



DAILY INFORMATION BULLETIN

ISSUED BY GOVERNMENT INFORMATION SERVICES
GARDEN ROAD, 5th-8th FLOORS, MURRAY BUILDING,
HONG KONG. TEL.: 2842 8777

Wednesday, January 8, 1997

<u>Contents</u>	<u>Page No.</u>
Transcript of the Governor's media session	1
Government response on VM issue	6
US District Court decision will be appealed	7
Trade Unions Bill	8
Meeting of JLG expert group on preparation of transitional Budget	9
Plea for information on illicit cigarettes	9
New arrangement for the sale of definitive stamps	10
Sha Tin lot to let	11
Hong Kong Monetary Authority Interbank Liquidity	11

Transcript of the Governor's media session

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The following is the transcript of the media session by the Governor, the Rt Hon Christopher Patten, at Central Government Offices lobby this (Wednesday) morning:

Governor: Sorry to keep you waiting in the cold. As you know, I am returning to London tonight for a short duty visit. Almost certainly the last that I will pay to the United Kingdom before the general election later this year. I am seeing the Prime Minister for lunch, the Foreign Secretary at dinner, and I am seeing the Home Secretary tomorrow afternoon. I am also seeing the leader of the opposition, Mr Blair, his deputy Mr Prescott, and Robin Cook the Labour Foreign Affairs spokesman. I am also seeing other parliamentary leaders, including members of the Foreign Affairs Select Committee.

I am giving a lecture tomorrow night under the auspices of the National Westminster Bank on Hong Kong and Asia. And, of course, meeting Foreign Office officials for extensive discussions. So it will be quite a busy visit, perhaps earlier in the year than I have customarily done but that is because there are particular circumstances in the United Kingdom this year. But I am happy to take questions about the visit or about any other matters that any of you would like to (raise).

Question: Governor, would you comment on the Jerry Lui case, that the United States is afraid to honour the extradition treaty fearing that there will be a trial by Chinese courts and that seems to bring the whole rule of law into question here? Is the United States acting in a responsible way and should people be afraid to extradite here?

Governor: Well, it is not a question of the United States, it is a question of one particular judge in the United States. I have to say that we were literally amazed by the decision, not least because similar arguments to those used by the defendant in this case have been put forward in other jurisdictions and totally rejected. Recently, that was the case in Canada, for example. We will be urgently seeking an appeal and seeking to delay the release of the gentleman in question.

We think it is imperative that people recognise that under the Sino-British Joint Declaration, the common law and the administration of justice continue after 1997 as they are today, that Hong Kong will be a separate jurisdiction, in terms of the administration of justice, from China. That is embodied in the international treaty and we do not think should be questioned by anyone. So the simple answer to your question is that we will be urgently appealing the decision.

Question: Mr Patten, during your visit back home will you be urging Mr Rifkind and the UK Government to repeat its challenge to China to take ... of the provisional legislature to the International Court?

Governor: I think the Foreign Secretary has made the British Government's position abundantly plain. That position will in due course, I am sure, be made equally plain in the British Government's regular report to parliament on Hong Kong but I don't think any further statement from Mr Rifkind or from the British Government is required.

Question: Governor, what is your comment about the speech delivered by Mr Howe about the co-operation between China and Hong Kong in order to smooth the handover of Hong Kong? And will you still maintain that the provisional legislature ... China to the International Court about that?

Governor: Well, let us just recall exactly what the position is as far as the International Court of Justice is concerned. What the British Government has said is that in the British Government's view it is difficult to see how the establishment of a so-called provisional legislature is in compliance with the Joint Declaration and the Basic Law. But if China is convinced that it has a solid legal basis for scrapping the existing legislature, if it thinks the existing legislature is against the Joint Declaration and the Basic Law, if it thinks that what it is doing is in line with the Joint Declaration and the Basic Law, then let China join Britain in seeking independent arbitration at the International Court of Justice. That is the position that the British Government have taken up and I suspect that China's refusal to accept that sensible suggestion is itself eloquent of the paucity of the Chinese case.

Now, you wanted to know about my views on Lord Howe's proposals that we should be all as co-operative as possible. Absolutely! That is what the Joint Declaration, Article 30, says. It says that Chinese officials, that China should co-operate with Britain until 30 June 1997, while we are the sovereign power. Quite difficult, I think, to understand how you can square that commitment to co-operation with recent Chinese decisions about the provisional legislature.

Question: Of course, Lord Howe, three things that he said. First of all his warning to Hong Kong that the leaders of public opinion here should not allow Hong Kong to become a bridgehead for revolution in China. Second of all, his warning to the press not to shock China. And on the provisional LegCo, that Britain, Hong Kong and China should join hands and conciliate on the matter of the provisional LegCo which should not be taken to any international court.

Governor: I think your last point is a slight extension of what he said. But let me deal with the first two and then repeat my position and the British Government's position on the third. I have followed with interest his remarks.

Of course, everyone is in favour of responsible behaviour. It would be difficult to make a convincing speech in favour of irresponsibility. But I have to say that I have been in Hong Kong, now, getting on for five years - over four and a half years - as some of you may have noticed, and I think Hong Kong is as responsible and moderate a place as I have ever lived in. I think it is arguably the case that there is a lot less extremism, politically, in Hong Kong than anywhere else that I have lived in my increasingly long life. So I don't think that anything in Hong Kong, any of Hong Kong's values, the espousal of those values, represents a threat to anybody else.

I don't want to pick an argument with anybody but I am not quite sure what the threat which Hong Kong is supposed to represent actually consists of. What we do have here in Hong Kong is a set of values which people hold dear, which have helped to make Hong Kong a decent and economically successful place. And what, I think, would concern everybody is any action which undermined or threatened those values and those principles. I think that is, clearly from the opinion polls and clearly from what I heard being expressed on radio phone-in programmes yesterday, that is what concerns people, not extremism directed at anybody else.

As for the press, well, I thought there was a very good speech made on freedom of the press on Monday night by the Chief Secretary, in which the Chief Secretary said what I am sure you all feel. That newspapers should report without fear or favour, responsibly, what needs to be reported in a free society. I would not have chosen to change a word in that speech, had I been sufficiently eloquent to make it myself, and I guess that most members of this free, open, pluralist, unthreatening community would feel exactly the same.

Question: I would like to ask you a subsidiary question. I asked Lord Howe, yesterday, what made him think that there were subversives in Hong Kong who were going to cause this kind of revolution and he said to me that this was Peking's view, that it was not something which he had sensed here but that this is what Peking was worried about, that there would be subversion.

Governor: I have said many times that I thought that Chinese leaders should trust Hong Kong and should relax about Hong Kong. One country, two systems, implies that that is what they should do. Hong Kong and its system is different from China and its system. Hong Kong, as I think the New York Times suggested the other day, is a reflection of the future in Asia. It is a decent, free, open society and will long remain that, and I don't think that should be regarded by anybody as a threat.

Question: Some provisional legislators, including Mr Leung Chun-ying who is the Vice Chairman of the Preparatory Committee, plainly mentioned yesterday that the provisional legislature is no longer a designate one...?

Governor: I cannot hear what you are saying, I'm sorry.

Question: According to some provisional legislators who say that the PL is no longer a designate one but that means the structure can operate formally before July this year and then it can pass laws which will come into effect after June this year. So what can the British Government do with that and what can the Hong Kong Government do to stop that?

Governor: I think that anybody who says that should have a conversation with the Chinese Vice Premier, Mr Qian Qichen, who made it perfectly clear last April that there could only be one Legislative Council before 30 June 1997. And we have one which was elected by over a million people, rather than one that was selected by 400 hand-picked people by China.

Question: Would you expect the Foreign Secretary to tell you, okay, how much you should ... the question of the provisional legislature through the International Court?

Governor: Would I what?

Question: Would you expect the Foreign Secretary to tell you ... questions of the provisional legislature to the International Court?

Governor: As you will know, if you have been attending any previous press conferences with me, the British Foreign Secretary cannot do that. No government can do that on its own. In order to unilaterally take an issue to the International Court of Justice you have to go through the General Assembly of the United Nations and there isn't a General Assembly meeting until next autumn. So it is not very relevant to the question of the existence of the provisional legislature at the moment.

Question: Are you saying that the British Government has nothing to do with the challenge ...?

Governor: But I know precisely what the British Government have said and done and we had many entertaining press conferences about that before Christmas.

Question: How far do you agree with Lord Howe's comments that Chinese leaders need sympathy and support? That is what Lord Howe said.

Governor: I have already, I think, answered that question fairly extensively, genially, gently, moderately, without any extremism. Let me offer, free, a piece of New Year good cheer. I think everybody needs sympathy and support. I am in favour of sympathy and support for everybody - the Governor of Hong Kong, the Chief Secretary, Lord Howe, the Chief Executive Designate, Chinese leaders. We all need sympathy and support and I am sure that we will all get it from Hong Kong's responsible, vigorous press corps.

Question: Do you include the press in deserving sympathy?

Governor: I am madly sympathetic about the press. Perhaps I could just say one other thing. Obviously, in the Administration we have been keeping a very close eye on the property market. We are clearly concerned at some of the anxieties that are being expressed about what is alleged to be a new bout of speculative activity. We are keeping the situation under urgent review - and I mean urgent. We are keeping as close an eye as possible on things and if there does appear to be unacceptable speculation producing a bubble in the market, we won't hesitate to take whatever action may be necessary.

We were, I think, extremely successful a couple of years ago in preventing the increase of speculation which had started and I think that demonstrated our concerns. But obviously, in the long term it is important to increase the supply of flats which should be a consequence of the increase in land available for residential accommodation which we made available in the last two and a half years.

Question: To what extent does the timing of your visit indicate that the British general election is imminent?

Governor: I think it suggests that it is not going to be in the next week. The next British general election has to be, I think, before about the middle of May. But clearly, people are going to be much preoccupied with that over the Easter period when I would normally have gone to the UK, so I thought it was sensible to go at this stage.

I also want to talk about things like the regular reporting to parliament which the Foreign Secretary spoke about before Christmas, and I thought it was also time to update the Leader of the Opposition and the Foreign Affairs Select Committee on what has been happening.

Question: ... about the war widow passports. Isn't it time they actually got them?

Governor: Yes, but without going into detail, it is not solely a question of administrators not being speedy enough. There have been problems about filling in forms and so on but we are trying to address that. The nationality issue, which obviously I will be pursuing with the Home Secretary, is the question of the ethnic minorities. Thank you very much.

End

Government response on VM issue

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The Government today (Wednesday) responded to media reports on recent comments by a Chinese Foreign Ministry spokesman on the Vietnamese migrant (VM) population in the territory.

A Government spokesman said that a total of 63,415 VMs had been returned to Vietnam since 1989, 15,101 in 1996 alone.

"If repatriation continues at the rate seen in the latter half of 1996, we are confident that it will be possible to close our camps by the middle of this year," he said.

The spokesman said that the policy of first asylum was adopted by the Hong Kong Government and was not imposed on the territory by the United Kingdom. This is borne out by the findings of a recent report by the Director of Audit to the Legislative Council.

"Hong Kong could not have resolved the VM problem on its own; it was dependant on the cooperation of the international community.

"The policy of first asylum was part of a package of measures agreed in the context of the Comprehensive Plan of Action (CPA). Through the CPA, we have been able to reduce our VM population from a peak of 59,240 in late 1991 to 6,000 today," he added.

"We have never sought to release VMs from detention or disseminated information in the camps to persuade VMs from returning home.

