since then Sai Kung has been built up and extensively developed for recreational use. Bombing exercises of the sort regulated by the Ordinance cannot practically be undertaken in modern Hong Kong. The Bill proposes to repeal this Ordinance.

It is also for the same reason that the Defences (Firing Areas) Ordinance should be updated. The British garrison have not used the Basalt Island range since approximately 1985. All naval gunfire exercises now take place in international waters south of Hong Kong. No practice has taken place in the torpedo range for at least 30 years, while the three minesweeping ranges have not been used since at least 1984. They are now located across major shipping channels which would preclude their reactivation. The Bill proposes to update the references to firing areas in this Ordinance.

The Defence Works Protection Ordinance is substantially similar to section 1 of the Official Secret Act 1911 which prohibits the sketching of prohibited places for any purpose prejudicial to the safety and interests of the State. The localising legislation for the 1911 Act is being drafted and discussed in the Joint Liaison Group. The Ordinance is redundant, and the Bill proposes to repeal it.

The Compulsory Service Ordinance and the China Fleet Club Incorporation Ordinance are obsolete. The former was suspended by the Governor in Council in 1961. At present, service to all our auxiliary forces is entirely on a voluntary basis and we do not envisage that such service will ever be made compulsory again. The China Fleet Club closed down in 1992 and its Trustees wound up by the court in 1993. The Ordinance is therefore no longer needed. The Bill proposes to repeal these two Ordinances.

The Bill also seeks to amend the Protected Places (Safety) Ordinance to provide that an authorised guard may use "reasonable force" in carrying out duties under this Ordinance to bring the provisions in line with the internal orders of the Police and the British forces.

Mr President, the Bill is part of our continuing process of tidying up the statute book by removing anomalies, up-dating provisions and repealing obsolete Ordinances. I commend the Bill to this Council for early passage into law.

End

### Social Workers Registration Bill

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Following is the speech by the Secretary for Health and Welfare, Mrs Katherine Fok, in moving the second reading of the Social Workers Registration Bill at the Legislative Council today (Wednesday):

Mr President,

I move that the Social Workers Registration Bill be read a second time.

#### Purpose

The Bill has been prepared in response to a growing awareness among social workers of the desirability of professional self-regulation. Its principal objectives are:

- (a) to establish a system for the registration of professional social workers;  
and
- (b) to establish a professional code of practice for registered social workers and to discipline those who contravene it.

#### Use of Title

A major consideration in drafting the Bill was the fact that the term 'social worker' is in wide and general use. Many talented and dedicated workers who may not be able to qualify for registration as social workers have been active in the social work field for many years. And during that time many will have referred to themselves or will have been referred to as social workers. Their work will have been referred to commonly as social work. We were concerned in drafting the Bill to strike a fair balance between protecting the terms 'social work' and 'social worker' when used in a professional context and allowing such terms to continue to be used more generally in an informal context without inadvertently causing problems for the large number of voluntary workers in this field who are not professionally qualified.

In order to achieve this balance, the Bill takes the following approach to the use of title. It will make registration mandatory for

any person who wishes to use the title "Registered Social Worker" (or the initials "R.S.W."); and

any person who wishes to use the words "social work" or "social worker" to describe his professional qualifications or his profession as being the social work profession.

This would mean, for example, that a person who spends his helping street sleepers or drug addicts would not break the law if he described himself as a social worker engaged in social work so long as he did not claim to be professionally qualified or providing a professional service.

#### The Registration Board

Registration will be undertaken by a Social Workers Registration Board which will set and review the qualification standards for the registration of social workers, administer the registration system, formulate and approve codes of practice, and handle disciplinary matters.

The Board will comprise 15 members. Eight will be elected from among registered social workers. In addition to the Director of Social Welfare or his representative, there will also be six members appointed by the Governor. These will include not less than three lay members who are not social workers, and two registered social workers who are public officers.

The Board will be financed by fees collected from registered social workers. It will appoint its own Registrar and employ other persons to assist in the performance of its functions and responsibilities.

#### Disciplinary Proceedings

The Bill will also empower the Board to receive complaints against registered social workers, and to appoint disciplinary committees to conduct inquiries into complaints and recommend appropriate action. To maintain the integrity of the social work profession, a registered social worker must be permanently removed from registration if he is convicted of any of the serious offences listed in Schedule 2 to the Bill. Similarly, any person who has been convicted of any of these offences would be ineligible for registration. A person who is aggrieved by a decision of the Board will have the right of appeal to the Court of Appeal.

Consultation

Mr President, the Administration has consulted widely in preparing the Bill. We have discussed the main issues with non-governmental welfare organisations, with professional staff in the Social Welfare Department, with the Welfare Panel of this Council and with the Social Welfare Advisory Committee. Most importantly, we have discussed at great length all the issues with the existing Social Welfare Personnel Registration Council whose views have been of great assistance to us on the many complex issues involved.

Mr President, I commend this Bill to the Council.

End

Child Care Centres (Amendment) Bill

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Following is the speech by the Secretary for Health and Welfare, Mrs Katherine Fok, in moving the second reading of the Child Care Centres (Amendment) Bill 1996 at the Legislative Council today (Wednesday):

Mr President,

I move that the Child Care Centres (Amendment) Bill 1996 be read the Second time. This Bill proposes a package of amendments to the Ordinance which comprise -

- (a) new provisions to prevent unsuitable persons from acting as childminders;
- (b) new provisions to exempt mutual help child care centres from the full provisions of the Ordinance; and
- (c) technical amendments to the Ordinance.

We have all heard of incidents in which children and babies have suffered serious neglect or physical abuse at the hands of the childminder in whose care they had been placed. Such cases have prompted calls for the introduction of controls over childminders. We have sought to strike a balance in devising new controls.

Bearing in mind the need to prevent unsuitable persons from acting as childminders as well as to avoid controls which would be so cumbersome or intrusive as to discourage persons from offering childminding services, we propose to empower parents themselves to check the suitability of the childminders they employ. We propose to prohibit a person from acting as a childminder if he or she has been convicted of any specified serious offence which could expose a child to the risk of abuse, or if he or she has committed any act or omission harmful to a child as recorded in the findings of a coroner's inquiry. The childminder can obtain from the Director of Social Welfare a certificate verifying that he or she is not a prohibited person. Parents can thus ask a potential childminder to show them such a certificate to assist them in assessing the suitability of the person to look after their child.

This approach highlights the responsibility which we believe must ultimately rest with parents to check the suitability of the childminder they employ. If these amendments are passed, we shall launch a publicity drive to get this message across clearly and to encourage parents to take full advantage of these new provisions aimed at enhancing their ability to verify that their child is in the care of a suitable minder.

In addition to tightening controls over individual childminders, we are proposing amendments to make it easier for mutual help child care groups to operate. These groups are another useful way of addressing the problem of children being left unattended at home. They can be organised by social welfare agencies, church bodies, women's centres, mutual aid committees and other non-governmental organisations where children are looked after by volunteers and parents on a roster basis in the premises of the organisations concerned. As these groups meet the criterion of being a customary or usual arrangement for the minding of children, the premises concerned fall under the full control of the Ordinance.

In order to encourage the formation of mutual help child care groups, the Bill will exempt the child care centres which they operate from the full provisions of the Ordinance provided they meet certain simplified requirements relating to supervision, structure of the premises and fire precautions.

Last but not least, the Bill also proposes some technical amendments to the Ordinance, for example, to revise the level of penalties for offences to be in line with present day values and to provide for appeals which at present lie to the Governor, to lie instead to the Administrative Appeals Board in future.

