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SUPPLEMENT

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Firm position on provisional legislature

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Following is the speech by the Secretary for Constitutional Affairs, Mr Nicholas Ng, at the motion debate on provisional legislature in the Legislative Council today (Wednesday):

Mr President,

The corporate position of the British Government and the Hong Kong Government on the continuity of the legislature is well known and consistent. The Prime Minister has restated the position at his recent meeting with Chinese Vice Premier Li Lanqing. The Secretary of State has also done so at the debate in the House of Commons last month. A number of members of this Council have, of course, attended that debate, and so they will be familiar with the comprehensive and unambiguous statement made by the Secretary of State. The pertinent points are worth repeating here.

On the elections held in 1994/1995, the Secretary of State said, and I quote, "those elections attracted turnouts unmatched in the history of Hong Kong. The representative bodies that they have produced have performed their different roles with exemplary diligence and notable moderation. They have shown that no one has anything to fear from the measured development of democratic government that we have set in train well within the parameters of the Joint Declaration and the Basic Law."

The Secretary of State made clear that we see no justification for the establishment of a provisional legislature. Neither the Joint Declaration nor the Basic Law make any mention of such a body. China will have to explain to Hong Kong and the world why it chose to replace a body for which more than a million Hong Kong people voted with one chosen by a hand-picked electorate of 400.

The Secretary of State also pointed out, and I quote:

"We continue to make it clear to the Chinese side, in public and in private, at every level, that their planned provisional legislature is neither necessary nor desirable. It is not necessary because there is nothing that it can do that should not more properly be done by others before the handover; it is not desirable because Hong Kong already has a duly elected Legislative Council which should be allowed to continue its work, and because a provisional legislature running in parallel with the constitutional Legislative Council risks creating confusion and uncertainty when they are least needed;

Its establishment and operation as a parallel legislature before the handover would seriously call into question China's commitment to its obligations under the Joint Declaration, but this will be more than a legal debating point. It raises much more fundamental political questions about China's willingness to follow its own principle, enshrined in the Joint Declaration and the Basic Law, of 'Hong Kong people ruling Hong Kong'."

The position of the British Government and the Hong Kong Government is therefore a matter of public record. And that will remain our firm and unshakeable position.

End

Motion on Gas Safety (Gas Supply) (Amendment) Regulation 1996

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Following is the speech by the Secretary for Economic Services, Mr Stephen Ip, in moving the motion to amend the Gas Safety (Gas Supply) (Amendment) Regulation 1996 in the Legislative Council today (Wednesday):

Mr President,

I move that the Gas Safety (Gas Supply) (Amendment) Regulation 1996, which was tabled in this Council on 6 November 1996, be amended as set out in the proposed Resolution of the Legislative Council circulated to Members.

The purpose of the proposed amendment is to clarify the wording of the Chinese version of the proposed section 23A(2) to better reflect the policy intention.

The proposed regulation 23A(2) provides that a person who carries out, or permits to be carried out, any works in the vicinity of a gas pipe shall ensure that all reasonable measures are taken to protect the gas pipe from damage arising out of the works that would be likely to prejudice safety. The proposed Resolution clarifies the Chinese wording so as to make clear that it is the "damage" to the gas pipe, rather than the "works" in the vicinity of the gas pipe, that would be likely to prejudice safety.

Mr President, I beg to move.

End

Crimes (Amendment) (No.2) Bill

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Following is the speech by the Secretary for Security, Mr Peter Lai, in moving the second reading of the Crimes (Amendment) (No.2) Bill 1996 in the Legislative Council today (Wednesday):

Mr President,

I move the Second Reading of the Crimes (Amendment) (No. 2) Bill.

This Bill deals with the concepts of treason, sedition, secession and subversion which are some of the concepts covered by Article 23 of the Basic Law.

Public concerns about the precise definition of these concepts have been building up since 1995. Honourable Members of this Council, who are elected to represent the community, have since then continued to impress on the Government the need to have clear legal definitions of these concepts on our statute books at the earliest opportunity before 1 July next year.

In response to this Council's and the community's expressed concerns, we passed proposals to amend the Crimes Ordinance to the Chinese side of the Joint Liaison Group in July 1995. In July this year, we passed a draft Crimes (Amendment) Bill to the Chinese side covering the concepts of treason, sedition, secession and subversion. I also explained to the LegCo Information Policy Panel that, if we made no progress in our discussions with the Chinese side, we would explain to the public the circumstances of the disagreement.

In brief, the Chinese side considered that there is a clear difference between the adoption of existing Hong Kong laws as the laws of the Hong Kong SAR, and the enactment of laws by the Hong Kong SAR on its own in accordance with Article 23 of the Basic Law. They made it clear that they did not believe that we should make significant amendments to the Crimes Ordinance at this stage to bring it into line with the Basic Law.

We hold a different view. It is quite clear that it is the view of the community, as reflected by this Council, that we should seek to have legislation on these concepts covered in Article 23 of the Basic Law in place before 1 July 1997. We also believe that there is no reason why we should not introduce appropriate legislative amendments to the Crimes Ordinance before 1 July 1997. By producing workable legislative proposals which will need only minimal adaptation to continue beyond the transfer of sovereignty, we will indeed be facilitating the task of the future HK SAR. This will not diminish the ability of the HK SAR, under Article 23 of the Basic Law, to make laws on its own, that is to say, not to have such laws made by the sovereign power. The fact is that Hong Kong already has laws on some areas covered by Article 23; neither the existence of those laws nor any amendments to them restricts the power of the Hong Kong SAR to legislate under Article 23.