"The integrity of our detention policy is crucial to our ability to draw the VM saga to a close. We shall continue to defend it. However, we are also committed to the rule of law and will not be a party to the illegal detention of anyone in the territory, including VMs," the spokesman stressed.

The spokesman said that early repatriation from Hong Kong of all VMs is an important objective of the British Government.

"In the course of 1996, the British Prime Minister raised the issue with his Vietnamese counterpart. During a visit to Hanoi in November, the Foreign Secretary strongly urged the Vietnamese Government to join others in redoubling their efforts to resolving this problem before the transfer of sovereignty later this year," he said.

"As in the past, we shall continue to do our utmost to expedite the repatriation of all VMs to Vietnam in accordance with the dictates of the law and in compliance with the principles set down in the CPA," the spokesman concluded.

End

US District Court decision will be appealed

* * * * *

In response to media reports today (Wednesday) on a decision by a US District Court to grant Mr Jerry Lui Kin-hong a writ of habeas corpus, a Legal Department spokesman issued the following statement:

"We will be mounting an urgent appeal against this decision and we will move on this as quickly as possible. In the meantime we will be applying for a stay of the order of release and will be applying for Mr Lui's further detention pending the hearing of our appeal.

"We are still awaiting the full written judgment but, based on the newspaper reports, we are amazed that the District Judge seems to have ignored completely the guarantees contained in the Sino-British Joint Declaration and the Basic Law about the continuation of Hong Kong's Common Law system and the rule of law, as part of the separate system for Hong Kong under the "One country, two systems" concept.

"We would point out that District Judge Tauro's decision flies in the face of a number of other recent extradition decisions from other jurisdictions where the courts had no problem about the ordering of the return to Hong Kong of those alleged to have committed serious crimes here. For example, in a recent extradition case, the Canadian courts rejected arguments similar to those put forward by Mr Lui.

"We will be stressing in the appeal that Hong Kong will continue to enjoy a legal system separate from that of China after 1 July 1997 as guaranteed in the Joint Declaration and the Basic Law and with all the protections that afforded to defendants in criminal cases.

"Hong Kong has signed a number of extradition agreements with other jurisdictions that will last beyond 1 July 1997. The Legislative Council is currently studying a Fugitive Offenders Bill which, when enacted, will give legal force in Hong Kong to those agreements. We look forward to the early enactment of that Bill which will play a vital part in our continuing extradition arrangements."

End

Trade Unions (Amendment) Bill

* * * * *

The Government does not support the Member's Bill introduced into the Legislative Council tonight (Wednesday) by Legislative Councillor Mr Lee Cheuk-yan which seeks to amend the Trade Unions Ordinance.

A spokesman for the Education and Manpower Branch said today that the bill was not conducive to the healthy development of trade union movement in Hong Kong.

"For example, the bill allows the use of funds of a trade union for political purpose. This is contrary to the objective of a trade union," the spokesman said.

Another provision of the bill seeks to repeal the present requirement of the Governor's approval for a trade union to be a member of trade unions outside Hong Kong.

The spokesman pointed out that the requirement to obtain the Governor's consent for affiliation with overseas unions or organisations "is a necessary safeguard to prevent local trade unions from being unduly influenced or controlled by overseas political bodies".

"However, the Government has been flexible in the exercise of power and has not refused any past application from local trade unions for affiliation with overseas unions or organisations."

The spokesman said that as a matter of principle, the Government would only consider proposed amendments to labour legislation if they had been discussed by the Labour Advisory Board.

"The Board has not been consulted on this bill," he added.

End

Meeting of JLG expert group on preparation of transitional Budget

The Sino-British Joint Liaison Group will hold their sixteenth round of Expert Talks on January 9 and 10 in Hong Kong to discuss the preparation of Hong Kong's transitional Budget and related matters.

The British team will be led by Mr K C Kwong, Secretary for the Treasury of the Hong Kong Government. The Chinese team will be led by Mr Chen Zuo'er, Chinese Representative on the Sino-British Joint Liaison Group. They will be assisted by experts.

End

Plea for information on illicit cigarettes

The Deputy Commissioner of Customs and Excise, Mr Raymond Li Wai-man, today (Wednesday) appealed to members of the public for more information on illicit cigarettes.

Speaking at a signing ceremony to renew a reward scheme inviting information on illicit cigarettes, Mr Li stressed that the department was determined to repress all illicit cigarettes activities.

"The reward scheme was first introduced in early 1994 as a result of the enhancement of the co-operation between the Tobacco Institute of Hong Kong Limited and the department in the fight against illicit cigarettes," he said.

The Institute will continue to finance a total reward of \$500,000 for the year 1997.

The present reward scale is:

<u>Quantity of cigarettes seized on any one occasion</u>	<u>Rate of reward</u>
Between 500,000 and 1,000,000	\$10,000
Between 1,000,001 and 1,500,000	\$20,000
Between 1,500,001 and 2,000,000	\$30,000
Over 2,000,000	\$50,000

The reward offered by the Institute and paid in the past three years under the Scheme are as follows:

	<u>Reward offered</u>	<u>Reward paid</u>	<u>Cigarette seized in this connection</u>
1994	\$300,000	\$50,000	50 million
1995	\$300,000	\$140,000	10 million
1996	\$500,000*	\$350,000	30 million

* effective from August 96

Information can be provided to the Customs and Excise Department by:

- (a) Calling 25456182 (24-hours hotline);
- (b) Fax 25434942 (24 hours);
- (c) "Customs Crime Report" obtainable at any Customs and Excise Office or District Office;
- (d) Letter to GPO Box 1166; and
- (e) Reporting in person at any Customs and Excise Office.

End

New arrangement for the sale of definitive stamps

* * * * *

The Postmaster General, Mr Robert Footman, announced today (Wednesday) that due to the unprecedented demand for definitive stamps, the Post Office with immediate effect will not sell such stamps by the sheet.

"This will ensure that the general demand for postage stamps for normal postal purposes can be met from now up to the issue of the neutral definitive stamps on January 26, 1997," he said.

The Post Office will review this arrangement after January 25, 1997 to see if the arrangement for selling sheets of stamps can be reintroduced.

End

Sha Tin lot to let

The Lands Department is inviting tenders for the short-term tenancy of a piece of government land at the junction of On Ping Street and On Sum Street, Area 11, Sha Tin.

The lot has an area of about 3,050 square metres and is intended for use as an open storage (excluding storage of containers) or a fee-paying public car park. The tenancy is for three years, renewable quarterly.

The closing date for submission of tenders is noon on January 24 (Friday).

Tender form, tender notice and conditions can be obtained from the Lands Department, 14th floor, Murray Building, Garden Road, Hong Kong, and the District Lands Offices of Kowloon and Sha Tin.

Tender plans can also be inspected at these offices.

End

Hong Kong Monetary Authority Interbank Liquidity

		Time	Aggregate Balance of Settlement Accounts
Opening aggregate balance	532 mn	0930 hr	9,756 mn
Closing aggregate balance	59 mn	1000 hr	12,177 mn
Change attributable to :		1100 hr	18,777 mn
Money market activity	-39 mn	1200 hr	29,255 mn
LAF reversal	+7,776 mn	1500 hr	29,151 mn
LAF today	-7,810 mn	1600 hr	31,233 mn

LAF rate 4.00% bid/6.00% offer Twi 125.3 *+0.0* 8.1.97

Hong Kong Monetary Authority

EF bills		EF notes/MTRC notes				
Terms	Yield	Terms	Issue	Coupon	Price	Yield
1 week	4.33	2 years	2811	5.72	100.22	5.67
1 month	4.37	3 years	3910	6.28	100.58	6.14
3 months	4.52	5 years	5112	6.57	99.33	6.84
6 months	4.74	7 years	7311	6.80	98.69	7.17
12 months	5.10	10 years	1610	7.37	100.39	7.44
		5 years	M503	7.35	101.43	7.10

Total turnover of ef bills and notes - \$15,808 mn

Closed January 8, 1997

End



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SUPPLEMENT

Wednesday, January 8, 1997

<u>Contents</u>	<u>Page No.</u>
<u>Legislative Council meeting:</u>	
Initiatives to step up fire safety measures in high-risk premises	1
Companies (Amendment) Bill	3
Banking (Amendment) Bill	5
Legal Aid (Amendment) Bill 1996	7
Enduring Powers of Attorney Bill	8
Powers of Attorney (Amendment) Bill	11
Freight Containers (Safety) Bill	12
Costs in Criminal Cases Ordinance	13
Police procedures on vulnerable individuals' cases	14
Access facilities for person with a disability	16

/Ex-gratia zonal

<u>Contents</u>	<u>Page No.</u>
Ex-gratia zonal compensation for land resumption	18
Housing Society to cater for the needs of tenants affected by rehousing ...	19
Liaison psychiatry service	21
Distribution of household income in Hong Kong	22
Fight against triad influence in schools	24
Nurses working in private hospitals	30
Admissions of mental patients	31
Organ donation	32
Labour Tribunal's cases involving award of costs	35
Third party liability insurance	36
Non-franchised bus routes	38
Tolo Harbour Effluent Export Scheme	40
Visitors to HK before handover	42
Business of insurance industry	43
No intention to legislate designation of no smoking areas	44
Private tutorial schools under government supervision	46

Initiatives to step up fire safety measures in high-risk premises

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Following is the speech by the Secretary for Security, Mr Peter Lai, at the motion debate on "Comprehensive review of fire safety measures" in the Legislative Council today (Wednesday):

Mr President,

The views expressed by Honourable Members in this debate clearly reflected the community's strong concern on adequate fire safety measures. The Government shares the same concern. There are clearly lessons to be learnt from the Garley Building tragedy.

The two investigation reports completed by the Director of Fire Services two weeks after the incident concerned the cause of the fire and the reason why so many people died and were injured. A statutory Commission of Inquiry with a comprehensive remit has also been set up to inquire into the causes of the fire, to advise on the adequacy and co-ordination of the response of the emergency services to the fire, and to make recommendations on actions needed to prevent such a tragedy from happening again. Meanwhile, specific investigations are being carried out by concerned departments. The Buildings Department, Labour Department and Electrical and Mechanical Services Department investigations are near the final stage of completion. Police investigations into the cause and circumstances connected to the deaths which occurred during the fire are continuing.

Relevant government departments briefed the LegCo Panel on Security and the LegCo Panel on Planning, Lands and Works on 16 December 1996 on the findings and recommendations of the investigation reports by the Fire Services Department. The government has accepted all the 13 recommendations in the reports by the Fire Services Department. We are indeed already pursuing some of these recommendations. We will review progress by various government departments within three months. By that time, we would be able to submit a progress report on the follow up actions to the relevant panel of this Council.

In the meantime, we are undertaking a number of initiatives to step up publicity and enforcement, and legislation for up-to-date fire safety measures in high-risk premises.

A. Publicity

On publicity, various departments have plans in hand to step up publicity on fire safety over the next few months. More publicity will be targeted at the importance of fire safety measures when carrying out welding works, the usefulness of carrying out regular fire drills, and the consequences of unauthorized alterations to protected means of escape, wedging open of smoke doors etc. The Fire Services Department will also be more proactive in disseminating fire safety messages to Owners' Corporations, through the support of the liaison network of the Home Affairs Department.

B. Enforcement

On enforcement, the Fire Services Department, Buildings Department and Labour Department are stepping up their enforcement actions. In addition to acting on complaints, the departments will be conducting more inspections and visits to buildings to examine their fire safety standards and installations.