Thank you, Mr President.

End

Supplementary Appropriation (1995-96) Bill

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Following is a speech by the Secretary for the Treasury, Mr K C Kwong, in moving the second reading of the Supplementary Appropriation (1995-96) Bill 1996 in the Legislative Council today (Wednesday):

Mr President,

I move that the Supplementary Appropriation (1995-96) Bill 1996 be read the second time.

Section 9 of the Public Finance Ordinance states that "If at the close of account for any financial year it is found that expenditure charged to any head is in excess of the sum appropriated for that head by an Appropriation Ordinance, the excess shall be included in a Supplementary Appropriation Bill which shall be introduced into the Legislative Council as soon as practicable after the close of the financial year to which the excess expenditure relates".

The accounts for the financial year 1995-96 have been finalised by the Director of Accounting Services. The expenditure charged to 69 heads out of a total of 92 heads is in excess of the sum originally appropriated for those heads in the Appropriation Ordinance 1995. In each head, including Head 50 - Government Land Transport Agency, on which I shall elaborate later, this excess expenditure reflects supplementary provision approved by the Finance Committee or under powers delegated by it. These supplementary provisions were off-set by savings within the same head or under other heads or the provisions for "Additional Commitments" under Head 106 - Miscellaneous Services. The Supplementary Appropriation (1995-96) Bill 1996 seeks final legislative authority for the amount of supplementary provision approved in respect of particular heads of expenditure by the Finance Committee or under powers delegated by it.

The total supplementary appropriation required in respect of the 69 heads of expenditure is \$7,482.6 million. As in previous years, this excess is largely attributable to the implementation of the annual pay adjustment for the Civil Service and Government subvented organisations (\$4,627.1 million). Other major contributing factors include the increased expenditure under the Comprehensive Social Security Assistance and Social Security Allowance schemes (\$1,073.6 million), and additional expenditure on pensions (\$589.5 million). In preparing the original estimates for the year we had made provision to cover the costs of the 1995 pay adjustment, the inflation related adjustment to payments under the Comprehensive Social Security Assistance and Social Security Allowance schemes and the additional payments arising from the statutory inflation-linked adjustment to pensions under the "Additional Commitments" subhead.

With regard to the excess under Head 50 - Government Land Transport Agency of \$371,730.58 to which I referred earlier, the Government Land Transport Administrator has advised me that the excess arose from expenditure which was urgent and unavoidable, since the Government was obliged to comply with the payment conditions stipulated in the related tenders. However, the payments were processed inadvertently without seeking the necessary prior authority for the excess at the head of expenditure level. The Government Land Transport Administrator has assured me that, with the assistance of the Director of Accounting Services, he will review his procedures to ensure better control and monitoring of expenditure to prevent the recurrence of such incidents. In addition I shall be writing to all Controlling Officers to remind them of their responsibilities under the Public Finance Ordinance.

As a result of the savings made in various heads of expenditure and the provision made in the original estimates for additional commitments, total expenditure for the financial year 1995-96 was within the sum originally appropriated in the Appropriation Ordinance 1995 even after the supplementary appropriation sought in this Bill.

Mr President, with these remarks, I commend the Bill to Members.

End

#### Costs in Criminal Cases Bill

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Following is the speech by the Attorney General, the Hon Jeremy Mathews, at the resumption of second reading debate on the Costs in Criminal Cases Bill in the Legislative Council today (Wednesday):

Mr President,

I am grateful to the Chairman, the Honourable Albert HO, and Members of the Bills Committee for their careful study of this Bill. I would also like to thank the Bar Association and the Law Society for their helpful comments.

The purpose of this Bill is to reform the existing law and practice governing the award of costs in criminal cases. The Bill removes anomalies and inconsistencies by providing a fair and coherent set of principles applicable to both the defence and prosecution at all levels of criminal courts. It gives the courts the power to ensure that persons who suffer losses and expenses as a result of unjustifiable conduct on the part of their representatives or lawyers in criminal proceedings will be compensated.

As Mr Ho has noted, considerable controversy arose over the wasted costs provisions. Let me re-state the underlying philosophy for these provisions. The idea is to arm the courts with an effective remedy for the protection of the injured, so that any costs incurred by a party to criminal proceedings as a result of any unjustifiable conduct on the part of his legal or other representative will be borne by that lawyer or representative. These wasted costs provisions would apply equally to the Crown. I should stress that the provisions are not aimed at penalising the lawyer or representative but to compensate the injured party for the loss where it would be unreasonable to expect him to pay.

The Bar Association and the Bills Committee were opposed to the definition of wasted costs as originally set out in Clause 2 which, as it now stands, proposes to define wasted costs to mean any costs incurred by a party to criminal proceedings as a result of an improper, unreasonable or negligent act or omission on the part of his legal or other representative, or where, in the light of any such act or omission occurring after such costs had been incurred, it is unreasonable to expect that party to pay.

The Bills Committee proposed that the scope of the definition of wasted costs in Clause 2 be limited to circumstances where costs are incurred as a result of any failure to appear or lateness without reasonable cause on the part of any legal or other representative. After careful consideration and bearing in mind the likely circumstances when a court may wish to make a wasted costs order, the Administration agreed to the Bills Committee's proposal. Accordingly, I will move an appropriate amendment at the Committee Stage.

The scrutiny of the Bill by the Bills Committee has led to some other proposed amendments, which I will also move at the Committee Stage. They include an amendment to increase the ceiling on defence and prosecution costs in summary proceedings from \$15,000 to \$30,000, to reflect current general costs levels. The Bill will be amended to allow future adjustment to both defence and prosecution costs in summary proceedings to be made by subsidiary legislation.

Another amendment proposed by the Bills Committee relates to the award of costs in favour of a defendant in the event of successful appeal against sentence. Clauses 8(b) and 9(2)(b) originally provided that if the court substitutes on appeal a sentence "substantially at variance with" that passed by the court below, costs may be awarded to the defendant. The criterion of "substantially at variance with" is to be clarified and replaced by one of "less severe punishment than", which is in line with the English legislation.

The Bill will also be amended to include a transitional provision so that it will not apply to criminal proceedings in respect of offences committed before the coming into operation of the enacted Bill. I will move to include a new Clause 25 at the Committee Stage to so provide.

A final amendment relates to the Chinese text of the Bill where a number of drafting improvements are made.

Thank you, Mr President.

End

Mental Health (Amendment) Bill: second reading

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Following is the speech by the Secretary for Security, Mr Peter Lai, at the resumption of the second reading debate of the Mental Health (Amendment) Bill 1996 in the Legislative Council today (Wednesday):

Mr President,

The main purpose of this Bill, and its evolution through the Bills Committee are similar to the Criminal Procedure (Amendment) Bill 1996. I shall not go into the details here, but would again like to thank the Bills Committee for their constructive comments.

The Bills Committee has made suggestions to clarify and improve certain aspects of the Bill. The Administration has accepted the Bills Committee's suggestions and proposes to amend the relevant provisions of the Bill accordingly.

The principal amendments in respect of this Bill which I shall propose at the Committee stage include:

- (a) first, to clarify that it would be up to the court or the magistrate to decide whether an order should be made, and the form of such an order, after considering the Director of Social Welfare's advice on the suitability of the order and the availability of a suitable guardian;

- (b) secondly, to add definitions of "mental disorder", "supervision" and "treatment" to make it clear that the definition of "mental disorder" covers mental handicap; and
- (c) thirdly, to specify that the medical practitioners who provide evidence should include at least two specialists in mental disorder. This amendment corresponds with a similar amendment which I proposed to the Criminal Procedure (Amendment) Bill 1996.