If the Chinese side were able to agree to our view, then we would together have contributed much towards a smooth transition and allayed the concerns of Hong Kong people. Unfortunately, we have not been able to reconcile these two viewpoints. It has recently become clear that we will not be able to reach consensus in the JLG. Given the need to respond to the concerns of the community, we have come to the view that we must take steps to fulfil our public commitments by introducing this Bill into the Legislative Council.

The Bill amends parts I and II of the Crimes Ordinance. The changes are described in detail in the Legislative Council brief. The two most important changes are-

- (a) first, we have added the offences of secession and subversion which are not currently defined in the Crimes Ordinance; and
- (b) secondly, we have modified the offences concerning seditious activities to reflect the position at common law, that there must be an intention of causing violence or creating public disorder or a public disturbance, by reference to which the existing statute law would, we believe, be interpreted in any event.

The remainder of the Bill is largely aimed at amending the existing legislation to allow for easy adaptation, and to remove duplication of powers appearing in other laws.

We have carefully examined the Bill to ensure that it is consistent with the Joint Declaration, the Basic Law, the Bill of Rights and the International Covenant on Civil and Political Rights as applied to Hong Kong. We are not introducing a Bill which is in breach of either the Joint Declaration or the Basic Law, or any of these other documents.

We have attempted to define, in the Bill, the concepts of secession and subversion in the language of the common law. We hope that the debate in this Council, and more generally in the community, would shed light on whether the definitions we have proposed are reasonable and workable, and does not unnecessarily restrict the freedom of expression. That debate will be of particular value, whether or not the future Hong Kong SAR legislature chooses to leave unchanged the substance of the Crimes Ordinance as amended, or chooses to alter it in any way. If it chooses the latter course, it would of course have to explain to the people of Hong Kong why that would be in their interest.

Mr President, it is through reasoned debate, in an open society where people are free to express their views, that we hope to reach conclusions as to how best to define these sensitive concepts of treason, sedition, secession and subversion to meet the wishes of the community. Given the importance of these matters, the Bill deserves the most careful scrutiny by members of this Council. I hope that all members of this Council would discharge their duty to their constituents, by taking part in this process of scrutiny. A successful conclusion to this process of discussion and debate will strengthen public confidence in the law, and the commitment of an elected legislature to uphold the law.

Thank you, Mr President.

End

Occupational Safety and Health Bill

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Following is a speech by the Secretary for Education and Manpower, Mr Joseph W P Wong, in moving the second reading of the Occupational Safety and Health Bill in the Legislative Council today (Wednesday):

Mr President,

I move the second reading of the Occupational Safety and Health Bill.

The Occupational Safety and Health Bill proposes to extend for the first time occupational safety and health protection to employees in the non-industrial sectors. It is a piece of milestone legislation in enhancing the occupational safety and health standards for employees in Hong Kong.

At present, there are about 3.1 million people at work in Hong Kong. Some 800,000 of them are employed in industries covered by the Factories and Industrial Undertakings Ordinance, namely manufacturing, construction and catering. Most of the remaining 2.3 million workforce are employed in the non-industrial sectors and are not covered by that Ordinance.

In the 1995 Consultation Paper on the Review of Industrial Safety in Hong Kong, we included the recommendation of a tripartite Ad Hoc Committee under the Labour Advisory Board that safety and health legislation should be extended to cover all employees. It was recommended that new legislation should be enacted under which different regulations, to be implemented in stages, would set out specific standards for the working environment in general and regulate certain hazardous processes, equipment and substances in particular under the following six broad categories:

- (a) safety, health and welfare of the workplace (including ventilation, lighting, fire precautions, lavatory, first-aid, drinking water, etc.);
- (b) manual handling operations;
- (c) personal protective equipment at work;
- (d) dangerous substances and their labelling, handling, storage, etc.;
- (e) health and safety aspects of work in the use of visual display equipment; and
- (f) use of machinery and equipment.

This recommendation has received wide support during the public consultation period.

The Occupational Safety and Health Bill is the result of the recommendation to extend protection to the non-industrial employees. It will apply to all workplaces, with the following exceptions:

- (a) persons employed in land, sea and air transport, which are already protected by other legislation such as the Road Traffic Ordinance, the Merchant Shipping Ordinance and the Civil Aviation Ordinance;
- (b) persons employed in maritime operations, which are regulated by the Merchant Shipping (Safety) Ordinance;
- (c) persons employed in domestic services, as it is not intended to intrude into the private life of individual household; and
- (d) self-employed persons, since there is no employer/employee relationship.

The Occupational Safety and Health Bill contains the following main provisions:

- (a) Part I specifies the title of the Bill and defines certain terms used in it.
- (b) Part II prescribes the general responsibilities of employers and occupiers of premises. The employers are responsible for ensuring the safety and health of their employees at work. Occupiers of premises, where persons working there are not their employees, are also responsible for ensuring the safety and health of those employees.
- (c) Part III enables the Commissioner for Labour to issue improvement notices and suspension notices. It also confers a right of appeal by the employers or occupiers, against the issue of a suspension notice, to the Commissioner for Labour and the Administrative Appeal Board.
- (d) Part IV provides for the reporting of accidents resulting in death or incapacity, and dangerous occurrences at the workplaces, by the proprietors, the notification by medical practitioners of cases of occupational disease, and the holding of informal and formal inquiries into accidents by the Commissioner for Labour.
- (e) Part V provides for the appointment and functions of public officers to administer the Bill's provisions.
- (f) Part VI prescribes miscellaneous offences, such as the disclosure of the identities of complainants; interference with or misuse of equipment for safety and health at the workplace.
- (g) Part VII sets out the procedure for prosecuting offences under the Bill.
- (h) Part VIII empowers the Commissioner for Labour to make regulations to supplement the Bill's provisions, to issue, amend and revoke workplace codes of practice, and to amend schedules to the Bill.
- (i) Part IX provides for the provisions of the Bill to prevail over any possible inconsistent provisions in the Factories and Industrial Undertakings Ordinance, and make consequential amendments to the Administrative Appeal Board Ordinance.