C. Legislation

On the legislative side, the Fire Safety (Commercial Premises) Bill is now under scrutiny by a LegCo Bills Committee. This Bill requires enhancement to current standards in the provision of fire service installations, means of escape and access, and fire resisting construction in certain prescribed commercial premises. Most of the outstanding issues have been discussed in the Bills Committee and I hope the Bill can be enacted very soon. The Occupational Safety and Health Bill was introduced into this Council on 4 December 1996. This Bill covers all workplaces, including those in commercial buildings like Garley Building. Under subsidiary regulation to be made upon enactment of the Bill, there are provisions setting out fire precaution and safety measures to be taken in workplaces. Where necessary, the Commissioner of Labour may require employers to provide fire safety measures in addition to those required under any other law. We hope that the Council can expedite consideration and passage of this Bill.

The Government agrees with the community's views on the need to review the fire safety measures in buildings like Garley Building in order to prevent such tragedy from recurring. We consider that tackling the fire safety problem at old commercial/office buildings should be a matter of priority because the fire risk in these buildings is higher. Industrial buildings are more frequently inspected by the Labour Department and the Fire Services Department; early enforcement action can be taken against any irregularity or deficiency identified during these inspections. Fire load in residential buildings is comparatively lower, and in the event of fire the magnitude and degree of damage would be relatively less serious.

Therefore, as a first step, we are reviewing what additional measures ought to be taken to enhance fire safety in old commercial/office buildings like Garley Building. A sample survey of 40 old commercial/office buildings is being conducted by the Fire Services Department and the Buildings Department. These buildings are likely to be without sprinkler installations and are therefore less adequately protected in the event of a fire. On the basis of the results of the survey, we would assess the feasibility of extending similar requirements as in the Fire Safety (Commercial Premises) Bill to such buildings, and then come to a view on the appropriate legislative proposals. In the meantime, we are pleased to listen to the views expressed by Members of this Council.

To conclude, we agree with the main thrust of the motion in that we will seek improvements to the control measures for fire protection. However, in taking forward such improvements, we believe it would be in the interest of the community to take a targeted and step by step approach. Our priority should be the type of buildings which have a higher fire risk, such as old commercial buildings.

Thank you, Mr President.

End

Companies (Amendment) Bill

* * * * *

Following is the speech by the Secretary for Financial Services, Mr Rafael Hui, in moving the second reading of the Companies (Amendment) Bill in the Legislative Council today (Wednesday):

Mr President

May I first of all express my gratitude for the work of the Bills Committee, and in particular its Chairman, the Honourable Miriam Lau, on a bill that encompasses certain highly complex legal concepts and issues.

The Companies (Amendment) Bill 1996 contains two main proposals - first, the abolition of the outmoded principle of ultra vires and revision of the related doctrine of constructive notice and, secondly, the de-regulation of company forms.

There has been considerable discussion by the Bills Committee on the question of the abolition of "ultra vires". Members of the Committee, and also the wider business community, expressed support for the principles involved but, at the same time, were interested to examine the different approaches to the problem taken in different common law jurisdictions. Certain positive and constructive suggestions arose from this process and these have resulted in technical improvements to the Bill. I shall be moving the resulting amendments at the committee stage.

On the de-regulation of forms, the Bills Committee and professional associations were again in support of the principle but were concerned that any discretion given to the Registrar of Companies to amend the forms administratively should not be too wide. The Committee suggested that the powers of the Registrar to make alterations should be limited to form and not substance. I shall therefore be moving amendments to define the limits within which the Registrar of Companies may exercise his powers in determining the contents of the forms.

Members of the Committee felt that any proposals for substantial change to the type of information sought in the forms should still be required to go through the existing legislative procedures. This arrangement is acceptable to the Registrar of Companies who is primarily seeking the flexibility to be able to respond to changes such as developments in information technology that may make revisions in the format of the forms desirable. Having said this, I understand that the providers of business services would not welcome frequent changes given the time required to gear up for revisions to company forms. We will endeavour to be sensitive to this when considering the need for change.

Mr President, with these remarks, I commend the Companies (Amendment) Bill 1996 to Members.

End

Banking (Amendment) Bill

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The following is the speech by the Secretary for Financial Services, Mr Rafael Hui, in moving the second reading of the Banking (Amendment) Bill 1996 in the Legislative Council today (Wednesday):

Mr President,

The Banking (Amendment) Bill 1996 seeks to provide a legal framework for the regulation of the issue of multi-purpose stored value cards and of foreign exchange and deposits brokers operating in the wholesale market. The Bill also streamlines the appeal and penalty provisions.

I am very grateful to the Chairman of the Bills Committee, Dr the Hon Huang Chen-ya, and Members of the Committee for their careful and meticulous consideration of the Bill. I would also like to thank the Hong Kong Association of Banks and the Hong Kong Foreign Exchange and Deposit Brokers Association for their useful comments on the Bill. The amendments to be moved at the Committee Stage are the product of dialogue in a series of meetings between the Administration, the Bills Committee, the banking and money broking industries, and prospective issuers of stored value cards over the past few months.

When the Bill was introduced into this Council last year, I said that the Administration would study Members' suggestion of limiting the maximum value that can be stored on single-purpose stored value cards as a means to protect cardholders. We have concluded that the regulation of single-purpose stored value cards, which is in fact similar to pre-payment for goods and services, is outside the scope of the Banking Ordinance. It has little to do with the traditional banking supervisory concern of protecting the stability of the banking and payment system. With the agreement of the Bills Committee, we have decided not to include the regulation of this kind of card in the Bill.

The Bills Committee considered that there should be adequate protection for the funds pre-paid by cardholders in the event of the liquidation of a bank issuer of stored value cards. In fact, in the case of cards where the value is originated and issued by the bank itself, the nature of the stored value issued is similar to deposits. We agree with the Bills Committee that such stored value should be given similar protection to deposits and should thus receive priority payment in the case of the bank's liquidation. I will be moving an amendment to include a new deeming provision to remove any uncertainty in this regard.

Under the existing Bill, special purpose vehicles whose principal business consists of issuing or facilitating the issue of multi-purpose stored value cards may apply for authorization as a restricted licenced bank or a deposit-taking company. The Bills Committee was concerned that such an arrangement might cause confusion. To address this concern, I will move an amendment to provide that a special purpose vehicle should only be authorized as a deposit-taking company.

Another point raised by the Bills Committee was that there should be fair competition among issuers of stored value cards and that issuers should be prohibited from unreasonable anti-competition practices. The Administration fully endorses this principle. It has been our policy to support healthy competition and to maintain a level playing field for market participants. The Monetary Authority will formally bring this to the attention of the banking industry and all authorized or exempt issuers of multi-purpose stored value cards.

The existing Bill provides for the Monetary Authority to exempt certain issuers from authorization. The Bills Committee emphasized the importance of allowing non-bank entities to issue stored value cards and to improve the efficiency of their services without compromising the integrity of the payment system. We fully agree with this principle. The Monetary Authority is now formulating the detailed exemption criteria in the light of the principle and will consult potential non-bank issuers. The criteria will be published in the form of guidelines to applicants. We will review the exemption policy from time to time in light of prevailing circumstances.

The Bill proposes that all money brokers would be required to take up membership of the Hong Kong Foreign Exchange and Deposit Brokers Association so that all money brokers would be subject to the Code of Conduct to be issued by the Association. The Bills Committee considered that this arrangement might restrict entry of new comers as money brokers. I will be moving an amendment to provide that a money broker approved by the Monetary Authority need not be a member of the Association and the Monetary Authority will issue a guideline on the Code of Conduct which will apply to all money brokers approved by the Monetary Authority.

Mr President, I will also move a number of other detailed amendments of a more technical nature to improve the provisions of the Bill. With these remarks, I commend the Bill to Members.

End

Legal Aid (Amendment) Bill 1996

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Following is the speech by the Chief Secretary, Mrs Anson Chan, in moving the second reading of Legal Aid (Amendment) Bill 1996, in the Legislative Council today (Wednesday):

Mr President,

I move that the Legal Aid (Amendment) Bill 1996 be read the second time. The Bill primarily aims to increase the financial eligibility limits for the legal aid schemes operated by the Legal Aid Department.

As stated in our Policy Commitment published with the Governor's 1995 Policy Address, we are committed to reviewing the financial eligibility limits for the standard legal aid scheme and the self-financing Supplementary Legal Aid Scheme operated by the Legal Aid Department every two years to take account of inflation.

We have recently completed a review of the financial eligibility limits and propose that they be revised in line with inflation. We have also taken the opportunity to review the monetary amounts that may be waived by the Director of Legal Aid under the Ordinance, and propose that they be also revised in line with inflation. I now outline briefly the major elements of the Bill.

Clauses 2 and 3 of the Bill provide for increases in the financial eligibility limits for both the standard legal aid scheme and the Supplementary Legal Aid Scheme. The increases are in line with the accumulated inflation rate of 17.9% for the period from July 1994, when the amounts were last reviewed, to June 1996. This will mean that the financial eligibility limit for applicants under the standard legal aid scheme will be increased from \$144,000 to \$169,700 and the lower and upper financial eligibility limits for the Supplementary Legal Aid Scheme will be increased from the present \$144,000 and \$400,000 to \$169,700 and \$471,600 respectively.

Clause 4 provides that the amount of payment of maintenance for a spouse or former spouse that may be exempted from the Director's first charge be revised from \$4,100 per month to \$4,800 per month.

Clause 5 provides that the maximum amount that may be reduced by the Director under section 19B(1)(a) be increased from \$30,000 to \$57,400. This is in line with the accumulated inflation rate of 91.4% for the period from July 1989, when the amount was last reviewed, to June 1996.

At present, this Council may, by resolution, amend the amounts of financial resources specified in section 5, the amounts of income and financial resources specified in section 5A, and Schedules 2 and 3 to the Ordinance. However, the maximum amount of maintenance payment that may be exempted from the Director's first charge specified in section 18A(5) and the maximum amount that may be reduced by the Director under section 19B(1)(a) cannot be amended by resolution of this Council. As the amounts specified in these two sections have to be reviewed regularly to bring them in line with inflation, it would be more appropriate if they could also be amended by resolution of this Council rather than requiring primary legislation as at present. Clause 6 of the Bill empowers this Council to make amendments to the monetary amounts specified in section 18A(5) and section 19B(1)(a) by subsidiary legislation rather than primary legislation.

Mr President, this Bill represents merely an updating of the Legal Aid Ordinance and an immediate improvement to the legal aid scheme in Hong Kong and I commend it to this Council for early passage into law.

Lastly, I should also like to mention that we are conducting a comprehensive review of the criteria used to assess the financial eligibility of legal aid applicants for legal aid services provided by the Legal Aid Department in accordance with our Policy Commitment. We will also take this opportunity to consider carefully proposals to extend the scope of civil legal aid and possible improvements to the operation of the Legal Aid Ordinance.

End

Enduring Powers of Attorney Bill

* * * * *

Following is a speech by the Attorney General, Mr Jeremy Mathews, in moving the second reading of the Enduring Powers of Attorney Bill in the Legislative Council today (Wednesday):

I move that the Enduring Powers of Attorney Bill be read a second time.

The purpose of the Bill is to make provision for a new kind of power of attorney, which will be effective after the person who gave it has become mentally incapable of managing his or her own affairs.

A power of attorney is an arrangement whereby one person empowers another to act on his behalf and in his name. Unfortunately, as the law now stands a power of attorney is automatically revoked when the donor of the power loses the mental capacity to enter into contracts or exercise his or her legal rights in other ways. Thus, the holder of a power of attorney loses the power to act in the management of a person's affairs at the very time when his or her assistance is perhaps most needed.