As I explained earlier, it is our intention that the provisions concerning guardianship orders, and supervision and treatment orders will come into effect on 1 November 1996.

Mr President, I recommend the Mental Health (Amendment) Bill 1996 to this Council.

End

Mental Health (Amendment) Bill: committee stage

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Following is the speech by the Secretary for Security, Mr Peter Lai, in moving the committee stage amendments of the Mental Health (Amendment) Bill 1996 in the Legislative Council today (Wednesday):

Mr Chairman,

I move that clause 2 be amended as set out in the paper circularized to Members.

These amendments contain the principal improvements to the Mental Health (Amendment) Bill which I have already referred to in the Second Reading debate. They have been discussed in detail by the Bills Committee and have received the Committee's endorsement.

Mr Chairman, I beg to move.

End

Criminal Procedure (Amendment) Bill: committee stage

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Following is the speech by the Secretary for Security, Mr Peter Lai, in moving the committee stage amendments of the Criminal Procedure (Amendment) Bill 1996 in the Legislative Council today (Wednesday):

Mr Chairman,

I move that clauses 3 and 4 be amended as set out in the paper circularized to Members.

These amendments contain the principal improvements to the Criminal Procedure (Amendment) Bill which I have already referred to in the Second Reading debate. They have been discussed in detail by the Bills Committee and have received the Committee's endorsement.

Mr Chairman, I beg to move.

End

Dutiable Commodities (Amendment) Bill: second reading

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Following is a speech by the Secretary for the Treasury, Mr K C Kwong, at the resumption of the second reading debate on the Dutiable Commodities (Amendment) Bill debate on the 1996 in the Legislative Council today (Wednesday):

Mr President,

I would like to thank the Hon. Ronald Arculli and Members of the Bills Committee for their thorough but expeditious examination of the Bill. Indeed, the Committee completed the scrutiny of this long and technical piece of legislation in two meetings within one month. This is commendable and we are grateful for the Committee's support for the Bill.

The main purposes of the Bill are to streamline the procedures in the assessment of duty and in licence and permit control under the Dutiable Commodities Ordinance, to make improvements to ensure conformity with Bill of Rights requirements and to introduce a compounding scheme to deal more efficiently with minor offences under the Ordinance. The Bills Committee has given us valuable advice and, as a result, I will move at Committee Stage a number of amendments which have been agreed by the Bills Committee. I shall explain at that stage the reasons for these amendments.

Thank you, Mr President.

End

Dutiable Commodities (Amendment) Bill: committee stage

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Following is the speech by the Secretary for the Treasury, Mr K C Kwong, in moving the committee stage amendments of the Dutiable Commodities (Amendment) Bill 1996 in the Legislative Council today (Wednesday):

Mr Chairman,

There has been an increase in the number of offences committed under the Dutiable Commodities Ordinance concerning the illegal use of diesel oil involving taxis. To address this problem, we have strengthened the resources of the Customs & Excise Department to tackle such illegal activities and increased the maximum fine for such offences. In addition, we have included in the Bill before Members provisions to subject taxis to seizure on the same basis as private or goods vehicles. However, we note from the discussion with the Bills Committee that some Members are concerned about the possible impact of the proposed amendments on the taxi trade and the related hire purchase operation. We remain of the view that the situation with regard to taxis is serious, and there is no fundamental reason why they should not be treated in the same way as other vehicles. Moreover, there are adequate safeguards in the forfeiture provisions. Nonetheless, taking all factors into consideration, we accept that the concern expressed by some Members is not unreasonable. We are therefore prepared to stay our hand for the time being, and not oppose the Committee Stage Amendments moved by the Hon. Miriam Lau.

That said, we will closely monitor the situation and if it warrants, we may have to introduce the proposal again.

Thank you, Mr Chairman.

End

Public interest immunity certificates

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Following is a question by the Hon Margaret Ng and a reply by the Attorney General, the Hon Jeremy Mathews, in the Legislative Council today (Wednesday):

Question:

It is learnt that in a recent criminal court case, the Chief Secretary signed two "public interest immunity certificates" claiming that certain documents should not be disclosed on the ground that it was in the interest of the public to protect the identity of the informant concerned. The presiding Judge dealt with the certificates by ordering some of the documents in question to be disclosed, and it was subsequently held that there was no case to answer. In this connection, will the Government inform this Council:

- (a) who decides that a public interest immunity certificate is necessary in any given case; and what guidelines will be taken into consideration before a decision is made to request the Chief Secretary to sign a public interest immunity certificate;
- (b) of the number of public interest immunity certificates signed by the Chief Secretary in the past 3 years; and
- (c) whether the Chief Secretary has ever refused to sign any public interest immunity certificate in the past 3 years; and if so, in how many cases?

Reply:

Mr President,

In the case referred to in the question, the Chief Secretary issued two public interest immunity certificates, the first claiming immunity in relation to 56 documents and the second in relation to ten documents. After considering the certificates and examining the documents, the Judge ordered disclosure of 14 of the documents covered by the first certificate and one document covered by the second certificate. The Judge's decision that there was no case to answer was unrelated to the content of the documents which were disclosed.

To answer the specific questions:

- (a) the decision to issue a public interest immunity certificate is that of the Chief Secretary after taking legal advice from the Crown Solicitor. The categories of document in respect of which public interest immunity may be claimed and the procedures for considering and making claims are governed by the common law and also, in civil cases, by rules of court; [O.77, r.12]
- (b) since the beginning of 1993, the Chief Secretary has signed 8 public interest immunity certificates (5 in criminal proceedings, 3 in civil proceedings). Two of the cases (1 criminal, 1 civil) have not yet proceeded to trial and the certificates have not therefore been produced;
- (c) during the period referred to in the question, the Chief Secretary has not refused to sign any public interest immunity certificate.

End

Control on use of pagers by persons below 18

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Following is a question by the Hon Lo Suk-ching and a reply by the Secretary for Economic Services, Mr Stephen Ip, in the Legislative Council today (Wednesday):

Question:

The use of pagers by teenage students is becoming increasingly common and is causing concern among schools as well as parents. In view of this, will the Government inform this Council whether, in respect of those rental and service contracts entered into with persons below the age of 18, any guideline has been issued to the paging service operators requesting them to seek the consent and countersigning of the parents or guardians of such persons; if not, whether consideration will be given to formulating such guidelines?

Reply:

Mr President,

There are no provisions under the Telecommunication Ordinance or the licences for the operation of paging services requiring paging service operators to obtain the consent and countersigning of the parents or guardians of persons under the age of 18 when they enter into rental or service contracts with such persons. The Telecommunications Authority is, however, aware of public concern about the use of pagers by minors and has recently issued a circular letter to all paging service operators seeking their co-operation to make it a requirement for any service contract they have with minors to be countersigned by their parents or guardians. The paging service operators are seriously considering the matter. Some major operators have already changed their policy to comply with our advice, while others already have such a policy in place.