The Occupational Safety and Health Bill, being basically an enabling legislation, should have no major impact on the employers. We intend to introduce subsidiary regulations under the Bill in three stages, so that employers and employees can adjust themselves gradually and comply with the law progressively. As the first stage, we propose that the Occupational Safety and Health Regulation, which provides control over the safety, health and welfare of the workplace in general, and manual handling operations in particular, should be made as soon as the Bill is enacted.

The tragic fire at Garley Building a fortnight ago has aroused great public concern over the adequacy or otherwise of fire safety protection in older buildings. The Fire Safety (Commercial Premises) Bill is being examined by a Bills Committee. We hope that the Legislative Council will agree to it quickly so that it can be enacted. It will cover commercial premises of over 230 m² that are used as banks; off-course betting centres; jewellery and goldsmith shops; supermarkets or department stores; and shopping arcades. The need for legislation to deal with commercial/office buildings will be considered separately, in the light of the investigation report being compiled by the Director of Fire Services on the Garley Building fire. In the meantime, as "workplace" defined in the Occupational Safety and Health Bill will cover all types of premises, the provisions in this bill can be used to deal with fire problems in workplaces not already covered by the Fire Safety (Commercial Premises) Bill. The Occupational Safety and Health Regulation, which will be made by the Commissioner for Labour upon the enactment of the Bill, also contains a provision that the Commissioner may require employers or occupiers of a workplace to provide fire safety measures in addition to those required by or under any other law. In exercising such power, the Commissioner for Labour will obviously take into account the physical and other constraints which may be encountered in that particular workplace, but she does have the power to ensure that adequate fire precautions are in place to ensure the safety of the people at work in a workplace.

In many ways, the Occupational Safety and Health Bill and the Regulation seek to enshrine in a consolidated piece of legislation most of the existing safety and health standards in a workplace which the average employer follows at present. We will minimise the potential financial burden on the employers, particularly those who run smaller establishments, with a phased introduction of the subsidiary regulations under the Bill.

The Administration intends to bring the provisions of the Bill and Regulation into operation 12 months after enactment. The grace period will allow time for Government to launch a public education and promotion programme, and for employers and occupiers of affected premises to become familiar with the legislation and to make the necessary preparations.

In line with the new strategy on promoting industrial safety, our approach to occupational safety and health in the non-industrial sectors will be preventive rather than curative; and promotional and educational rather than prosecution-oriented. The overall emphasis would be to encourage employers and occupiers of workplaces to identify risks and hazards, and to take steps to control or minimise them.

The Administration will develop, in consultation with the Occupational Safety and Health Council (OSHC), proposals for promoting general awareness of occupational safety and health among employers and employees in the non-industrial sectors. The Labour Department will also advise employers and employees about the new legislation, enforcement and compliance standards, approved codes of practice, etc. Additional staff will be provided to the Department for the implementation of the new legislation.

The enforcement of the new legislation, together with the enhanced publicity and promotional activities by Government and bodies like the OSHC should, in the long run, raise the safety and health awareness of employers and employees in all sectors. This should help to reduce the number of occupational injuries and diseases in the non-industrial sectors in Hong Kong.

The Manpower Panel of this Council was briefed on the Occupational Safety and Health Bill on 25 November and Panel Members expressed their strong support for it. I would therefore urge Members to accord high priority to the Bill so that it could be enacted as soon as possible.

Thank you Mr President.

End

Law Reform Bill introduced into LegCo

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Following is a speech by the Attorney General, the Hon Jeremy Mathews, in moving the second reading of the Law Reform (Miscellaneous Provisions and Minor Amendments) Bill 1996 in the Legislative Council today (Wednesday):

I move that the Law Reform (Miscellaneous Provisions and Minor Amendments) Bill 1996 be read a second time.

The Bill is part of the on-going process of law reform directed at repealing obsolete statutory provisions, removing anomalies and inconsistencies in legislation and making a variety of improvements which do not justify the introduction of separate bills. This Bill proposes to devolve some of the less important powers to make subsidiary legislation from the Governor in Council to more appropriate authorities; to effect certain reforms in the law relating to marriage and children; and to modernise the law governing the keeping of records of births, deaths and marriages. It also proposes a large number of miscellaneous minor amendments to our laws.

Devolution of Powers to make Subsidiary Legislation

Clauses 2 to 24 of the Bill continue a process started some years ago of transferring the power to make subsidiary legislation of a technical nature from the Executive Council to more appropriate bodies.

In all, subsidiary law-making powers under thirteen Ordinances are affected. Depending on the circumstances, the powers are transferred to a Branch Secretary, a Departmental Head or a statutory board or committee. In three instances the power to be transferred is a power to amend Schedules to Ordinances, but in each case the schedule consists of technical detail of the kind normally found in subsidiary legislation.

Family Law Reforms

The Bill proposes to bring about reforms in four areas of family law.

Age of majority

The first area relates to the age of majority. Clauses 25 to 26 of the Bill make some minor changes to the Domestic Violence Ordinance and the Adoption Ordinance to reflect the reduction in the age of majority from 21 to 18 which was introduced in 1990. It is also proposed by clause 27 to amend the Adoption Ordinance so as to eliminate an inequality in the treatment of male and female children. At present, the power of officers of the Social Welfare Department to visit and examine a child pending proceedings for adoption cease to apply once an adoption order is made in the case of a male child, but not in the case of a female child. Under the Bill the power would cease upon the making of an adoption order irrespective of the sex of the child.