The need for a power of attorney which is capable of surviving the onset of mental incapacity has been felt for some time. Many countries in the common law world have already introduced legislation to provide for a mechanism of this kind, which is known as an enduring power of attorney. We have been able to draw on such legislation in preparing our own proposals for dealing with the problem.

The proposals contained in the Bill have been the subject of consultation with the legal profession and other interested organisations such as the Hong Kong Council of Social Service and the Hospital Authority. The need for some kind of enduring power of attorney was evident from the responses to that consultation. With substantial numbers of Hong Kong people emigrating in recent years, there has been a growing need for owners of property to create powers of attorney for the administration of property which they are no longer able to manage personally. At the same time, chronic and degenerative illnesses affecting mental capacity have become more common in the community, as the proportion of old people increases.

Existing legal procedures for managing the affairs of a mentally disordered person are cumbersome, time-consuming and costly. They require an application to the High Court for the appointment of a receiver to manage that person's property and affairs. Such an application is normally made by a close relative or friend. But the serious drawbacks of the present system are likely to deter most people from seeking the assistance of the court when this is called for.

There can be little doubt that there is a need for a less complicated means of dealing with the problem. This Bill is designed to meet that need by providing a simple, straight-forward and inexpensive legal mechanism. I will now describe the main provisions in the Bill.

Under clause 3, an enduring power of attorney must be executed in a form which will be prescribed by regulations and which contains certain prescribed explanatory information. Clause 5 provides that the instrument creating the power must be signed by the proposed attorney, and must be executed by the donor in the presence of both a solicitor and a registered medical practitioner. The solicitor is required to certify that the donor of the power appears to be mentally capable, whilst the medical practitioner must be satisfied that the donor is mentally capable. For these purposes the Bill adopts a new definition of mental incapacity, which I will explain when introducing the Powers of Attorney (Amendment) Bill later this afternoon.

Clause 4 of the Bill provides that a power of attorney which is executed in accordance with the formalities I have just described will not be revoked if the donor subsequently becomes mentally incapable. But before the attorney becomes competent to act under the power conferred on him or her, the document must be registered at the Supreme Court. This must be done as soon as the attorney has reason to believe that the donor is or is becoming mentally incapable.

The mechanics of registration are provided for in clause 9. Registration is not a guarantee of the validity of the document - it will not validate a document which is otherwise invalid. The purpose of registration is that it will enable third parties to inspect the powers of attorney on the register, on payment of a fee. In this way, enduring powers of attorney will be made a matter of public record. A further measure of publicity for the protection of the donor's interests is provided by clauses 18 and 19, which allow the donor to nominate persons who must be notified before the attorney applies for registration. In any legal proceedings relating to an enduring power, the court may draw an adverse inference from a failure to notify such persons.

A person who has created an enduring power of attorney and who subsequently becomes mentally incapacitated will be in a position of considerable vulnerability. The Bill therefore contains provisions which are designed to protect the donor from both malpractice and lesser shortcomings on the part of the attorney. Clause 12 places an attorney under a legal duty of utmost good faith towards the donor, and requires the attorney to exercise his or her powers honestly and diligently, to keep proper accounts and records, to avoid conflicts of interest and to keep the donor's property separate from any other property. Provision is made in clause 11 for any interested party to apply to the court for a variety of remedial orders. The court will have power to require an attorney to produce records and accounts, to revoke an enduring power and to remove the attorney. The circumstances in which an enduring power is revoked are set out in clause 13. Clause 16 invalidates any attempt to dispense with the requirements of the Bill, while clause 17 ensures that an attorney cannot disclaim his or her responsibility at any time when the donor is mentally incapable or after the enduring powers has been registered, except with the consent of the court.

Mr President, this Bill offers a useful and needed reform. The recognition of enduring powers of attorney has the support of those who were consulted on this issue and I believe that these instruments will be generally welcomed by the community. I commend the Bill to the Council.

End

Powers of Attorney (Amendment) Bill

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Following is a speech by the Attorney General, Mr Jeremy Mathews, in moving the second reading of the Powers of Attorney (Amendment) Bill 1996 in the Legislative Council today (Wednesday):

I move that the Powers of Attorney (Amendment) Bill 1996 be read a second time.

The purpose of this Bill is to introduce a uniform definition of mental incapacity, which will be applicable to any purpose relating to a power of attorney.

Mental capacity is a crucial issue in relation to powers of attorney for two main reasons. First, the person granting a power of attorney ("the donor") must possess the requisite capacity at the time he or she creates the power. Secondly, the subsequent onset of mental incapacity in the donor has the effect of revoking the attorney's authority to act on behalf of the donor under the power. That principle would not apply to enduring powers of attorney that could be made if the Enduring Powers of Attorney Bill is enacted, but it would still apply to ordinary powers of attorney.

Much difficulty and confusion has resulted from the fact that there are different tests to determine, on the one hand, whether a donor was mentally capable of creating a valid power of attorney and, on the other, whether the donor's mental capacity had subsequently declined to the point that his attorney was no longer permitted to act for him.

The present position is that, while it is sufficient for the creation of a valid power that the donor should understand the nature and effect of the power, the power can no longer be validly exercised once the donor loses the capacity to manage his property and affairs. The second of these tests of mental capacity is more stringent than the first.

The Bill proposes to eliminate this difference, and the uncertainty it causes, by adopting a single definition which is applicable for all purposes. The proposal is in line with a recommendation of the English Law Commission and is generally supported by the legal profession and other interested organisations.

The new definition is contained in clause 2 of the Bill. This provides that a person is regarded as suffering from mental incapacity for any purpose relating to a power of attorney in two situations. The first is where he or she is suffering from mental disorder and is either unable to understand the effect of a power of attorney or is unable, because of that disorder, to make a decision to grant such a power. The second situation is where a person is unable to communicate an intention or wish to grant a power of attorney.

For the purposes of the definition, "mental disorder" is given the same meaning as under the Mental Health Ordinance. This covers mental illness, arrested or incomplete development of mind, psychopathic disorder and any other disorder or disability of mind. The Administration is currently re-examining this definition in the context of a review of the Mental Health Ordinance. Subject to the approval of the Executive Council a Bill to amend that Ordinance will be introduced in this Council in the near future.

The Bill is not intended to affect any question as to the validity or revocation of a power of attorney created before the Bill comes into operation as law. Clause 3 therefore specifically provides that such questions would continue to be decided in accordance with the existing law.

The desirability of the proposed new definition of mental incapacity became evident in the course of preparing the Enduring Powers of Attorney Bill, which I have just introduced. However, since the new definition should apply to all types of powers of attorney, it is appropriate to place it in the Powers of Attorney Ordinance.

Thank you Mr President.

End

Freight Containers (Safety) Bill

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Following is a speech by the acting Secretary for Economic Services, Mr Leo Kwan, in moving the second reading of the Freight Containers (Safety) Bill in the Legislative Council today (Wednesday):

Mr President,

I move that the Freight Containers (Safety) Bill be read a second time.

The purpose of this Bill is to implement in Hong Kong the International Convention for Safe Containers 1972. The main objective of this Convention is to ensure the safe and efficient transport of containers. It standardises requirements for the testing, inspection and approval of containers, and prescribes procedures for their maintenance, examination and control. It applies to containers used for international transport by sea and on land, but excluding containers specially designed for air transport.

Though the Convention only covers containers used for international transport, we propose that our local legislation should also apply to containers used for domestic transport, as we are of the view that the same safety standard should apply to containers used for international transport and local transport.

The main objective of the Bill is to safeguard the construction and safety of containers used in Hong Kong. Specifically, the Bill requires the owner of, or the person responsible for, a container to ensure that the container being handled is approved by recognised authorities, fixed with a safety approval plate, properly maintained, examined according to the approved procedures and that markings on it are consistent with information on the safety approval plate.

The Bill also provides that containers used in Hong Kong shall be subject to control by the Director of Marine and inspectors appointed by him. Random checks on containers will be conducted by the Marine Department, with the assistance of other government departments as necessary, to ensure compliance with the requirements set out in the legislation. If any of the requirements are not met, the Director of Marine is empowered to prohibit the use of or detain the container in question.

Mr President, with these words I commend the Bill to this Council.

End

Costs in Criminal Cases Ordinance

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Following is a speech by the Attorney General, Mr Jeremy Mathews, in moving the motion on Costs in Criminal Cases Ordinance in the Legislative Council today (Wednesday):

I move the resolution standing in my name in the Order Paper. The resolution is to the effect that the Costs in Criminal Cases Rules, made by the Acting Chief Justice on 25 November 1996, be approved.

The Costs in Criminal Cases Ordinance was enacted in July last year. It reforms the existing law governing the award of costs in criminal cases by removing anomalies and by providing a clear set of principles applicable to all levels of criminal courts. It also provides that in circumstances where costs are wasted as a result of any failure to appear or lateness (without reasonable cause) on the part of any legal or other representative, the court may make an order that the wasted costs be borne by that lawyer or representative. The Ordinance has not yet been brought into operation, since there is a need for rules providing for the practice and procedure under the Ordinance.

The Acting Chief Justice has now made rules setting out the procedure relating to the making of wasted costs orders; the procedure on appeal against an award of costs; the details to be provided in a claim for costs; the manner in which an application for taxation of costs is to be determined; the procedure on a review of taxed costs; and the court fees payable upon such appeals and taxation.

The approval of the rules today will complete the necessary preparations for the reforms contained in the Ordinance. If the rules are approved, I intend to bring the Ordinance into operation later this month.

Mr President, I beg to move.

End

Police procedures on vulnerable individuals' cases

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Following is a question by the Hon Law Chi-kwong and a reply by the Secretary for Security, Mr Peter Lai, in the Legislative Council today (Wednesday):

Question:

It is learnt that the Police manuals stipulate the standard procedures for police officers to follow when discharging their duties. In this connection, will the Government inform this Council:

- (a) of the reasons why the Police has not released the Police manuals for public information following the implementation of the Code of Access to Information on 1st April 1996;
- (b) whether the procedures set out in the Police manuals are consistent with the provisions of the Hong Kong Bills of Rights Ordinance; and
- (c) given that certain groups such as battered spouses, handicapped persons and marginal youth have complained that police officers do not respect their legal rights or neglect their special needs when handling cases involving them, whether the Government will consider consulting these groups with a view to making appropriate changes to the Police manuals so as to safeguard the interests of the groups concerned?

Reply:

Mr President,

- (a) The Code of Access to Information was only extended to the Police Force with effect from 23 December 1996, consistent with the Government's commitment to extend the Code to all branches and departments by the end of 1996. The Police Force is in the last batch of departments to join the Code as it was planned that this should coincide with the amendments to the Commissioner for Administrative Complaints Ordinance, recently passed on 18 December, which empowers the Commissioner (now the Ombudsman) to investigate complaints against the Police of non-compliance with the Code. Members of the public may apply for access to information, including Police procedures, from the Police's Access to Information Officer.
- (b) The existing Police procedures are consistent with the provisions of the Hong Kong Bill of Rights Ordinance.
- (c) The Police Force has drawn up special procedures for handling cases involving battered spouses, juveniles/children and handicapped persons in an appropriate manner. There are established channels for Police to liaise closely with relevant parties, such as the Social Welfare Department and non-government organisations, to exchange views on handling these cases. Front-line Police officers are regularly trained to ensure that they are familiar with the relevant procedures so that vulnerable individuals are handled with care and sensitivity.