End

Right of abode issue under discussion with Chinese side

\* \* \* \* \*

Following is a question by the Hon James To Kun-sun and a reply by the Secretary for Security, Mr Peter Lai, in the Legislative Council today (Wednesday):

Question:

The Standing Committee of the National People's Congress of the People's Republic of China (PRC) has passed a draft document clarifying how the PRC's Nationality Law would apply in the Hong Kong Special Administrative Region (SAR) from 1 July 1997. It is stated in the document that Hong Kong residents with foreign nationality may declare their foreign nationality to the relevant authorities of the SAR by producing valid documents. In this connection, will the Government inform this Council of its stance on such an arrangement and whether it has sought clarification from the Chinese officials concerned regarding the following:

- (a) whether returning Hong Kong residents with foreign nationality who do not declare their foreign nationality will be deemed to be Chinese nationals; if so, what the response of the Chinese officials is ;

- (b) whether returning Hong Kong residents with foreign nationality will automatically obtain the permanent SAR resident status after they have declared their foreign nationality, or whether they must go through certain procedures such as making an application or a declaration before they can obtain such status; if so, what the response of the Chinese officials is;
- (c) the legal basis on which returning Hong Kong residents who have declared their foreign nationality can obtain the permanent SAR resident status and enjoy the rights and obligations pertaining to that status, such as political rights and the obligation to pay tax; if so, what the response of the Chinese officials is; and
- (d) how the authorities concerned will deal with the question of the nationality and permanent SAR resident status of children born in Hong Kong to returning Hong Kong residents who have declared their foreign nationality; if so, what the response of the Chinese officials is?

Reply:

On the basis of documents published by the Chinese side, including the interpretation of the Chinese Nationality Law passed by the Standing Committee of the National People's Congress, we understand the Chinese side's position to be as follows:

First, all Hong Kong residents of Chinese descent who were born in Chinese territory, including Hong Kong, will be considered as Chinese nationals. If such a person in the HKSAR also possesses a foreign nationality he may, if he wishes, make a declaration of change of nationality. To do this, he will need to present valid documentation to the Immigration Department of the HKSAR Government.

Secondly, after the declaration of change of nationality has been approved by the Immigration Department of the HKSAR, a person who was previously regarded as a Chinese national will be treated as a foreign national. In order to acquire the right of abode in the HKSAR, such a person would have to satisfy the requirements under Basic Law Article 24 sub-article (4), i.e. he would have to reside in Hong Kong ordinarily for a continuous period of seven years and have taken Hong Kong as his place of permanent residence.

Thirdly, according to Article 26 of the Basic Law, permanent residents of the HKSAR will have the right to vote and the right to stand for election in accordance with law. However, there is no correlation between permanent resident status and liability to tax. Under Article 42 of the Basic Law, any person in Hong Kong, whether or not he has a right of abode in the HKSAR, has the obligation to abide by the laws in force in the HKSAR, which will include the law relating to taxation matters. Under the Inland Revenue Ordinance, it is the territorial source of the income or profits, not the permanent resident status of the person concerned, which is the deciding factor in respect of the person's liability to tax.

Having said that, I must emphasise that many detailed questions, including those mentioned in the Honourable James To's question, must be resolved before the Government can take a position on the arrangements for non-Chinese nationals to acquire the right of abode envisaged by the Chinese side. We are continuing our discussions with the Chinese side under the auspices of the Joint Liaison Group. It remains our objective to obtain satisfactory answers to all these questions as soon as possible. Such discussions are covered by the confidentiality provision of the Joint Declaration, and it would not be appropriate for me to disclose the details of our exchanges with Chinese officials. If and when we are able to reach a satisfactory conclusion to these discussions, we would obviously make clear publicly the precise arrangements agreed with the Chinese side.

End

KCRC consultancy works

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Following is a question by the Hon Ambrose Lau Hon-chuen and a reply by the acting Secretary for Transport, Mr Paul Leung, in the Legislative Council today (Wednesday):

Question:

In regard to the proposed Western Corridor Railway project which straddles 1997, will the Government inform this Council:

- (a) of the number of consultancy contracts expected to be awarded by the Kowloon-Canton Railway Corporation (KCRC) in addition to the consultancy contracts at a total cost of \$434 million already awarded so far; what the areas of study and the costs of consultancy contracts expected to be awarded are; and whether the Chinese side will be consulted before these consultancy contracts are awarded; and

- (b) what preparatory or preliminary work, consultancy studies and design works of the project have been completed now; and whether the KCRC has notified, or obtained the agreement of, the Government before undertaking the consultancy studies and design works?

Reply:

Mr President,

As a next stage of their consultancy work, KCRC plan to carry out a series of technical studies, comprising 20 contracts and costing approximately HK\$750 million. To date 11 of them costing approximately HK\$560 million have been tendered, but no contracts have yet been awarded. The scope of these technical studies will cover the entire railway from West Kowloon to Tuen Mun Central, Lok Ma Chau and Lo Wu; details are annexed to this reply.

These technical studies are essential for developing the Western Corridor Railway project from the present conceptual level to a level of detail that is sufficient to establish a firm alignment, resolve key engineering and other issues identified, and improve the accuracy of the estimated project cost. In other words they will provide the necessary information to support in-depth consideration and decisions by Government.

KCRC's present estimate is that the project will require some 400 hectares of land, of which 270 hectares of government land will need to be cleared and 130 hectares of private land resumed. These involve a large number of residential, agricultural, commercial and village areas, as well as more than one thousand graves. According to a preliminary assessment recently completed by Lands Department, this resumption and clearance exercise will take about 5 years to complete. This suggests that construction is likely to have to begin later than envisaged in KCRC's proposed programme, and that the target completion date will have to be revised accordingly, to beyond 2001.

Given this development, it may no longer be necessary for KCRC to proceed with their planned technical studies all at the same time. Government has therefore asked KCRC to consider limiting at the present stage the scope of the studies to those which are essential for establishing a firm alignment for the Western Corridor Railway, so as to minimise the requirements for land resumption and clearance.

Following completion of the technical studies, and when Government has decided to proceed with the project, KCRC will need to commission more consultancy contracts for detailed design and construction supervision work.

On the question of Chinese consultation referred to by the Honourable Member, Government has kept the Chinese side of the JLG informed of developments of the Western Corridor Railway project. We have also undertaken to consult them before any decision that would commit the future Special Administrative Region Government (SARG) is taken. I would emphasise that the technical studies are part and parcel of the planning process. They are preparatory work which do not on their own commit the Government or indeed the future SARG to going ahead with the project.

As regards part (b) of the question, the consultancy studies completed by KCRC so far have led to their submission of the Full Proposal on the project to Government. This Proposal :

- (a) contains an outline scheme for the railway, preliminary cost estimate and financial analysis;
- (b) provides a preliminary assessment of key legal, land, transportation, engineering and environmental issues that need to be further addressed;
- (c) sets out KCRC's views on the engineering feasibility and financial viability of the project; and
- (d) provides a basis for discussion between KCRC and Government, and for further technical work to be carried out.

KCRC have, since submission of their proposal, been making preparations for the technical studies, and have called for tender for 11 consultancy contracts. Shortlisted tenderers have been identified but, as I have mentioned earlier, no contracts have been awarded.

In summary, KCRC have been carrying out studies since 1991 on or related to the WCR project, all in full compliance with the obligations and powers laid down in the KCRC Ordinance. The Corporation are not required to specifically notify, or obtain agreement from, Government before undertaking the consultancy studies and design work. Nevertheless, Government is in close liaison with the Corporation over the various aspects of their proposal and has therefore been kept informed of these studies.