Consent to marriage

The second area of family law reform relates to consent to marriage. As the law now stands, normally only the father is legally competent to give a valid legal consent to the marriage of a child who is under 21 years of age. The mother can only do so if the father is either dead or insane. Subject to such consent, a child aged 16 or over, but under 21, may marry.

Clause 28 of the Bill seeks to place the father and the mother in the same position by amending the relevant provisions of the Marriage Ordinance and introducing a new Third Schedule which sets out in detail the persons whose consents are required in various specified circumstances.

Maintenance of illegitimate children

The third area of family law reform relates to illegitimate children. Under the Affiliation Proceedings Ordinance the mother of an illegitimate child may apply to the court for an order against the putative father for the maintenance of the child. The Guardianship of Minors Ordinance allows either of the parents of a minor child or the Director of Social Welfare to apply for custody of the child, irrespective of whether the parents are married to one another. At present under that Ordinance the court may grant a maintenance order against a parent, but only in favour of the person (whether parent or not) who has been granted custody of the child.

The Bill, by clause 79, proposes to amend the Guardianship of Minors Ordinance so as to enable the mother of an illegitimate child who has legal custody of that child (even though no custody order has been made under the Ordinance) to obtain a maintenance order in respect of the child. Since the proposed amendment makes the Affiliation Proceedings Ordinance redundant it is proposed to repeal it.

Obsolete matrimonial remedies

The fourth area of family law reform relates to certain obsolete remedies. Clauses 83 to 86 of the Bill are intended to bring about minor reforms in the law of matrimonial proceedings by abolishing the now virtually obsolete decree of jactitation of marriage. This is a court order to restrain a person from wrongfully claiming to be another person's spouse. Clause 87 removes a redundant reference in subsidiary legislation to the remedy of restoration of conjugal rights which was abolished in 1972.

Keeping registers of births, deaths and marriages in non-legible form

As I mentioned earlier, the Bill proposes to modernise the law governing the keeping of records of births, deaths and marriages. The methods employed to maintain official registers of those events in Hong Kong need to be updated in the light of modern technological developments. Clauses 48 to 78 of the Bill contain a series of proposals for amending the Births and Deaths Registration Ordinance and the Marriage Ordinance for the purpose of legalising the storage of marriage records by microfilming and the storage of births and deaths records in both microfilm and computerised forms.

Miscellaneous Minor Amendments

I now turn to some of the other miscellaneous amendments in the Bill.

Clauses 37 to 40 reflect the forthcoming change of sovereignty by providing for the mark on Government envelopes to be changed from 'on Her Majesty's service' to 'on Government service'. The new mark will enjoy the same privileges and protection as the existing one. The amendments affect the Post Office Ordinance and Regulations made under it.

Since 1994 foreign lawyers have been permitted to practise in Hong Kong subject to certain conditions and requirements imposed by the Legal Practitioners Ordinance. That Ordinance provides for the "taxation" of a solicitor's bill of costs, that is to say, it enables an application to be made to the court for a determination of what the appropriate charges should be. No similar provision presently exists in respect of foreign lawyers' bills. Clauses 41 to 43 provide that those bills of costs will be treated in the same way as solicitors' bills.

Clauses 81 and 82 seek to close two loopholes which have been identified in certain offences under the Crimes Ordinance. The first concerns the meaning of "currency note" for the purpose of counterfeiting offences. At present the definition of "currency note" is limited to a note that is lawfully issued outside Hong Kong and is customarily used as money in the country of issue. The law does not therefore criminalize the counterfeiting of foreign notes that are no longer used as money. The amendment will ensure that the definition extends to a note which is or has been customarily used as money in the country of issue. The second loophole relates to the definition of "defective" for the purpose of various sexual offences. Because the existing definition does not cover conditions such as schizophrenia, a defendant was acquitted of the offence of unlawful sexual intercourse with a defective in a case which came before the courts in 1994. The amendment proposed in clause 82 plugs this loophole by bringing the definition of 'defective' in the Crimes Ordinance into line with the definition of 'mental disorder' in the Mental Health Ordinance.

Clauses 88 to 120, in Parts XII and XIII of the Bill, propose a large number of minor amendments which are needed to revise penalty provisions, correct grammatical errors and errors of cross-referencing, provide Chinese equivalents for terms and expressions which at present appear only in English, and to make other purely textual changes.

As I indicated earlier, this Bill is part of continuing process of tidying up Hong Kong's statute law and effecting minor reforms. The proposals in it are largely of a routine and uncontroversial character.

Mr President, I commend the Bill to the Council.

End

Carriage by Air Bill

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Following is the speech by the Secretary for Economic Services, Mr Stephen Ip, in moving the second reading of the Carriage by Air Bill in the Legislative Council today (Wednesday):

Mr President,

I move that the Carriage by Air Bill 1996 be read a second time.

At present, carriage by air is governed by relevant provisions of the United Kingdom (UK) Carriage by Air Act 1961, Carriage by Air (Supplementary Provisions) Act 1962 and the Carriage by Air Acts (Application of Provisions) Order 1967, which are currently applied to Hong Kong by two UK Orders in Council made in 1967. These UK enactments give effect to three international agreements (namely, the Warsaw Convention, the Hague Protocol and the Guadalajara Convention) which govern international carriage by air and apply similar provisions to non-international carriage by air and carriage of mail and postal packages. Among other things, they set out the liability limits of air carriers in respect of death or injury of passengers or damage to baggage or cargo, specify the persons who are eligible to lodge a claim against the carriers, set the time limit for bringing proceedings against carriers and specify which States have jurisdiction over cases.