End

Access facilities for person with a disability

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Following is a question by the Hon John Tse and a reply by the Secretary for Planning, Environment and Lands, Mr Bowen Leung, in the Legislative Council today (Wednesday):

Question:

Regarding the provision of facilities to wheelchair users, will the Government inform this Council:

- (a) of the percentage of public places in the territory such as restaurants and cinemas which are provided with access facilities for wheelchair users;
- (b) of the current number of at-grade crossings provided with dropped kerbs to facilitate crossing by wheelchair users;
- (c) of the Government's plans to improve access facilities for wheelchair users; and whether the Government has considered introducing legislation requiring the provision of such facilities in non-domestic premises built before 1984; and
- (d) how the Government ensures that the access facilities originally designed for wheelchair users in privately-owned premises are actually made available for use by wheelchair users upon occupation of the premises?

Answer:

Mr President,

- (a) We do not have the statistics on the number of public places (such as restaurants and cinemas) that have installed facilities for access by persons with a disability. Generally speaking, for public places constructed or having undergone major alterations after 1985, the Buildings Department would require the provision of such facilities as far as possible and reasonable.
- (b) Again we do not have the statistics on the number of pedestrian crossings that are provided with dropped kerbs. The policy since 1981 is that the provision of dropped kerbs has become standard for all newly constructed or reconstructed pedestrian crossings.

- (c) Buildings and pedestrian crossings constructed or undergone major alteration since 1985 and 1981 respectively have to provide facilities to enable access by persons with a disability. The requirements are promulgated in a Design Manual available to building professionals. The Manual has just been updated and extended to designated common parts of domestic buildings. We are preparing legislative amendments to the Buildings Ordinance and the Codes of Practice issued by the Fire Services Department and the Electrical and Mechanical Services Department to enforce the obligatory requirements of the Manual. These policies would gradually enlarge the activity areas for disabled persons.

In addition, s25 of the Disability Discrimination Ordinance stipulates that it is unlawful to discriminate against a person with a disability in relation to the provision of access to premises that the public or a section of the public is entitled or allowed to enter or use. It makes no reference to their years of construction. The section does not apply if the premises are so designed or constructed as to be inaccessible to a person with a disability and any alteration to the premises to provide for the access would impose unjustifiable hardship on the person who so discriminates the person with a disability. Upon receiving complaints from the public, the Equal Opportunities Commission would assist the parties concerned to determine, on a case by case basis, whether and what access should be provided. On the other hand, if a person feels he has been discriminated against, he may institute legal proceedings against such discrimination.

- (d) The answer to the question is two-fold. First, the Buildings Authority is empowered under s24 of the Buildings Ordinance to take action against unauthorised alteration to approved building works. The alteration of facilities provided for disabled persons falls into this category. The public can report to the Buildings Department such unauthorised alterations through the complaint hotline or in writing. The Buildings Authority can serve an order to require the owners to rectify the unauthorised alteration. Immediate enforcement actions will be taken where appropriate.

Second, there may be cases where the owner or the management agent of a premises ceases the usage of certain facilities designed for disabled persons. A complaint may be lodged with the Equal Opportunities Commission which will then investigate the case and endeavour to assist the relevant parties to reach a settlement by conciliation.

End

Ex-gratia zonal compensation for land resumption

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Following is a question by the Hon Ngan Kam-chuen and a reply by the Secretary for Planning, Environment and Lands, Mr Bowen Leung, in the Legislative Council today (Wednesday):

Question:

Under the ex-gratia zonal compensation system in the New Territories, a uniform rate will be applied across different compensation zones in the resumption of land for a single project. In this connection, will the Government inform this Council :

- (a) of the reasons for not applying a uniform rate for land resumption in the Route 3 project, which is a large scale road project stretching across several compensation zones;
- (b) given that the Western Railway Project requires the resumption of vast stretches of land in the New Territories, whether the Government will apply a uniform rate across different compensation zones in the resumption of land for this project; if not, why not; and
- (c) having regard to the latest amendment to the ex-gratia zonal compensation system classifying "those areas that are affected by essential projects with territory-wide significance" as "Zone A", whether the different compensation zones covered by the Western Corridor Railway Project will be upgraded to "Zone A" as a result of this amendment; if so, of the additional amount of compensation that the Government has to pay for land resumption; if not, why not?

Answer:

Mr President,

- (a) Under the existing ex-gratia zonal compensation system, a uniform rate is generally applied to resumption for a single project which covers different compensation zones. However, as Members were informed in the Finance Committee on 6 December 1996, we consider that there are some projects where an exception to this practice is justified. Examples include long stretches of a road across different compensation zones such as Route 3 where different zonal rates were applied. The Committee on Planning and Land Development has to look at the merits and specific situations of each case.

- (b) A firm decision has not yet been taken regarding the resumption of land and compensation arrangements for the Western Corridor Railway.
- (c) The Committee on Planning and Land Development will need to consider the ex-gratia zonal compensation for the Western Corridor Railway. In doing so, the Committee will make reference to precedent cases such as the new airport at Chek Lap Kok, the Container Terminals at Kwai Chung and Black Point Power Station and seek the advice of the relevant policy branch.

End

Housing Society to cater for the needs of tenants affected by rehousing

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Following is a question by the Hon Ip Kwok-him and a reply by the acting Secretary for Housing, Mr Keith Kwok, in the Legislative Council today (Wednesday):

Question:

It is reported that over 10,000 residents will be affected by the Housing Society's redevelopment programmes at Kwun Lung Lau and Tanner Hill Estate. In this connection, will the Government inform this Council:

- (a) whether the Housing Branch will provide assistance to the residents affected by the above redevelopment programmes; if so, what the details are; and
- (b) given that a number of the affected residents had been on the Housing Authority's Waiting List before moving into the above estates, whether the Government knows if the Housing Authority will consider allocating public housing units to these residents as a resettlement option?

Answer:

Mr President,

The planned redevelopment of Kwun Lung Lau Phase I and Tanner Hill Estate will affect 1,119 families currently living in these estates. According to the present plan, these families will be rehoused by 1999 to enable the redevelopment to go ahead. Phase II of the redevelopment of Kwun Lung Lau will affect another 1,354 families, who will be rehoused by 2003. The total number of residents affected is 8,804. The Housing Society has carefully considered the rehousing needs of these families and has been able to offer them a variety of choices to match their affordability levels and personal preferences.

The Housing Society has drawn up plans which would cater for the rehousing needs of all families affected, although some of the families are likely to make their own arrangements as past experience has shown. We estimate that about 80% of the families will choose rental housing in flats in other estates of the Housing Society on Hong Kong Island and 20% will prefer to purchase flats under the Housing Society's Flats for Sale Scheme. The Society will make available sufficient flats in both categories to meet the likely demand. In line with the Government's policy of encouraging home ownership, it has accorded first priority to these families to purchase flats under the Flats for Sale Scheme. Additionally, all families affected are offered a removal assistance package to facilitate their relocation.

The Housing Society's current rehousing arrangements ensure that the needs of families affected by the planned redevelopment are met. Nevertheless, those families who wish to apply for the purchase of Home Ownership Scheme or Private Sector Participation Scheme flats built by the Housing Authority or loans under the Authority's Home Purchase Loan Scheme may do so as Green Form applicants.

End

Liaison psychiatry service

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Following is a question by Dr the Hon Huang Chen-ya and a written reply by the Secretary for Health and Welfare, Mrs Katherine Fok, in the Legislative Council today (Wednesday):

Question:

Does the Government know:

- (a) which public hospitals have psychiatric wards and which public hospitals only provide psychiatric consultation service; and
- (b) of the number of non-psychiatric cases, as well as the categories of such cases, in public hospitals requiring psychiatric consultation in the past year; and the number of patients in these cases who had to wait for more than 24 hours before receiving psychiatric consultation service?

Reply:

A list of public hospitals with an established department of psychiatry and psychiatric in-patient facilities is set out at Annex.

All patients seeking medical treatment in public hospitals can have access to psychiatric consultation service, where necessary. This is achieved through hospital clustering and service networking. The liaison psychiatry service offers hospitals without psychiatric units in each cluster with professional assistance ranging from telephone conversation between the psychiatrist and non-psychiatrist concerned to formal psychiatric assessment and consultation on the patient. Some 11,500 referrals were made through this service during the past year but data is not readily available to classify these cases by category.

Liaison psychiatry service has been rendered to about 85% of patients within two days of referral. There are established procedures whereby patients with urgent and complex psychiatric conditions are accorded priority for treatment within the same day as far as possible. Arrangements can also be made to transfer patients with propensity to violence or who are likely to harm themselves or others to psychiatric hospitals for immediate management.

**Public Hospitals with an Established Department
of Psychiatry and Psychiatric In-patient Facilities**

Castle Peak Hospital
Kwai Chung Hospital
Lai Chi Kok Hospital
Kowloon Hospital
Pamela Youde Nethersole Eastern Hospital
Prince of Wales Hospital
Queen Mary Hospital
Shatin Hospital
Tuen Mun Hospital
United Christian Hospital

End

Distribution of household income in Hong Kong

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Following is a question asked by the Hon Lau Chin-shek and a written reply by the Secretary for Financial Services, Mr Rafael Hui, in the Legislative Council today (Wednesday):

Question:

Will the Government inform this Council:

- (a) of the current Gini coefficient reflecting the distribution of wealth in the territory according to the data obtained from the 1996 Population By-census;
- (b) assuming that all households in the territory are equally divided into ten groups according to their income, of the respective ratios of the total income of the various groups to the territory's total household income; and
- (c) whether consideration will be given to publishing the median household income and the above ratios in the quarterly reports of the General Household Survey?

Reply:

- (a) Based on data on household income obtained from the 1996 Population By-census, a Gini coefficient can be compiled to reflect the distribution of household income in Hong Kong. Its value is 0.518. However, as no data are available on the wealth of households, it is not possible to compile a Gini coefficient on the distribution of wealth in the territory.

Also, because a Gini coefficient calculated on the above basis does not take into account various elements of "social wage" including the heavily subsidised public housing and services of public health, education, social welfare etc, the coefficient itself does not fully reflect the effective distribution of the well-being of households in Hong Kong.

- (b) Based on the results of the 1996 Population By-census, the decile distribution of household income is shown below:

Decile group	Percentage share of all household income
1st (lowest)	1.1
2nd	2.6
3rd	3.6
4th	4.6
5th	5.7
6th	7.0
7th	8.5
8th	10.6
9th	14.5
10th (highest)	41.8
Total	100.0

Note: Each of the 10 decile groups contains the same number of households, ranked by income. The first decile group encloses those households falling below the first decile, the second decile group encloses those households falling between the first and second deciles, and so on.

- (c) As the Quarterly Report of the General Household Survey (GHS) produced by the Census and Statistics Department mainly aims at presenting the results of the survey in respect of the labour force characteristics of Hong Kong, it contains detailed statistics mostly on employment, unemployment and underemployment.

The contents of the report are nevertheless reviewed periodically to ensure that statistics frequently used by the public are included. The median monthly household income figure based on the survey is currently available to the public upon request. Consideration will be given to including it in the report in the next round of review.

Regarding the decile distribution of household income, owing to the limited sample size of the GHS, the accuracy of the income information particularly at the two ends of the decile distribution is subject to sampling effects such that the income distribution, in overall terms, has not attained the necessary degree of reliability. Hence the current practice is that the decile distribution of household income is compiled on the basis of the results of a population census/by-census only.