End

Govt's stance on KCRC after-tax profits explained

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Following is a question by the Hon Eric Li Ka-cheung and a reply by the acting Secretary for Transport, Mr Paul Leung, in the Legislative Council today (Wednesday):

Question:

The Kowloon-Canton Railway Corporation (the Corporation) recorded after-tax profits of around \$1.1 billion and \$0.9 billion in 1994 and 1995 respectively. However, the Government did not request the Corporation to pay to the Government a sum from the Corporation's net profit in these two years under section 9(1) of the Kowloon-Canton Railway Corporation Ordinance. In this connection, will the Government inform this Council :

- (a) of the basis and considerations for the Government not asking the Corporation to make the above payment to the Government; and whether the Government's decision was related to the expenses which the Corporation will spend on consultancy studies concerning the proposed Western Corridor Railway project;
- (b) whether it knows if the Corporation will seek to secure loans to pay for the expenses in connection with the above consultancy studies; and
- (c) whether the Government has discussed with the Managing Board of the Corporation the question of the Corporation making payment to the Government for this year and thereafter; if so, what the outcome is?

Reply:

Mr President,

- (a) In 1994, Government decided not to direct KCRC to make payments primarily in view of KCRC's plans to spend in 1995 \$3 billion on capital improvements including \$120 million on the preliminary studies relating to the Western Corridor Railway proposal.

In 1995, Government again decided not to direct KCRC to make payments on broadly similar grounds, namely KCRC's plans to spend in 1996 \$2.5 billion for upgrading facilities and services, \$1.5 billion on further studies relating to the Western Corridor Railway proposal and

The decisions not to direct KCRC to make payments were to enable KCRC to plough back profits to meet their funding requirements. It is worth noting that in the four years 1990-1993, Government directed KCRC to make payments averaged about \$144 million per annum.

- (b) We understand that KCRC intend to raise a \$3 billion loan later this year. This will form part of KCRC's working capital to meet the Corporation's overall operating requirements, including the expenditure items listed in the answer to part (a) of the question. It is not appropriate to make artificial allocations of the working capital towards individual expenditure items.
- (c) Government will consider each year whether KCRC should be directed to make payments in that year in the light of the finances and business plans of the KCRC. In so doing, Government will take the views of the KCRC Managing Board. No separate discussion is held with the Board specifically on the question of such payments.

As regards payments for this year and thereafter, Government has so far not taken a decision.

End

#### Publicity expenses for housing policies explained

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Following is a question by the Hon Federick Fung and a reply by the Secretary for Housing, Mr Dominic S W Wong, in the Legislative Council today (Wednesday):

Question:

It is learnt that the Housing Authority spent about \$2.72 million in 1995/96 on publicising the policy of "Safeguarding Rational Allocation of Public Housing Resources", of which \$1.3 million was spent on publicity in newspapers and on radio and television. On the other hand, the accumulated expenses on publicising the "Rent Assistance Scheme" since its implementation in 1992/93 only amounted to some \$580,000, averaging about \$145,000 per year. In this connection, will the Government inform this Council if it is aware:

- (a) of the reasons for such a disparity in the expenses on publicising the two housing policies; and
- (b) whether additional provision will be made available for publicising the "Rent Assistance Scheme" so that regular publicity can be launched in newspapers and on radio and television; if so, when the additional provision will be forthcoming; if not, why not?

Reply:

Mr President,

It would not be appropriate to compare publicity expenses for the Rent Assistance Scheme directly with those for the consultation document on "Safeguarding the Rational Allocation of Public Housing Resources". The nature, scale, people targets and approaches of the two publicity drives are basically very different.

The purpose of the consultation document on "Safeguarding the Rational Allocation of Public Housing Resources" was to introduce a new policy to address the problem of "better-off tenants" living in public rental housing. Since the proposals would have a direct bearing on all sitting and future public rental housing tenants, and were a fundamental issue of allocation and use of public resources, we had to handle the consultation with great care. We aimed to encourage discussion among different sectors of the community through various channels, with a view to obtaining the widest possible feedback from the community within the three-month consultation period.

On the contrary, the Rent Assistance Scheme is not a new policy. It has been in operation since 1992. The target group is confined to sitting tenants facing temporary financial difficulties. So far, over 1,400 families have benefited under the Scheme. The publicity expenditure incurred under this Scheme relates mainly to the use of posters, pamphlets and radio commercials. Apart from these normal publicity activities, we also make use of other opportunities to promote the Scheme, for example, through daily contacts of Housing Department staff and Estate Liaison Officers with tenants. We also remind those households in need to apply for assistance under the Scheme through notification letters to tenants on rent revision and the Housing Authority's bi-monthly newsletters. The expenses incurred on these more direct promotion activities are not included in the publicity expenditure of the Rent Assistance Scheme.

In 1996/97, we have budgeted for some \$200,000 in connection with publicity of the Rent Assistance Scheme. We will launch more newspaper advertisements and radio commercials, and revamp the package of printed materials on the Scheme.

End

Western District development plan

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Following is a question by the Hon Edward Ho Sing-tin and a written reply by the Secretary for Planning, Environment and Lands, Mr Bowen Leung, in the Legislative Council today (Wednesday):

Question:

The sites surrounded by Kennedy Town New Praya, Catchick Street, Davis Street, Cadogan Street and Belcher's Street in Western District have been zoned as a Comprehensive Development Area for more than seven years, and there have not been plans by any public or private agencies to develop the sites comprehensively. In view of this, will the Government inform this Council whether it has any definite plan for a comprehensive development of these sites and if not, whether it will apply to the Town Planning Board to re-zone these sites for residential or commercial uses so that the private property owners concerned can develop the properties on their own?

Answer:

Mr President,

The Hong Kong Housing Society (HKHS) obtained approval from the Town Planning Board in 1992 to carry out the Comprehensive Development Area (CDA) project in question. HKHS subsequently found that if all the demands for compensation and rehousing by the owners and residents were to be fully met, the project would not be financially viable. HKHS then considered a number of options for discussion with the Government on how the project could be taken forward. In January 1996, the Government invited the Land Development Corporation (LDC) to study, on a "no commitment" basis, the feasibility of taking over the project from HKHS. LDC put forward an initial proposal in March 1996 for discussion with HKHS and the Government. We will conclude our consideration of the project as soon as possible, and hope to work out a feasible way forward on the implementation of the project before the Town Planning Board's approval to HKHS expires on 25 September 1996. We have no plan at this stage to re-zone the area for other uses.

End

Legality of vehicles fitted with crashproof headframes

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Following is a question by the Hon Cheung Hon-chung and a written reply by the acting Secretary for Transport, Mr Paul Leung, in the Legislative Council today (Wednesday):

Question:

Many vehicles (such as 7-seater private cars, light goods vehicles and light goods/passenger vans) are now installed with crashproof headframes after registration. According to overseas studies reported in the press, pedestrians who are hit by vehicles installed with this type of headframes may suffer serious injury or death. In view of this, will the Government inform this Council whether the installation of crashproof headframes on vehicles after registration is legal; if not, whether prosecution will be instituted against owners of such vehicles?

Reply:

Mr President,

There is no evidence in Hong Kong to suggest that the anti-collision bars installed on some vehicles are hazardous to other road users.

The fitting of anti-collision bars to vehicles does not constitute an offence under the Road Traffic Ordinance. However, if any anti-collision bar obscures the lights or registration plates of the vehicle, or creates sharp projections that may endanger other road users, the owner of the vehicle is liable to be prosecuted under the Road Traffic (Construction and Maintenance of Vehicles) Regulations or the Road Traffic (Registration and Licensing of Vehicles) Regulations. Any person committing such an offence is liable upon conviction to a maximum fine of \$10,000 and to imprisonment for 6 months.