The purpose of the Bill is to localise the relevant UK enactments thereby preserving the current statutory framework on carriage by air in Hong Kong after 30 June 1997. The Bill reproduces the provisions and schedules of the two 1967 Orders with some modifications in the form of presentation to conform with Hong Kong's legislative style.

The only substantive changes between the provisions currently applied to Hong Kong and that contained in the Bill are mainly technical. They relate to the replacement of UK authorities respectively by the Governor or the Governor acting on the instructions of the UK Secretary of State in the certification of contracting parties to the international agreements for evidentiary purposes in Clauses 4 and 14 of the Bill and the exemption of certain uses of aircraft from the application of the legislation in Clause 8 of the Bill. The Bill also provides for the replacement of the Governor by the Monetary Authority for the specification of Hong Kong Dollar equivalents of "francs" and "special drawing rights" for domestic enforcement of liability limits in Clauses 6 and 16 of the Bill. New provisions are also included to enable certificates of Hong Kong Dollar equivalents to be issued at a fee for evidence purposes.

The Bill represents a significant step in ensuring the continuation of the current civil aviation regime on carriage by air.

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

End

SDO enacted in anticipation of CEDAW extension

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Following is a question by the Hon Lau Chin-shek and a reply by the Secretary for Home Affairs, Mr Michael Suen, in the Legislative Council today (Wednesday):

Question:

In view of the extension of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) to Hong Kong on 14 October this year, will the Government inform this Council:

- (a) whether it will introduce relevant legislation in order to comply with the spirit of Article 11.1(d) of the CEDAW regarding the right to "equal remuneration.....in respect of work of equal value";
- (b) given the fact that each signatory state to the CEDAW is required to submit its first report on the status of women in its country one year after signing the Convention, whether the first such report on Hong Kong will be submitted next year by the British Government, the Hong Kong Special Administrative Region (HKSAR) Government or the Chinese Government; and
- (c) whether the Sino-British Joint Liaison Group has deliberated on the respective roles of the HKSAR Government and the Chinese Government regarding the submission of reports on the status of women in Hong Kong after the change of sovereignty?

Reply:

Mr President,

Pursuant to the agreement reached at the 37th plenary session of the Joint Liaison Group, the United Nations have been notified of the extension to Hong Kong of the Convention on the Elimination of All Forms of Discrimination Against Women, which many refer to as the CEDAW. The extension took effect on 14 October 1996.

- (a) Article 11.1 of the CEDAW requires States Parties to take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure the equality of men and women. In anticipation of the extension of the Convention to Hong Kong, the Sex Discrimination Ordinance was enacted in July last year. The Ordinance specifically prohibits discrimination against women in the field of employment. Article 11.1(d) of the CEDAW refers to the need to ensure 'the right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value'. In this regard, under section 69 of the Sex Discrimination Ordinance, the Equal Opportunities Commission has prepared a Code of Practice on Employment which provides practical guidance covering, inter alia, the specific requirement for the right to equal pay for work of equal value. The Code has been tabled in this Council and is currently being examined by a Sub-committee.
- (b)&(c) Under the Convention, States Parties undertake to submit to the Secretary-General of the United Nations periodic reports on measures which they have adopted to give effect to the provisions of the Convention and on the progress made. In the case of Hong Kong, the first report will be due in mid October 1997. In accordance with the agreement reached at the Sino-British Joint Liaison Group, for reports on Hong Kong which are due after 30 June 1997, the Hong Kong Special Administrative Region Government will submit a draft report to the Central People's Government of China and that the report will be incorporated into and form part of the report to be submitted to the United Nations by China, who is a State Party to CEDAW.

End

BN(O) holders enjoy visa-free access to 80 countries

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Following is a question by the Hon Mrs Elizabeth Wong and a reply by the Secretary for Security, Mr Peter Lai, in the Legislative Council today (Wednesday):

Question:

Will the Government inform this Council whether it is aware of the measures taken by the British Government to publicise the British National Overseas (BNO) passport and to persuade the Governments of other countries to accept the BNO passport as a legitimate travel document having the same status as other travel documents issued by the British Government?

Reply:

Mr President,

The British Government have widely publicised the BN(O) passport amongst foreign governments since its introduction in 1987. As a result, the BN(O) passport is now recognised by all countries and territories to be a valid travel document, and enjoys visa-free access to 80 countries and territories.

End

Investments of the Exchange Fund

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Following is a question by the Hon Emily Lau Wai-hing and a reply by the Secretary for Financial Services, Mr Rafael Hui, in the Legislative Council this afternoon (Wednesday):

Question:

In his speech delivered at a seminar organised by the Bank of England and held in London on September 10, this year, the Chief Executive of the Hong Kong Monetary Authority (HKMA) stated that the Exchange Fund does not currently hold assets in currencies which are not convertible and not traded in major foreign exchange markets. He also allayed fears that China would exert influence on the HKMA to use the Exchange Fund to buy Chinese Government or Renminbi debt in order to finance China's budget deficit. As some of the Chinese bonds are denominated in currencies of the G-7 countries, will the Government inform this Council if it has any information regarding the following:

- (a) whether the HKMA is currently holding Chinese bonds; and
- (b) if the answer to (a) is in the negative, in order to address the concern of the people in Hong Kong and of the international financial community whether the HKMA will state categorically that the HKMA will not hold Chinese Government or Renminbi debt?

Reply:

Regarding investments of the Exchange Fund, the following three criteria are currently adopted for inclusion in the list of approved assets:

- (i) only sovereign (ie. Government) issuers with credit ratings of investment grade or above are included¹;
- (ii) there must be a liquid secondary market for the financial instrument; and
- (iii) the underlying currencies of the bond or debt issues must be fully convertible.