End

Fight against triad influence in schools

* * * * *

Following are a question by the Hon Cheung Man-kwong and a written reply by the Secretary for Security, Mr Peter Lai, in the Legislative Council today (Wednesday):

Question:

Regarding the infiltration of triad elements into schools and students committing criminal offences, will the Government inform this Council:

- (a) of the numbers of cases in which students were prosecuted and convicted respectively for involvement in triad activities in each district in the past three years, together with a breakdown of such cases by category of offence and number of students/schools involved;

- (b) how the authorities concerned handle cases of students involved in triad activities; and what measures are in place to curb the infiltration of triad elements into schools;
- (c) of the numbers of cases in which students were prosecuted and convicted respectively for criminal offences (other than involvement in triad activities) in each district in the past three years, together with a breakdown of such cases by category of offence, number of students/schools involved; and
- (d) how the authorities concerned handle cases of students committing the offences mentioned in (c) above; and what measures are in place to enhance the cooperation with schools in preventing commission of crimes by students?

Reply:

Mr President,

- (a) We do not keep separate statistics on the number of students and schools involved in triad activities. We keep statistics on offenders for involvement in "unlawful society offences". Under the current education system, it can be assumed that most offenders aged 7 to 16 are students. The total number of offenders in this age bracket prosecuted and convicted for "unlawful society offences" were 79 in 1994, 69 in 1995, and 32 in the first half of 1996 (statistics on the second half of 1996 are not yet available). A detailed breakdown on various types of "unlawful society offences" in each Police district for 1994-1996 (up to June) (Annex A).
- (b) The Government accords high priority in the fight against triad influence in schools by adopting the following measures -

Prevention

- (i) The Police School Liaison Officer in each district visits schools regularly to liaise with Discipline Masters and delivers lectures to students on general law and order issues including triad influence;
- (ii) The Police Anti-Triad School Support Team in each district visits schools regularly to disseminate anti-triad messages. They also visit places frequented by students to deter them from being recruited by triads and formulate strategies to combat triads;

- (iii) To assist schools to deal with delinquent students, the Education Department has issued a guidance circular and provided teaching kits on anti-triad activities. It also regularly organizes training courses for Discipline Masters on ways to handle students involved in "unlawful society offences";
- (iv) The Social Welfare Department provided 44 additional social workers in the past two years to schools with more student problems and higher percentage of low academic achievers; and
- (v) Both the Social Welfare Department and the non-government organisations provide services for children and youth at risk, including outreaching social work service and children and youth centres.

Enforcement

- (i) In 1995/96, we assigned 45 additional Police officers to tackle triad-related and other serious crimes. In 1996/97, we have created 232 additional Police posts to strengthen the anti-triad units at regional and district levels; and
- (ii) Apart from prosecution in serious cases, the Police could also caution the students concerned in minor cases under the Police Superintendents' Discretion Scheme (PSDS). The latter approach will provide an opportunity for young persons to have a new start without getting a criminal record.

Rehabilitation

- (i) Where the offenders are cautioned under the PSDS, referrals will be made as appropriate to the Education Department, the Social Welfare Department and agencies under the Community Support Service Scheme for follow-up; and
- (ii) Where the offenders are prosecuted, the Correctional Services Department and the Social Welfare Department provide aftercare services to rehabilitate them through their programmes and probation order service.

- (c) The total number of offenders aged between 7 to 16 prosecuted and convicted for criminal offences (other than involvement in "unlawful society offences") were 2,278 in 1994, 2,152 in 1995 and 909 in the first half of 1996. This compares to the total population figure for this age bracket of 828,400 in 1994, 831,900 in 1995 and 837,000 in 1996. A detailed breakdown on different categories of criminal offences in each Police district (Annex B).

- (d) The measures mentioned in part (b) are also applicable to the handling of students committing offences in general. To enhance co-operation between government departments and schools in tackling delinquent students in schools, the Education Department organises on a district basis annual seminar on "Unruly and Delinquent Behaviours of Students". These seminars are attended by School Heads, Discipline Masters and representatives of the Education Department, Police and the Social Welfare Department.

No. of offenders (aged 7-16) prosecuted and convicted for unlawful society offences by type of crime by Police district for the period of 1994-1996 (Jan-Jun)

Police District	Types of Crime																					Total		
	Being an office-bearer of an unlawful society			Membership etc. of an unlawful society (other than a triad society)			Being a member of triad society			Acting as a member of triad society			Possessing triad society documents			Professing or claiming to be a triad member			Inciting, etc. a person to become a member of an unlawful society					
	1994	1995	1996 (Jan-Jun)	1994	1995	1996 (Jan-Jun)	1994	1995	1996 (Jan-Jun)	1994	1995	1996 (Jan-Jun)	1994	1995	1996 (Jan-Jun)	1994	1995	1996 (Jan-Jun)	1994	1995	1996 (Jan-Jun)	1994	1995	1996 (Jan-Jun)
Central	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	3	1	0	0	0	1	3	1	
Wanchai	0	0	0	0	0	0	0	0	0	3	0	0	0	0	0	2	0	1	0	0	4	2	0	
Western	0	0	0	0	0	0	0	0	0	2	0	0	0	0	1	2	0	0	1	2	3	3	2	
Eastern	0	0	0	0	0	0	0	0	0	3	0	1	0	0	0	4	1	0	0	0	3	4	2	
Wong Tai Sin	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	3	1	0	0	0	1	3	1	
Sau Mau Ping	0	0	0	0	0	0	0	0	1	9	0	1	0	1	0	7	3	2	0	0	16	4	4	
Kwan Tong	0	0	0	0	0	0	0	3	0	2	0	2	0	0	10	5	0	0	2	0	12	10	2	
Airport	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Yau Tsim	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Mongkok	0	0	0	0	0	0	1	0	1	0	0	0	0	0	0	2	0	0	0	0	1	2	1	
Shan Shui Po	0	0	0	0	0	0	0	1	0	0	0	1	0	0	8	5	2	0	0	2	8	6	5	
Kowloon City	0	0	0	0	0	0	0	2	1	0	0	0	0	0	4	0	2	0	1	0	4	3	3	
Tai Po	0	0	0	0	0	0	0	0	2	2	0	0	0	0	2	1	4	0	3	0	4	4	6	
Border	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Yuen Long	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	1	2	0	0	0	2	1	2	
Tuen Mun	0	3	0	0	0	0	1	0	0	0	0	0	0	0	2	9	1	2	1	0	5	13	1	
Tsuen Wan	0	0	0	0	0	0	0	1	0	0	0	0	0	0	1	0	0	0	1	0	1	2	0	
Sha Tin	0	0	0	1	0	0	6	1	0	0	0	0	0	0	4	4	1	0	0	0	11	5	1	
Kwai Tsing	0	0	0	0	0	0	0	1	0	0	0	0	0	0	3	3	1	0	0	0	3	4	1	
Harbour	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Island	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Total	0	3	0	2	0	0	8	9	5	22	0	5	0	1	0	44	47	18	3	9	79	69	32	
Grand Total																					79	69	32	

No. of offenders (aged 7-16) prosecuted and convicted for criminal offences by type of crime by Police district, 1994-1996 (Jan-Jun)

Police District	Type of Crime																							1996 (Jan-Jun)
	Wounding & Serious Assault			Robbery			Burglary			Serious Narcotics Offences			Taking Conveyance Without Authority			Thefts			Other Criminal Offences*			Total		
	1994	1995	1996 (Jan-Jun)	1994	1995	1996 (Jan-Jun)	1994	1995	1996 (Jan-Jun)	1994	1995	1996 (Jan-Jun)	1994	1995	1996 (Jan-Jun)	1994	1995	1996 (Jan-Jun)	1994	1995	1996 (Jan-Jun)	1994	1995	
Central	9	6	11	5	3	0	8	5	1	1	1	0	0	1	0	11	7	4	3	8	3	37	31	19
Wanchai	4	5	0	10	7	2	7	1	1	2	3	0	1	1	0	30	13	8	12	13	2	66	43	13
Western	15	8	1	16	8	2	9	9	2	1	4	2	8	3	1	52	37	14	22	23	2	123	92	24
Eastern	15	8	11	15	14	6	14	13	5	3	5	3	2	1	0	46	29	16	36	23	8	131	93	49
Wong Tai Sin	28	31	12	28	15	3	20	5	7	18	6	2	0	0	0	48	40	7	34	27	5	176	124	36
San Mau Ping	28	28	16	38	26	14	9	10	5	9	6	7	0	1	0	48	41	8	32	28	13	164	140	63
Kwan Tong	21	24	4	21	13	1	6	29	2	10	15	1	3	1	1	55	43	24	39	28	8	155	153	41
Airport	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	1	0	0	0	0	0	2
Yau Tsim	11	9	9	12	4	2	3	4	2	14	5	3	1	1	1	27	25	10	19	16	6	87	64	33
Mongkok	0	6	3	10	8	3	13	8	3	0	6	0	1	0	0	20	24	10	14	21	7	58	73	26
Sham Shui Po	22	20	2	7	12	1	6	27	5	8	6	1	0	0	0	40	55	13	30	31	20	113	151	42
Kowloon City	13	11	4	20	17	1	6	13	3	4	6	2	0	2	1	31	24	5	46	31	9	120	104	25
Tai Po	20	43	14	38	26	13	11	15	11	1	10	3	6	5	2	106	97	54	30	44	17	212	240	114
Border	2	0	0	2	1	0	7	9	1	0	1	0	2	0	2	1	3	4	2	1	1	16	15	8
Yuen Long	1	17	6	12	14	3	9	20	9	11	17	11	1	2	5	37	40	20	31	23	17	102	133	71
Tuen Mun	33	35	14	36	55	6	17	14	7	12	5	4	3	1	2	98	91	39	48	52	20	247	253	92
Tuen Wan	10	15	17	29	12	7	11	8	5	13	5	5	1	1	1	42	49	27	19	19	13	125	109	75
Sha Tin	39	29	16	36	13	7	18	21	11	5	7	1	2	0	2	72	68	56	35	28	15	207	166	108
Kwai Tsing	13	22	11	20	11	6	6	31	9	7	6	1	1	0	0	41	43	23	24	30	12	112	143	62
Harbour	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	3	0	1	3	0
Island	1	3	0	0	1	0	13	10	2	0	2	0	2	0	0	6	1	1	4	5	3	26	22	6
Total	285	320	151	355	260	77	193	252	92	119	116	46	34	20	18	811	730	344	481	454	181	2278	2152	909
Grand Total																						2278	2152	909

*Other criminal offences: This excludes unlawful society offences at Annex A

Nurses working in private hospitals

* * * * *

Following is a question by the Hon Chan Yuen-han and a written reply by the Secretary for Health and Welfare, Mrs Katherine Fok, in the Legislative Council today (Wednesday):

Question:

Since the implementation of the Nurses Registration (Amendment) Ordinance in 1996, the use of the term "nurse" is restricted to registered nurses and enrolled nurses only. Does the Government know:

- (a) of the number of persons without recognised nursing qualifications currently employed in patient care work in private hospitals;
- (b) the number of persons employed in patient care work in private hospitals who have been dismissed for not possessing a recognised nursing qualification, since the enactment of the above Ordinance; and
- (c) whether the Government will request the management of the private hospitals concerned to consider employing the persons mentioned in (a) above on a short-term contract basis, so as to enable them to continue with their patient care work until they have obtained a recognised nursing qualification?

Reply:

- (a) As far as we know, there are about 80 persons without recognised nursing qualification currently employed in patient care work in private hospitals.
- (b) The law does not prohibit the employment of persons not possessing a recognised nursing qualification to work in private hospitals under the supervision of registered nurses. The law, does however, prohibit such persons from using the title of "nurse". We do not know the reasons behind private hospitals' decisions to dismiss staff.
- (c) As terms of appointment are a matter between the employer and the employee, it would be inappropriate for us to interfere in the management of private hospitals by suggesting specific terms of appointment.