End

Proposal to set up mortgage corporation

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Following is the question by the Hon Sin Chung-kai and a written reply by the Secretary for Financial Services, Mr Raphael Hui, in the Legislative Council today (Wednesday):

Question:

Regarding the proposal to set up a Mortgage Corporation, will the Government inform this Council:

- (a) why, in addition to playing the role of an agency or a regulatory body in assessing the quality of mortgage pool, the Mortgage Corporation should take up the intermediary role which can be played by the private sector;
- (b) of the benchmark which will be adopted by the Mortgage Corporation in setting the price of the mortgage-backed securities (MBS);
- (c) of the difference in status between the MBS issued by the Mortgage Corporation and the Exchange Fund Notes issued by Hong Kong Monetary Authority;
- (d) whether it knows of any government-owned mortgage corporation in other countries which is incorporated as a private limited company; and
- (e) whether it knows of any central bank in other countries which runs profit-making businesses such as a mortgage corporation?

Reply:

- (a) A mortgage corporation is a financial intermediary operating on a commercial basis. It typically purchases residential mortgage loans from loan originators and funds such purchase through the issue of debt securities. It assesses the quality of the mortgage loan pool for the purpose of managing the credit risk of the mortgage loans it purchases. It does not perform the credit assessment function for regulatory purposes.

While the banking system has been playing a predominant role in the intermediation of mortgage funds, there is a major difference between intermediation by the banking system and that by a mortgage corporation. Banks rely mostly on short-term funding (e.g. short-term customer deposits and interbank deposits) to finance long term mortgages. A mortgage corporation, on the other hand, raises long-term funds to fund mortgage purchase, thus avoiding the maturity mismatch between its liabilities and assets. A mortgage corporation thus helps to improve the robustness of the home financing system.

As evidenced by the experience of mortgage corporations overseas, government support is essential for the successful operation of the corporation, especially at the initial stage, as this will greatly facilitate the acceptance of the corporation by the market. This view is shared by the banking sector and capital market participants.

- (b) The price of the debt securities issued by the mortgage corporation will be determined by the market.
- (c) Under the proposal, the mortgage corporation will issue unsecured debt paper in the first phase, followed by the introduction of the mortgage-backed securities (MBS). The unsecured paper will constitute the general obligations of the mortgage corporation. The MBS will be backed by a pool of mortgages. The revenue generated by the mortgage pool (i.e. payment of principal and interest by mortgagors) will be passed onto the MBS holders. Both the unsecured paper and the MBS issued by the mortgage corporation will not be guaranteed by the government.

The Exchange Fund Notes constitute the direct, unsecured, unconditional and general obligations of the Hong Kong Government for the account of the Exchange Fund.

- (d) As far as we are aware, Cagamas Berhad, the national mortgage corporation in Malaysia, is 20% owned by the Bank Negara Malaysia (the central bank of Malaysia). The remaining equity is owned by other financial institutions. It is registered as a company under the Companies Act. FANMAC Limited of Australia is 25% owned by the State of New South Wales and the remaining equity is owned by financial institutions. It has been incorporated as a private company since its inception in 1986. The Federal National Mortgage Association (Fannie Mae), the largest mortgage corporation in the USA, was set up and initially wholly owned by the US Federal Government. It was partitioned into two separate entities in 1968. Fannie Mae became a listed company whereas the Government National Mortgage Association (Ginnie Mae) remains a government agency.

- (e) We do not have complete information on the various types of businesses undertaken by central banks/monetary authorities in other economies. As far as we are aware, many central banks/monetary authorities conduct a wide range of activities, some of which may generate profits. Notable examples include the management of official reserves, currency issue and the provision of securities clearing and settlement service. Specifically in relation to mortgage corporations, we understand that Cagamas Berhad, the national mortgage corporation in Malaysia, is 20% owned by Bank Negara Malaysia, the country's central bank. It is a profit-making institution earning RM61.8 million in 1994.

End

#### Widening of Tai Tam Road planned

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Following is a question by the Hon Howard Young and a written reply by the acting Secretary for Transport, Mr Paul Leung, in the Legislative Council today (Wednesday):

Question:

There has been an increase in the population in Tai Tam and its nearby areas as a result of the completion of a number of new residential projects in the area. This has led to an increase in traffic volume which will increase the risk of traffic accidents occurring along the narrow road on the Tai Tam Reservoir dam connecting the eastern and south-eastern parts of Hong Kong Island. In view of this, will the Government inform this Council whether it has any plan to widen the roads in the areas adjacent to Tai Tam, particularly the narrow road on the dam; if so, what the plans are; if not, why not?

Reply:

Mr President,

There is a plan to widen the section of Tai Tam Road adjacent to the reservoir from a 5.0m carriageway to a standard 7.3m two-lane carriageway to provide a capacity compatible with the rest of Tai Tam Road. The scope of the project comprises:

- (i) widening the section of Tai Tam Road over Tai Tam Tuk Reservoir Dam to a standard 7.3m wide two-lane carriageway;
- (ii) improving the alignment with widening of the southern approach to the dam;
- (iii) construction of a 1.6m wide pedestrian footpath alongside the carriageway;
- (iv) associated landscaping work; and
- (v) stabilisation works to the dam, if necessary.

Subject to the allocation of the necessary resources, consultants will be appointed to undertake the site investigation and detailed design. We expect work to commence towards the end of 2000 for completion in 2002.

End

Status of offenders detained under HMP

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Following is a question by the Hon Christine Loh Kung-wai and a written reply by the Secretary for Security, Mr Peter Lai, in the Legislative Council today (Wednesday):

Question:

Before the abolition of capital punishment, persons who were under 18 years old convicted of murder were sentenced to be detained subject to Her Majesty's Pleasure. Will the Government inform this Council whether any thought has been given to the arrangements which would be made concerning the status of such prisoners in Hong Kong after 1997, when Her Majesty will no longer be able to signify her pleasure through the Governor in respect of Hong Kong prisoners?

Reply:

Under section 70 of the Criminal Procedure Ordinance (Cap 221), which was repealed in 1993, the court could order a young offender who was under 18 when the offence was committed to be detained until Her Majesty's pleasure (HMP) shall be known. There are now 24 persons serving such sentences.

At present, the Governor may pardon or remit the sentence of any offender (including offenders detained under HMP) pursuant to Article XV of the Letters Patent. After 30 June 1997, the Chief Executive will be similarly empowered under Article 48(12) of the Basic Law.

End

Amusement games centres inspection

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Following is a question by the Hon Cheung Man-kwong and a written reply by the Secretary for Broadcasting, Culture and Sport, Mr Chau Tak-hay, in the Legislative Council today (Wednesday):

Question:

Since the implementation of the Amusement Game Centres Ordinance (the Ordinance) in December 1993, some amusement game centres are still found providing video games with obscene, gambling or violent contents and also allowing children to play these games in contravention of the licensing conditions for such centres. In this connection, will the Government inform this Council of:

- (a) the number of inspections conducted on amusement game centres as well as the number of amusement game centres inspected by the Television and Entertainment Licensing Authority (TELA) in 1994 and 1995;
- (b) the total number of written warnings issued by TELA to those amusement game centres providing video games with obscene, gambling or violent contents, and the number of amusement game centres whose licenses have been revoked or which have been prosecuted for providing such games, since the implementation of the Ordinance; and

- (c) the total number of amusement game centres licensed to admit persons of the age of 16 and above which have been warned or prosecuted, or whose licences have been suspended, for admitting children under the age of 16 or wearing school uniform since the implementation of the Ordinance?