The answer to (a) is that China is currently not a sovereign issuer on the list of approved assets in the investment policy of the Exchange Fund, hence the Exchange Fund does not hold any Chinese bonds.

As regards (b), whether China, or any other sovereign issuer, should in future be included into the list of approved assets of the Exchange Fund will have to be considered against the three criteria set out in the first paragraph of my reply. We will also need to take into account prevailing international best practice relating to treatment of foreign currency reserve assets and other new developments that may arise in future.

- (1) Market defines investment grade as, only issuers, such as corporates, coming from countries with a credit rating BBB or above on the Standard and Poor's scale (or equivalent) are included. Exchange Fund requirements for investment grade credit are higher than market practice.

End

Policy in handling demonstrations explained

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

Question:

The Governor has stated publicly that demonstrators would be served with hot tea and mattresses so as to facilitate them to express their dissident views. However, on 15 November this year, the police deployed more than 200 officers to stand guard outside the Hong Kong Convention and Exhibition Centre. The police contained the demonstrators in a restricted "demonstration area" and used force to remove the belongings of the peaceful demonstrators. Later on, the Secretary for Security also stressed that the same tactics would be adopted to handle future demonstrations. In this connection, will the Government inform this Council:

- (a) why there is such a serious difference between the Governor's stance on handling demonstrators and that of the Secretary for Security;
- (b) whether the remarks made by the Secretary for Security represent the Government's policy in handling peaceful demonstrations in future; and
- (c) whether the Secretary for Security's remarks and the recent actions of the police are in breach of the Bill of Rights and unfair to peaceful demonstrators and petitioners?

Reply:

Mr President,

There is no divergent view between the Governor and myself on the handling of public processions and gatherings. Let me take this opportunity to make it clear what the Government's policy is in handling demonstrations.

Hong Kong is a free and open society. We fully respect individual rights to freedom of expression and peaceful assembly as guaranteed by the Bill of Rights Ordinance. At the same time, the Bill of Rights permits restrictions on the exercise of such rights which are necessary in the interest of, amongst other things, public safety or public order. The community would expect protesters exercising these rights to abide by the law and not to create public disorder, so that their protest could take place in a peaceful and orderly manner. We are satisfied that the recent actions taken by the Police in regulating public processions and assemblies are necessary to preserve public safety and public order, and that such actions are consistent with the Bill of Rights.

End

Report on radiofrequency electromagnetic radiation

* * * * *

Following is a question by the Hon Henry Tang and a written answer by the Secretary for Economic Services, Mr Stephen Ip, in the Legislative Council today (Wednesday):

Question:

It is learnt that a local university commissioned by the Government has recently completed a report entitled "Study on Health Protection of Workers and Members of Public against Radiofrequency Electromagnetic Radiation at Radio Sites" which has identified a number of residential blocks located in areas of high concentration of radiation in the territory. In this connection, will the Government inform this Council:

- (a) of the number of the above residential blocks, as well as the number of residents living in such blocks; and
- (b) whether it will consider publicising the exact locations and names of such blocks; if not, what the reasons are?

Reply:

Mr President,

The Final Report on the "Study on Health Protection of Workers and Members of the Public against Radiofrequency Electromagnetic Radiation at Radio Sites" contains the findings of a consultancy study commissioned by the Office of the Telecommunications Authority (OFTA) on the safety of radiofrequency electromagnetic radiation from telecommunication transmitters. Twenty radio sites with a high concentration of radio transmitters were covered in the study.

The radiofrequency electromagnetic radiation levels inside the residential units and the normally accessible areas on the roof-tops for all sites surveyed were found to be well within the international safety limits for the general public and workers. For five roof-top sites, the radiofrequency electromagnetic radiation levels were found to have exceeded the international safety limits in the extremely unlikely event of continuous exposure over 24 hours at close proximity (i.e. within 1 metre of the antennas). It should however be stressed that the antennas in question are located in places which are not easily accessible: a person would need to climb a physical structure or a ladder to gain access to the antennas. The possibility of the public being exposed to radiofrequency electromagnetic radiation hazards under such circumstances is thus remote. These five buildings, which have about 2000 residents, are therefore safe to live in and the roof-tops are safe for normal usage. The Telecommunications Authority has already written to the Incorporated Owners and management offices of these buildings to assure residents that the buildings are safe to live in. As a precaution, transmitter owners will be required to put up warning signs advising the general public against getting close to the antennas.

The names of the five buildings mentioned above can readily be found in the Report which is already available to members of the public in OFTA's library. The five buildings are:

- (a) Block B, Hilton Plaza, Sha Tin Centre Street, Sha Tin
- (b) Ho Shun Fook Building, Y.L.T.L. 303, Sau Fu Street, Yuen Long
- (c) Block A, Po Sing Centre, 1-25 Ta Chuen Ping Street, Kwai Chung
- (d) Caritas Lodge, 134 Boundary Street, Mong Kok
- (e) Hong Kong Mansion, 1 Yee Wo Street, Causeway Bay

A Working Group, comprising industry representatives and chaired by OFTA, is considering the recommendations of the Report, including implementation details. The Working Group is now working on a Code of Practice. The Code will cover measures to be taken by transmitter owners, workers and other maintenance personnel in installing transmitters and antennas as well as the display of warning signs. The Code will be ready later this month. OFTA will also issue a leaflet explaining the subject of radio-frequency electromagnetic radiation and publicising a channel for enquiries.