End

Admissions of mental patients

* * * * *

Following is a question by Dr the Hon Huang Chen-ya and a written reply by the Secretary for Health and Welfare, Mrs Katherine Fok, in the Legislative Council today (Wednesday):

Question:

Is the Government aware of:

- (a) the number of psychiatric patients, together with a breakdown of the categories of psychiatric illness of such patients, admitted into public hospitals in the past year; and
- (b) the respective numbers of new and known psychiatric patients admitted through the accident and emergency departments in public hospitals, together with a breakdown of the categories of psychiatric illness of such patients, in the same period?

Reply:

A breakdown by major mental illnesses of the 9,181 in-patient admissions into public psychiatric hospitals and units in the past year is provided below -

<u>Category of Mental Illnesses</u>	<u>Number of Admissions</u>
Schizophrenic psychoses	5,269 (57.4%)
Affective psychoses	1,368 (14.9%)
Other psychoses	891 (9.7%)
Neurotic/personality disorders	395 (4.3%)
Senile/presenile organic psychotic conditions	248 (2.7%)
Alcohol dependence syndrome and drug dependence	239 (2.6%)
Other mental disorders	771 (8.4%)
Total :	9,181 (100%)

A total of 3,329 admissions were made through the accident and emergency departments, including 1,092 new and 2,237 known cases. We do not have readily available data to break down further the disease categories involved but the Hospital Authority is planning to start a new Psychiatric Clinical Information System to enhance the access of information in this regard.

End

Organ donation

* * * * *

Following is a question by Dr the Hon David Li and a written reply by the Secretary for Health and Welfare, Mrs Katherine Fok, in the Legislative Council today (Wednesday):

Question:

It is reported that the number of registered new organ donors is drastically below the number of people in need of kidney transplant, and that doctors fear a slowdown in the number of registered organ donors may have serious repercussions over the next five years. In this connection, will the Government inform this Council:

- (a) of the number of registered new organ donors in each of the past three years;
- (b) of the reasons for the public's reluctance to register as organ donors;
- (c) whether additional resources will be provided for the launching of publicity campaigns to enhance the public's awareness of the importance of organ donation?

Reply:

The Department of Health does not have a registration system for organ donors. To promote organ donation, the Department distributes voluntary organ donation cards for members of the public to take, fill in and carry with them. The card is an acceptable legal document for the purpose of authorising organ donation and further consent by next of kin is not required. Between 1994 and mid-1996, a total of over 1.5 million cards were distributed.

The Hong Kong Medical Association (HKMA) keeps an Organ Donation Register. According to information provided by them, the Register contained 170,101 entries as at 24 December 1996. This represents the total number of organ pledges, including 26,025 people pledging their kidneys. A breakdown is at Appendix. The number of entries is not the same as the number of organs or organ donors, since a person can choose to donate multiple organs. The HKMA does not maintain a yearly breakdown.

The reluctance of people to donate organs can be attributed to several reasons. The main reason is the traditional belief that the body should be buried intact after death. Another reason is fear that once their willingness to donate organs is made known to the doctor, the doctor will not make the greatest effort to save their lives.

To rectify misconceptions and to change people's traditional thinking, the Department of Health has been actively promoting organ donation through health talks, audio-visual resource material production and loan-out service, telephone hotlines and mass media interviews. It has also organised out-reaching promotion programmes such as road-shows at strategic locations as well as for specific target groups.

The Department also collaborates regularly with other agencies. In August to September 1996, it co-organised with the Hospital Authority, Metro Broadcast and TVB to launch a function called "New Life" Organ Donation Campaign which incorporated a press conference, an opening concert, road shows, hospital visits and a closing TV show.

Programmes in progress include a series of organ donation exhibitions held at various KCRC stations until June 1997. Starting in early 1997, a mobile health education centre will be operated by the Department using a "Donormobile" funded by a grant of \$4.4 million from the Hong Kong Jockey Club Trust Fund.

Appendix

**Hong Kong Medical Association
Image System - Analysis of Donated Organs**

Date : 24/12/96

Page : 1

<u>Organ Donated</u>	<u>Count On Female</u>	<u>Percentage On Female</u>	<u>Count On Male</u>	<u>Percentage Of Male</u>	<u>Count On Total</u>
Bones	13838	13.63 %	9357	13.65 %	23195
Cornea	15142	14.91 %	10422	15.20 %	25564
Heart	14391	14.17 %	9643	14.07 %	24034
Kidney	15514	15.28 %	10511	15.33 %	26025
Liver	14526	14.31 %	9731	14.19 %	24257
Lung	14256	14.04 %	9534	13.91 %	23790
Any Organ	13877	13.67 %	9359	13.65 %	23236
Total :	101544	100.00 %	68557	100.00 %	170101

End

Labour Tribunal's cases involving award of costs

* * * * *

Following is a question by the Hon Leung Yiu-chung and a written reply by the Chief Secretary, Mrs Anson Chan, in the Legislative Council today (Wednesday):

Question:

Will the Government inform this Council of:

- (a) the number of cases heard before the Labour Tribunal involving the award of costs to either party in each of the past three years, together with the details of such cases relating to the following:
 - (i) the numbers of cases in which costs were awarded to employers and employees respectively;
 - (ii) a breakdown of such cases by different ranges of costs awarded; and
 - (iii) the largest and smallest amounts of costs awarded; and
- (b) the numbers of cases adjudicated by each presiding officer in the past three years involving the award of costs to employers and employees respectively?

Reply:

Mr President,

We have consulted the Judiciary Administrator who has advised that the Judiciary does not keep a record of the decisions made by the courts and tribunals, including the Labour Tribunal. To compile the requested information would involve a disproportionate amount of time, effort and cost.

End

Third party liability insurance

* * * * *

Following is a question by the Hon Law Cheung-kwok and a written reply by the Secretary for Financial Services, Mr Rafael Hui, in the Legislative Council today (Wednesday):

Question:

It is reported that the Accident Insurance Association of Hong Kong has advised motor insurance companies of its proposed increases in premiums for motor insurance cover for 1997, with the premiums for third party liability insurance cover for various categories of private motor vehicles increasing by 50%. In this connection, will the Government inform this Council:

- (a) whether the Government has any mechanism to monitor the adjustment of third party liability insurance premiums for motor vehicles; if not, why not; and
- (b) whether it has any knowledge of the mechanism adopted in the United Kingdom, the United States, Japan and Singapore in monitoring the level of third party liability insurance premiums for motor vehicles?

Reply:

- (a) There is no mechanism for the Government to control the premium fixing of third party liability insurance for motor vehicles.

The Government's aim in regulating insurance companies is to ensure that such companies are controlled and managed by fit and proper persons and are financially capable of meeting their liabilities. As regards the level of insurance premiums, the Government believes that these should best be achieved through market forces.

The recommended rates by the Accident Insurance Association are advisory in nature and its members are not obliged to follow. In practice, it is common for insurers to offer premium discounts in order to be competitive. Presently, Hong Kong has 93 insurers authorized to carry on motor vehicles insurance, thus providing a competitive market. Motorists may compare the policies and terms offered by these companies before choosing the one that is best suited to their needs.

- (b) Based on available information, the situations in the UK, USA, Japan and Singapore are as follows -

The UK

The UK government, as well as the governments in other European Community ("EC") countries, are subject to an EC Directive not to play any role in the fixing of premiums or vetting of the terms of the policies. Therefore, there is no mechanism for the government to control the level of motor vehicle insurance premiums.

USA

In the USA, insurance legislation varies significantly among different states and accordingly the laws and practices relating to fixing of premiums differ. We therefore do not have any comprehensive information in this regard.

Japan

Motor vehicle insurance premium rates are fixed by the Automobile Insurance Rating Association of Japan. They must be approved by the Ministry of Finance and are binding on all insurers. However, Japan has recently agreed to liberalise the fixing of premiums on a gradual basis.

Singapore

There is no mechanism for the Singapore Government to control premium rates. Similar to Hong Kong, motor vehicle insurance premium rates are recommended by the trade association and are advisory in nature. Insurers are not obliged to follow the recommended rates.

End

Non-franchised bus routes

* * * * *

Following is a question by the Hon Zachary Wong Wai-yin and a written reply by the Secretary for Transport, Mr Gordon Siu, in the Legislative Council today (Wednesday):

Question:
Question:

Will the Government inform this Council:

- (a) of the total number of non-franchised bus routes awarded by the Transport Department in the past three years;
- (b) of the number of applications for the operation of non-franchised bus routes rejected by the Transport Department in the past three years and the reasons for rejection;
- (c) of the average time taken by the Transport Department to process applications for the operation of non-franchised bus routes, as well as the present number of non-franchised bus routes pending approval;
- (d) of the total number of non-franchised bus routes known to be operating illegally in the past three years, and the major districts in which these bus routes were operated; and
- (e) whether the problem of illegal operation of non-franchised bus routes is worsening; if so, what the reasons are?

Reply:

Mr President,

In the past three years (1994 - 1996), Transport Department approved 89 applications for the operation of non-franchised bus routes, i.e. residents' services.

During this period, 47 applications were rejected, mainly for the following reasons -

- (a) the routeing of the proposed residents' services substantially duplicated the existing ones of franchised bus services or green minibus services and duplication of service was undesirable on these routes; and/or

- (b) the terminating points and stopping places proposed by applicants were not acceptable from a traffic management point of view.

The average time taken to process and approve a residents' service application is three months. Cases which require a more detailed examination of routeing and terminal points take a slightly longer time. At the end of December 1996, 36 applications were being processed.

During the past three years, a total of 32 cases of illegal operation of non-franchised bus routes were identified, and a breakdown is annexed. The numbers of illegal bus routes operated in Tuen Mun and Sha Tin were higher than those in other districts.

The problem of illegal operation of non-franchised bus routes is not deteriorating. The number of illegal bus routes declined from 19 in 1995 to 9 in 1996. All the nine illegal bus routes have ceased operation at the end of December 1996.

Annex

	No. of identified cases
1994	4
1995	19
1996	9
Total	32

End

Tolo Harbour Effluent Export Scheme

* * * * *

Following is a question by the Hon Emily Lau and a written reply by the Secretary for Works, Mr Kwong Hon-sang, in the Legislative Council today (Wednesday):

Question:

The Government informed the Advisory Council on the Environment on 28 October last year that the two pumps at the Shatin and Taipo sewage treatment plants, which were designed to transport industrial and farm waste from Tolo Harbour to Victoria Harbour, have failed to function properly and this has resulted in the two sewage treatment plants functioning at below half of its capacity. In this connection, will the Government inform this Council of:

- (a) the reasons for the two pumps failing to function properly;
- (b) the magnitude of the problem arising from such failure and its effects on the residents in the neighbourhood of the two sewage treatment plants;
- (c) the name of the contractor who was responsible for building the two sewage treatment plants; and
- (d) the remedial actions which have been taken by the authority concerned, and the party which will pay for the cost of the repair works?

Answer:

Mr President,

The two sewage treatment plants in Shatin and Taipo were built and commissioned in stages in the early 80's. They treat sewage including domestic, industrial and farm waste collected from their respective districts. The treated effluent used to be discharged into the Tolo Harbour before the Tolo Harbour Effluent Export Scheme (THEES) was introduced and implemented.

Under the THEES commissioned in 1996, fully treated effluent from the two sewage treatment plants are transported to a new pumping station at Shatin, and are exported to Victoria Harbour for discharge through a series of sewer pipes and tunnel.