Reply:

Mr President,

The replies to the three points raised in the question are:

- (a) TELA conducted 1,363 and 1,345 inspections on amusement games centres in 1994 and 1995 respectively, involving 566 and 511 amusement game centres respectively;
- (b) between December 1993 and May 1996, TELA issued 700 written warnings to those amusement game centres providing video games with obscene, gambling or violent contents. No amusement game centre has had its licence revoked for offering such games, however, the licences of three centres were suspended. 15 amusement game centres have been prosecuted by the Police for providing such games; and
- (c) between December 1993 and May 1996, 155 amusement game centres licensed to admit persons of the age of 16 and above have been warned for admitting children under the age of 16 or wearing school uniform. 177 amusement game centres have been prosecuted by the Police on these grounds, but no amusement game centre has had its licence revoked or suspended.

End

Emergency vehicles access to crowded small house areas

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Following is a question by the Hon Cheung Bing-leung and a written reply by the Secretary for Planning, Environment and Lands, Mr Bowen Leung, in the Legislative Council today (Wednesday):

Question:

At present, clusters of village houses and small houses built in close proximity to one another exist in certain areas of the New Territories, giving rise to concerns about the handling of emergencies in such areas. In view of this, will the Government inform this Council:

- (a) whether the granting of approval for the construction of village houses or small houses in such areas is subject to sufficient clearance being provided for access of emergency vehicles (e.g. fire engines and ambulances);
- (b) if the answer to (a) is in the negative, how it ensures that there is sufficient clearance in such areas for access of emergency vehicles in case of emergencies; and
- (c) whether the authorities concerned have encountered any difficulty or delay in carrying out rescue operations in such areas in the past three years due to the above problem; if so, of the number of such cases?

Answer:

Mr President,

- (a) Although the provision of emergency vehicular access (EVA) is not a statutory requirement in approving the construction of small houses, the small house grant conditions require the grantee to provide at his own expense and to the satisfaction of the Director of Fire Services (DFS) suitable means of access for the passage of fire services appliances and personnel to any structures erected or to be erected on the lot. Furthermore, the grantee shall at all times maintain such means of access and keep the same free from obstruction;

- (b) EVA is also planned in the layouts for village/small houses developments either through plan preparation or processing of planning applications in accordance with the requirement imposed by DFS. For Village Expansion Areas, the provision of EVA always forms part of the total development package; and
- (c) Fire Services Department has not encountered any difficulty or delay in carrying out rescue operations in such areas in the past three years.

End

Measures to monitor air quality inside road tunnels

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Following is a question by the Hon Choy Kan-pui and a written reply by the Secretary for Planning, Environment and Lands, Mr Bowen Leung, in the Legislative Council today (Wednesday):

Question:

Will the Government inform this Council whether the Environmental Protection Department (EPD) is responsible for undertaking tests on the air quality inside all existing road tunnels in the territory to ascertain if the air quality therein meets the standard set by the EPD; if so, what measures does the EPD have for monitoring the air quality inside the road tunnels in order to safeguard the public's health?

Answer:

Mr President,

The role of the Environmental Protection Department (EPD) is to assist Transport Department (TD) in vetting the air quality monitoring results submitted by the tunnel operators. The Department also advises on measures to maintain acceptable air quality, for example, by issuing "Practice Notes on Control of Air Pollution in Vehicle Tunnels" in 1993 to all tunnel operators. These Notes set down guidelines on the minimum requirements for three air pollutants: carbon monoxide, nitrogen dioxide and sulphur dioxide.

The operation of the existing road tunnels, including the future Western Harbour Crossing, is governed either by legislation, or by the relevant terms of management contracts. Both the legislation and the management contracts require tunnel operators to monitor continuously the concentration of carbon monoxide and to ensure that it does not exceed the prescribed limits. The TD conducts weekly monitoring checks to confirm compliance. These checks indicate so far that carbon monoxide concentrations are by and large within the legal limits.

The Administration would wish to examine whether improvements to the arrangements for maintaining air quality within the tunnels for other emissions standards can be achieved. The Administration will therefore discuss with the tunnel operators, as soon as possible, what further measures, such as the installation of nitrogen dioxide monitors, could be implemented to ensure an acceptable level of air quality in the tunnel.

End

Measures to tackle addicts injecting drugs in staircases

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Following is a question by the Hon Albert Chan Wai-yip and a written reply by the Secretary for Security, Mr Peter Lai, in the Legislative Council today (Wednesday):

Question:

Recently, I have received numerous complaints from residents in Tsuen Wan concerning drug addicts taking drugs by injection in the staircases of private buildings and leaving behind a lot of used syringes. Although I have referred such cases to the Police on a number of occasions, the residents making the complaints have claimed that the situation has not improved. In view of this, will the Government inform this Council :

- (a) whether the Police will take action if members of the public who witness drug addicts taking drugs by injection in staircases report such cases through the '999' emergency hotline;

- (b) what plans and measures are in place to tackle the problem of drug addicts taking drugs by injection in the staircases of private buildings; and
- (c) of the effectiveness of the 'high-rise patrol programme' which the Police had carried out in buildings located in crime blackspots; and whether the programme is still in place, if so, whether it will consider extending the areas covered by the programme?

Reply:

Mr President,

- (a) The Police respond to all reports of crime received through the '999' hotline, irrespective of the nature of the report.
- (b) Regular Police patrols will detect drug addicts taking drugs by injection in the staircases of private buildings. The Police has targeted known blackspots and will respond to reports of such crimes. In buildings where drug addicts are known to have injected drugs in staircases, the Tsuen Wan District Office has encouraged the owners' corporations or Mutual Aid Committees to step up building management measures. These include encouraging them to improve the lighting in public areas (e.g. staircases) of those buildings.
- (c) "High-rise patrols" have long been a feature of regular day-to-day Police work and are assessed to be very effective. Their need varies from area to area, and their deployment is at the discretion of the area Police Commander who will take into account the specific circumstances of the area, including known blackspots. On average, the Tsuen Wan district conducts 40 high-rise patrols daily. These patrols cover, inter alia, those private buildings which have attracted crimes and / or complaints from the public of nuisances involving drug addiction.

End

Monitoring of textbooks quality

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Following is a question by the Hon Eric Li Ka-cheung and a written reply by the Secretary Education and Manpower, Mr Joseph Wong, in the Legislative Council today (Wednesday):

Question:

In view of the large number of textbooks publishers in the territory and the varied standards of the textbooks, will the Government inform this Council :

- (a) of the measures in place to monitor the contents of textbooks;
- (b) whether it will consider regulating the selling prices of textbooks; and
- (c) whether it has any knowledge of the criteria adopted by schools in the selection of textbooks?

Reply:

Mr President,

- (a) The responsibility for monitoring the quality of textbooks rests with the Education Department. The Department has set up a Textbooks Committee to compile and issue a Recommended Textbooks List for kindergartens, primary and secondary schools. The Committee is chaired by the deputy to the Chief Executive of the Curriculum Development Institute of the Education Department, and comprises representatives of Textbooks Review Panels. Members of these Panels comprise mainly practising teachers of relevant subjects drawn from public sector schools and Education Department subject specialists.

If publishers wish to put their publications on the Recommended List, they may submit draft texts for review by the Textbooks Committee. The relevant Review Panels will check the drafts against the recommended syllabuses and guidelines endorsed by the Curriculum Development Council to ensure that the textbooks meet the Council's requirements and that their contents and formats are acceptable.

- (b) In line with our established policy of minimum market intervention, Government does not and has no intention to regulate the price of textbooks.