End

Job Matching Programme

* * * * *

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

Question:

In regard to the Job Matching Programme, will the Government inform this Council of:

- (a) the total number of persons registered under the Programme during the period from the commencement of the Programme on 1 April 1995 up to the end of September this year, the number of registrants who have successfully obtained employment and the proportion of these persons to the total number of registrants;
- (b) the trades in which registrants under the Programme were formerly engaged; the numbers of registrants who have been unemployed for less than three months and for a period of three to six month respectively, and their respective proportions to the total number of registrants;
- (c) the types of jobs in which the majority of the successfully placed registrants were employed, and the respective proportions of those employed as office assistants, unskilled workers and watchmen to the total number of successfully placed registrants;
- (d) comparative figures on the types of jobs, wages, working hours, working environment, employee benefits and employees' compensation before and after the registrants have obtained employment, as well as the number of these registrants receiving the median wage of their respective trades; and
- (e) the respective proportions of registrants who have declined a job offer on account of dissatisfaction with its job nature, wage level and working hours to the total number of registrants?

Reply:

Mr President,

- (a) A total of 11,712 job seekers have registered with the Job Matching Programme (JMP) during the period from 1 April 1995 (the commencement date of the MP) to the end of September 1996. Of these, 8,982 registrants have been successfully offered employment, representing a success rate of 76.7%.

- (b) The breakdown of registrants by the industry sector of their previous occupation is as follows:

<u>Industry</u>	<u>Percentage(%)</u> <u>(based on running</u> <u>total as at 30.9.96)</u>
Clothing	20.0
Plastic	1.4
Electronics/Electrical	9.4
Other Manufacturing	11.9
Construction	3.0
Wholesale, Retail & Import/Export Trade	15.8
Catering	13.1
Hotel	0.8
Transport, Storage & Communication	3.5
Finance, Insurance & Business Services	6.1
Community, Social & Personal Services	7.9
Others	<u>7.1</u>
Total	100.0

The breakdown of registrants unemployed by period of unemployment is as follows:

<u>Unemployment period</u>	<u>Running total</u> <u>(as at 30.9.96)</u>	<u>Percentage(%)</u> <u>(based on</u> <u>running total)</u>
Less than 3 months	6,278	53.6
3 to 6 months	2,009	17.1
More than 6 months	3,425	29.3
Total	11,712	100.0

- (c) The majority of registrants were placed in the following jobs : clerk (15.3% of the total number of placements), labourer (13.8%) and messenger/office assistant (12.9%). The percentage for watchmen is 3.7%.
- (d) The comparison between the distribution of successfully placed registrants by former occupation, and that by current occupation is as follows:

<u>Occupational Group</u>	<u>Former Occupation (%)</u>	<u>Current Occupation (%)</u>
Professional, technical and related worker	9.8	6.4
Administrative and managerial worker	4.9	0.9
Clerical and related worker	25.9	38.2
Sales worker	5.8	5.3
Service worker	11.2	20.9
Agricultural, animal husbandry and forestry workers and fisherman	0.2	0.2
Production and related worker	32.6	23.3
Others	8.6	4.8
Total	100.0	100.0

We have no detailed information on the wages, working hours, working environment and other employees' benefits pertaining to both the current and previous jobs of these registrants.

Since the wages of registrants who are placed through JMP are categorised into broad salary groups--\$4,001 - \$5,000, \$5,001 - 6,000, \$6,001 - 7,000 and so on, the median wages in respect of individual placements are not available. Therefore, no direct comparison between the median wages of JMP job placements with those of the respective trades in the labour market can be made.

- (e) The breakdown of registrants who declined job offers by reason is as follows:

<u>Reasons for Declining Offers</u>	<u>%</u>
(i) Dissatisfaction with:	
- Work Place	26.0
- Job Nature	20.7
- Working Hours	16.6
- Wage Level	12.1
(ii) Found Work	15.0
(iii) Other reasons	9.6
Total	100.0

Training course for health workers

* * * * *

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

Question:

The Social Welfare Department has organised a four-month Training Course for health workers in conjunction with the Hong Kong College of Nursing, Hong Kong Red Cross and St. John Ambulance Association and Brigade. Participants of the course are required to pay a course fee of \$2,200. They are also required to sign an undertaking which stipulates that they have to pay an indemnity of HK\$3,300 or part thereof to the Social Welfare Department should they fail to obtain employment as a health worker within six months after completing the course or if they work in such capacity for less than one year. In this connection, will the Government inform this Council:

- (a) of the following, since the holding of the first training course for health workers:
 - (i) the ratio between the number of participants completing the course and the number of such participants who are successful in obtaining employment as health workers;
 - (ii) the reasons why some participants have failed to obtain employment;
 - (iii) the number of participants who have failed to comply with the stipulations of the undertaking and have to pay an indemnity;
 - (iv) the number of applications for exemption from payment of indemnity as well as the numbers of approvals for exempting full or partial payment of indemnity; and the criteria for granting such exemptions;
- (b) of the overall demand and shortfall situations of health workers in government-subsidised residential care homes, financially independent non-profit-making residential care homes and private residential care homes;

- (c) whether the Government will consider imposing restrictions on residential care homes employing enrolled nurses to take up the duties of health workers, so as to safeguard the employment prospects of health workers registered under the Residential Care Homes (Elderly Persons) Ordinance, and to ensure that the resources being put into the training of health workers are not wasted; and
- (d) whether the Government will review the effectiveness of the course; if so, when the review will be completed; and the reasons why the Government has held the sixth training course before the completion of the review?

Reply:

- (a) In order to meet the requirements for nursing and health care staff as stipulated by the Residential Care Homes (Elderly Persons) Regulation and to enhance the service standards of elderly homes, the Social Welfare Department, in conjunction with several professional organisations, has organised a series of training courses for health workers since August 1995. People who graduate from the courses can register under the Regulation as health workers to work in elderly homes.