I wish to clarify, therefore, that the THEES is not designed "to transport industrial and farm waste" from Tolo Harbour to Victoria Harbour and no such information has ever been conveyed to the Advisory Council on the Environment. The purpose of the Scheme is to export fully treated effluent from the Shatin and Taipo sewage treatment plants to Victoria Harbour in order to reduce the risk of red tides in Tolo Harbour caused by excessive nutrients in the treated effluent.

The answers to the various parts of the question are as follows:

- (a) The two pumps (out of a total of four) of the new pumping station at Shatin were found during commissioning to be damaged due to installation defects.
- (b) The above problem arising from the defective pumps does not affect the sewage treatment function of the Shatin and Taipo treatment plants and it does not affect the residents in the neighbourhood of these two plants either. The problem with the two pumps and other technical difficulties encountered in the present commissioning phase do interrupt the operation of the pumping station such that not all treated effluent is pumped to Victoria Harbour. However, it should be emphasized that the Tolo Harbour Effluent Export Scheme is aimed at long term improvement to protect the waters of Tolo Harbour from excessive nutrients enrichment. The current problem with the newly installed pumps is of a short term nature which will be rectified in the near future, and therefore should have no long term effects.
- (c) The contractor who was responsible for the supply and installation of the two pumps in question is Jebsen & Company Limited.
- (d) Jebsen has been instructed to replace the damaged parts. At the moment, the replacement parts for the two pumps are being manufactured by the German manufacturer. Repair work will be carried out when these parts are delivered to Hong Kong. The contractor is contractually responsible for rectifying the problems of the two pumps in question and will bear the costs of the repair.

End

Visitors to HK before handover

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Following is a question by the Hon Howard Young and a written reply by the acting Secretary for Economic Services, Mr Leo Kwan, in the Legislative Council today (Wednesday):

Question:

Will the Government inform this Council whether it has an estimate of the extra benefits which will be brought to the tourism industry as a result of an upsurge in the number of visitors arriving in the territory in the period immediately before the transfer of sovereignty on 1 July this year; if so, what the details are?

Answer:

Mr President,

The number of visitors coming to Hong Kong in the period immediately before the transfer of sovereignty on 1 July 1997 will be constrained mainly by the capacity of the hotel industry. All the hotel rooms in Hong Kong are expected to be occupied during that period. Assuming that the current room sharing rate of 1.7 persons per room will remain applicable, the maximum number of additional visitors which the hotel industry can accommodate will be in the region of 8300.

Assuming that 8300 additional visitors will stay in Hong Kong for an average of ten days and these visitors will spend, on average, \$3000 per day (which is approximately the average spending of visitors staying in four-star hotels), their total net additional spending is estimated at around \$250 million.

The above estimate may nevertheless turn out to be conservative for the following reasons. First, some of the visitors may stay in guesthouses or with friends and relatives, thereby enabling visitors to be accommodated beyond the hotel room capacity constraint. Secondly, with such an upsurge in demand, hotels may charge higher room tariff for all visitors, thus generating a higher revenue. Thirdly, if some of the visitors opt to stay longer than ten days, their spending will correspondingly increase.

End

Business of insurance industry

* * * * *

Following is a question asked by the Hon Chim Pui-chung and a written reply by the Secretary for Financial Services, Mr Rafael Hui, in the Legislative Council today (Wednesday):

Question:

In view of the significant decline in the business of the insurance industry in the past year, will the Government inform this Council:

- (a) whether the above situation is caused by vicious competition within the industry; and
- (b) whether it has assessed the impact of any serious incident (such as the closing down of an insurance company) on the entire insurance industry and the reasonable protection of the insured will be ensured?

Reply:

- (a) We believe that the decrease in gross insurance premiums written in the past year is mainly attributable to the slowing down of economic growth during that period. For instance, the poor car sales in 1996 has led to a drastic fall in motor premiums. Keen competition has been a regular feature of the industry for a long time. Cyclical downturns from time to time cannot be directly attributable to competition, 'vicious' or otherwise.
- (b) Our insurance regulatory framework aims at ensuring the financial soundness of authorised insurers. The Insurance Companies Ordinance prescribes, among other things, financial requirements such as minimum capital and solvency margin requirements and asset valuation method to be complied with by insurers, thus protecting the insuring public. In addition, general business insurers are required to maintain assets in Hong Kong to match the liabilities pertaining to their Hong Kong business, and long term business insurers are required to segregate the assets and liabilities attributable to long term business to form a separate life fund. The assets within the life fund are protected by law against any claim by third parties outside the life fund. The law also empowers the Insurance Authority to take actions to safeguard the interests of the policy holders where he considers appropriate e.g. to appoint a manager to manage the affairs, business and property of an insurer where there appears to be a risk of the insurer's insolvency.

With proper and prudential supervision of the insurance industry, we believe that the likelihood of major mishaps affecting the entire industry or of the closure of an individual insurance company having a knock-on effect on the entire industry is remote.

In the event of insolvency of an insurer, the insuring public are protected in a number of ways. For a long term business insurer, the Insurance Companies Ordinance provides that the liquidator shall, unless the court otherwise orders, carry on the business with a view to transferring it, as a going concern, to another insurer. Failing this, the Insurance Companies Ordinance specifically provides that the assets representing the life fund shall only be available for meeting the liabilities within the same fund.

For a general business insurer, although the liquidator is not mandated to carry on the business, liquidators in the past had always attempted to transfer the business to another insurer to minimise the loss to policy holders. If the attempt fails, Hong Kong policy holders are given statutory priority, after liquidation expenses, wages and crown debts, over other creditors, including overseas creditors, under section 265(1)(e) of the Companies Ordinance.

Claimants for compensation in respect of bodily injuries caused by motor vehicles or for employees' compensation are further protected by the Insolvency Fund and the Employees Compensation Assistance Fund financed by levies on the relevant insurance premium and maintained by the Motor Insurers' Bureau of Hong Kong and the Employees' Compensation Assistance Fund Board respectively. Where there are claims which remain unsettled due to the insolvency of an insurer, the claims will be met from the appropriate Fund(s).

End

No intention to legislate designation of no smoking areas

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Following is a question by Dr the Hon John Tse and a written reply by the Secretary for Health and Welfare, Mrs Katherine Fok, in the Legislative Council today (Wednesday):

Question:

Will the Government inform this Council whether it has considered introducing legislation requiring the designation of non-smoking areas in public places such as offices, restaurants and department stores; if not, what the reasons are?

Reply:

The Smoking (Public Health) Ordinance (Cap. 371) already designates some public places as statutory no smoking areas. This includes all public transport carriers, cinemas, theatres, concert halls, public lifts and amusement game centres. Smoking inside these areas is an offence attracting a maximum fine of \$5,000.

The Ordinance also empowers the principal officer of any Government department or other organization specified in Schedule 3 to the Ordinance to designate any area under his control as a statutory no smoking area. At present, five Government departments are in the process of designating public parts of their premises as statutory no smoking areas.

We are now considering to amend the Ordinance to provide a mechanism for managers of restaurants, department stores, supermarkets, banks and shopping malls to designate all or part of the places under their control as statutory no smoking areas if they so wish.

We do not intend to make it compulsory for such places to be designated statutory no smoking areas because enforcement will initially rest with the managers themselves. They are in the best position to determine whether or not their premises should be no smoking, and how to enforce the prohibition if imposed.

While offices cannot be regarded as "public areas", we are still encouraging private organizations to provide a healthy working environment for their staff by making their offices smokefree. This can be done administratively. To set an example, all Government premises have been smokefree since 1 April 1996. The Hong Kong Council on Smoking and Health has also been promoting the concept of a smokefree workplace among private organizations. It has invited private organizations to sign its "Smokefree Workplace Charter" to signify their pledge to make their organization a smokefree workplace. Up to November 1996, a total of 73 organizations have signed the Charter. We believe that with the gradual building up of a smokefree culture through legislation and education, more and more organizations will voluntarily provide a smokefree environment for their staff and customers.

End

Private tutorial schools under Government supervision

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Following is a question by the Hon Cheung Man-kwong and a written reply by the Secretary for Education and Manpower, Mr Joseph W P Wong, in the Legislative Council today (Wednesday):

Question:

Regarding the operation of private schools for specialised subjects or private tutorial centres ("private tutorial schools") and the safety facilities in the premises of these schools, will the Government inform this Council:

- (a) of the number of complaints lodged with the Education Department in the 1995-96 school year regarding private tutorial schools operating without registration, and how such complaints were handled by the Education Department;
- (b) of the number of Inspectors of Schools deployed to inspect private tutorial schools periodically to check whether they have been registered, together with the number of schools found to be unregistered and the number of warning letters issued, in the corresponding period, as well as the reaction of the private tutorial schools concerned;
- (c) whether any prosecutions were instituted against unregistered private tutorial schools in the corresponding period; if so, of the number of successful prosecutions and the highest and lowest penalties imposed by the court;
- (d) how the authorities concerned ensure that the premises of private tutorial schools are in conformity with the provisions in the relevant legislation regarding fire escape, sanitary condition and enrolment limit, so as to protect the students' personal safety; and
- (e) whether consideration will be given to stepping up inspections and increasing the penalties prescribed in the relevant legislation so as to achieve a deterrent effect and protect the interest of the consumers?

Reply:

Mr President:

- (a) In the 1995-96 school year, the Education Department received 126 complaints concerning unregistered private tutorial schools. On receiving the complaints, the relevant District Education Officers would initiate site inspections to establish the facts. A verbal warning would be given to the operators if the complaints were substantiated. The operators would also be advised of the registration procedures and the case would be referred to the Registration Office for follow-up action. Further inspection visits would be made to monitor the situation. Should an operator continue to contravene the relevant legal provision upon further inspections, warning letter will be issued and, where appropriate, the case will be referred to the Attorney General's Chambers for prosecution.
- (b) There are 112 Inspectors of Schools who are responsible for the supervision of all schools within their districts including monitoring of operation standards, vetting of funding requests, provision of staff resources and placement assistance. As part of their duties, they also undertake inspections to private tutorial schools when required. In the 1995-96 school year, they undertook 200 inspections to private tutorial schools and found 91 of them falling within the definition of "schools" under the Education Ordinance but operating without registration. Altogether, 19 warning letters were issued to operators and teachers who persistently contravened the legal requirements. Upon Education Department's verbal and/or written warnings, 38 private tutorial school operators either applied for registration or cut down the enrolment to a level below the registration requirements and 51 ceased operation.
- (c) In the 1995-96 school year, prosecutions were instituted against three unregistered schools, but the charge against one of them was withdrawn after the school agreed to cease operation. Proceedings against the other two are still underway. A person convicted of the offence of operating an unregistered school would be subject to a maximum fine of \$25,000 and imprisonment for two years.

- (d) All private tutorial schools, being registered under the Education Ordinance, are subject to the same level of supervision by the Education Department as any other schools. They are required to comply with the laws and regulations concerned, including the provisions on approved accommodation and requirements on hygiene and fire prevention. To ensure continued compliance by all private tutorial schools, site inspections are frequently carried out. Warnings will be issued if irregularities are found and further follow-up inspections will be conducted. Legal action will be taken against persistent offenders.

- (e) School operators are made aware of the registration requirements through existing guidelines. The Education Department, in consultation with relevant authorities, has recently reviewed the procedures of applications for registration with a view to speeding up the process. To further enhance the deterrent effect and to reduce irregularities, the Department will step up its monitoring and prosecution actions against persistent offenders. The level of penalties is currently under review to preserve its deterrent effect.

End