However, the Education Department issues a circular letter to schools annually advising schools to minimise the financial burden on parents which may arise from the purchase of textbooks. These include:

- (i) schools should consider the prices when selecting textbooks for their students and to provide the prices on school textbook lists for parents' reference;
- (ii) school textbook lists should give full details of all textbooks required for the new term to ensure freedom of choice for parents in the purchase of new or second-hand copies;
- (iii) students should not be required to purchase the latest edition of books printed in the school textbook lists if the earlier editions owned by students can still be used for learning with teachers' assistance; and
- (iv) schools should not recommend supplementary teaching materials, such as exercises, tests, workbooks etc. unless there are good educational reasons.

In addition, under an administrative "three-year rule", publishers wishing to revise their textbooks have to submit proposed revisions to the Education Department for vetting. The Department normally endorses only those revisions which are significant or substantial. The Education Department is also in regular contact with publisher associations on matters relating to publishing and vetting of textbooks.

- (c) Education Department advises schools to choose textbooks from its Recommended Textbooks List. The main guiding principle is the specific educational needs of the students, which may vary from school to school. The relevant subject sections of the Advisory Inspectorate of the Education Department provides advice to school authorities on the appropriate choice of textbooks as necessary. The Education Department does not accept the fact that a school has a standing arrangement with a particular publisher as a valid reason for the choice of a particular textbook.

End

Admission to engineering faculties

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Following is a question Dr the Hon Samuel Wong and a written reply by the Secretary for Education and Manpower, Mr Joseph Wong, in the Legislative Council today (Wednesday):

Question:

Will the Government inform this Council of :

- (a) the respective numbers of students admitted to various Departments in the Engineering Faculty (including the Department of Computer Studies) in each of the tertiary institutions in the 1995/96 academic year; and
- (b) the number of the above students who are already in possession of a Higher Diploma or Certificate in Engineering, as well as the number of such students who have been admitted directly to study in the second year of their programmes, in each of the tertiary institutions?

Reply:

Mr President,

- (a) The breakdown on the number of students admitted to various Departments in the Faculty of Engineering including the Department of Computer Studies in each of the seven tertiary institutions funded by the University Grants Committee (UGC) in the 1995-96 academic year is at Annex A.
- (b) The number of students among those in Annex A who already possess a Higher Diploma or Certificate in Engineering and also those who are admitted directly to study in the second year of their programmes are at Annex B.

End

Penalty for certain sexual offences under review

\* \* \* \* \*

Following is a question by the Hon Fred Li Wah-ming and a written reply by the Secretary for Security, Mr Peter Lai, in the Legislative Council today (Wednesday):

Question:

Under the existing legislation, the maximum penalty for rape is imprisonment for life, whereas the maximum penalty for incest is imprisonment for seven years with the exception of those cases where the victims are under the age of 13 years. In view of this, will the Government inform this Council :

- (a) of the number of incest cases in each of the past three years;
- (b) the reasons for such a disparity between the maximum penalty imposed for rape and that imposed for incest, having regard to the enormous trauma suffered by the incest victim; and
- (c) whether it will review the penalties for rape and incest?

Reply:

- (a) The number of incest cases reported to the Police in the past three years is set out below :

Year	Number of incest cases
1993	7
1994	7
1995	6

- (b) The maximum penalty of life imprisonment which applies to rape cases also applies to those cases where the defendant and the victim have an incestuous relation, provided that:
  - i) the victim does not consent to the intercourse; and
  - ii) the defendant either knows that the victim does not consent, or he is reckless as to whether she consents to it.

Also, a defendant may be subject to the maximum penalty of life imprisonment in case the incest victim is below the age of 13. As regards the maximum penalty for incest of seven years, this only applies to cases involving victims aged 13 or above.

- (c) We believe the maximum penalty of life imprisonment for rape is appropriate. We are reviewing the maximum penalties for certain sexual offences including incest.

End

HK/Singapore civil servants exchange programme proposal

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Following is a question by Dr the Hon David Li Kwok-po and a written reply by the Secretary for Civil Service, Mr W K Lam, in the Legislative Council today (Wednesday):

Question:

In view of the report that the Governments of Hong Kong and Singapore are exploring an exchange programme for civil servants of the two Governments, will the Government inform this Council :

- (a) of the objective of this exchange programme;
- (b) of the expected commencement date of the programme and its duration;
- (c) of the criteria to be adopted in selecting civil servants to participate in the exchange programme; and
- (d) whether the Hong Kong Government will consider expanding the exchange programme to include other countries?

Answer:

Mr President,

The Hong Kong and Singapore civil services have had initial discussions on a proposal for an exchange programme for civil servants. The objective of the programme is to enrich and broaden the exposure of the personnel employed in the respective civil service, and to enable cross fertilisation of experience and expertise.

We are continuing discussion with the Singapore civil service on the details and the logistics of the exchange programme, including the commencement date, duration and criteria in selecting personnel. We hope that in a few months' time, we would be able to send the first civil servant from Hong Kong to the Singapore civil service.

The Hong Kong civil service have broadly similar exchange programmes with the civil service in Australia and Canada. These programmes bear the same objective as the one being proposed between Hong Kong and Singapore. We may consider exploring similar programmes with other civil services should we see merit in so doing.

End

#### Protection of Wages on Insolvency Fund payment applications

\* \* \* \* \*

Following is a question by the Hon Leung Yiu-chung and a written reply by the Secretary for Education and Manpower, Mr Joseph Wong, in the Legislative Council today (Wednesday):

Question:

Will the Government inform this Council :

- (a) of the total number of applications for ex-gratia payment from the Protection of Wages on Insolvency Fund(the Fund) in 1995/96, together with a breakdown of the applicants by trade; and
- (b) how the Labour Department determines the target set out in its performance pledge of completing the processing of an application for ex-gratia payment within four to ten weeks; and whether, in setting such a target, consideration has been given to the actual financial situation of the applicants?

Reply:

Mr President,

- (a) In 1995/96, there were 6,730 applications for ex-gratia payments from the Protection of Wages on Insolvency Fund. A breakdown of these applications by economic sector is as follows:

<u>Economic sector</u>	<u>No of applications</u>
Manufacturing	2728
Construction	183
Wholesale/Retail, Import and Export/ Restaurants & Hotels	2806
Financial & Business Services	213
Personal Services	552
Others	248
Total	6730

- (b) The Performance Pledge of the Labour Department in respect of Protection of Wages on Insolvency Fund is to complete the processing of applications and the issue of ex-gratia payments to applicants within four to ten weeks after the filing of winding-up or bankruptcy petition against an employer or after the Legal Aid Department has recommended payment without a petition.

In processing the applications, the Wage Security Unit of the Labour Department has to collect wage and employment records from the applicants and their employers, interview the parties concerned and verify the applicants' claims before payments can be made. The time taken in completing these steps varies from case to case. In setting the Performance Pledge, the Labour Department has taken into consideration the actual operational experience and the need to provide prompt relief to applicants. In the past two years, the Labour Department has streamlined the procedures and deployed more manpower for handling the applications. As a result, the average time required for payment to be made from the Fund dropped from 6 months from the date of petition against the employer for 1993/94 to 2.1 months for 1994/95. At present, an applicant will normally receive payment from the Fund within one month. This is a significant improvement.

The Labour Department has also set up a telephone Hotline since February 1996 to provide assistance to hardship cases. So far, 30 applications have been received through the Hotline and 20 applicants have been granted advance payment from the Fund.

End