- (i) Based on the estimation of the demand for health workers in April 1995, the Social Welfare Department has applied to the Lotteries Fund to organise 37 health worker training courses to offer 1190 places for people who wish to join the profession. As at mid-November 1996, a total of 26 courses are organised and the number of students who have completed the course is 800.

The undertakings signed by the course participants stipulate that they must join the profession within six months after completing the course and should work for no less than one year. As at October 1996, there are 320 participants from the first ten courses who have already graduated for six months. The Social Welfare Department has issued letters to ask them on their employment situation. Based on the responses received, 160 out of the 320 (50%) are employed as health workers.

- (ii) According to these graduates, the reasons why they have failed to obtain employment are as follows:

- more than half of them consider the employment conditions in elderly homes unsatisfactory, e.g. long working hour, heavy workload;
 - others claim personal reasons such as sickness, lack of interest in the job or working for the elderly.
- (iii) The Social Welfare Department has received the first tranche of applications for exemption from payment of indemnity in November. Applications are being processed. At present, no participants have been asked to pay indemnity for failure to comply with the undertaking.
- (iv) The Social Welfare Department has received 100 applications for exemption from payment of indemnity. To qualify for exemption, the applicant must provide sufficient proof that he has already tried his best but to no avail; or that he has personal reasons (e.g. health conditions) which results in his failure to get a job as a health worker.
- (b) According to the manpower requirement set out in the Residential Care Homes (Elderly Persons) Regulation, the overall demand for health workers is 1100, encompassing the demand from subvented, self-financing non-profit-making and private elderly homes. As at October 1996, there are 700 health worker vacancies in 558 elderly homes, as recorded by the Social Welfare Department.
- (c) The Residential Care Homes (Elderly Persons) Ordinance and the Residential Care Homes (Elderly Persons) Regulation stipulate the ratio of nursing staff (including nurses and health workers) to elderly residents. However, it is not stipulated that the elderly homes must employ a fixed number of nurses or health workers. As reflected by the figures, there is a large number of health worker vacancies which means that health workers have good employment opportunities.
- (d) Since the introduction of the courses in August 1995, the Social Welfare Department has constantly reviewed the course with the organisations in order to make appropriate improvements. The Social Welfare Department will conduct an overall review in mid-1997 when all the courses are completed so as to determine the necessity to offer more courses.

End

Toll for the Tsing Ma Link

* * * * *

Following is a question by the Hon Chan Wing-chan and a written reply by the Secretary for Transport, Mr Gordon Siu, in the Legislative Council this afternoon (Wednesday):

Question:

The Transport Advisory Committee's recommendation that taxi passengers using the Western Harbour Crossing need only pay a tunnel toll of \$40, instead of \$60, for the taxi's return journeys has aroused opposition from the taxi unions as well as the public's concern about similar recommendation being made for the Tsing Ma Bridge. In this connection, will the Government inform this Council:

- (a) how the toll for taxis using the Tsing Ma Bridge will be determined; and whether different toll charging schemes will be adopted for taxis and other types of vehicles using the Tsing Ma Bridge;
- (b) whether, in the event that it is specified that taxis using the Tsing Ma Bridge are required to pay a toll for the return journeys, the toll should be borne by passengers travelling to the new airport at Chek Lap Kok or by those travelling to the urban area; and
- (c) whether urban and New Territories taxis can both carry passengers to and from the new airport at Chek Lap Kok; if so, whether they will be charged the same toll for using the Tsing Ma Bridge?

Reply:

Mr President,

Different types of vehicles will be charged different tolls for using the Lantau Link. In determining the toll levels, various factors such as the operating costs, an appropriate rate of return on the capital employed, and public acceptability will be taken into account.

Since the Lantau Link provides the only vehicular access to Lantau, the Transport Study for the New Airport commissioned by the Transport Department has recommended that taxi passengers using the Lantau Link should pay a double toll irrespective of their direction so as to ensure that taxi drivers are not out of pocket if they do not have any passengers on the return journey.

Both urban and NT taxis will be permitted to serve the Ground Transportation Centre of the new airport at Chek Lap Kok. They will be charged the same toll for using the Lantau Link.

End

Enrolment in special schools

* * * * *

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

Question:

Will the Government inform this Council:

- (a) whether there are shortfalls in the intake of student in various types of special schools, if so, what the reasons are, and provide a breakdown of the ratios between the number of students admitted and the number of school places in the various types of special schools; and
- (b) whether it has estimated the number of students who need to attend special schools but have not enrolled in such schools?

Reply:

Mr President,

- (a) The enrolment situations in various categories of special schools as at September 1996 are detailed as follows :

<i>Category</i>	September 1996			
	<i>Capacity</i>	<i>Enrolment</i>	<i>%</i>	<i>Waiting List**</i>
Blind	225	150	66.7	2
Deaf	720	526	73.1	1
Mildly MH*	3040	2680	88.2	76
Moderately MH	1920	1593	83.0	69
Severely MH	776	674	86.9	14
Physically Handicapped	720	642	89.2	35
Hospital School	481	353	73.4	--
Maladjusted	945	479	50.7	35
Total	8827	7097	80.4	232

- Note: * MH stands for Mentally Handicapped
** Pupils on waiting list are due to the following reasons:
(a) Referrals being processed by schools;
(b) Deferred admission as requested by parents; and
(c) Awaiting admission to boarding places.

It is worth noting that the enrolment situation in these schools may fluctuate in the course of the year because special schools of all categories admit students all year round and it is the present policy in special education that children with special educational needs should be integrated into ordinary schools as far and as early as possible.

The reasons for the comparatively low enrolment of below 80% in four of the above categories of special schools are summarised below:

1) Special schools for visually impaired children:

There are only 2 special schools for visually impaired children in the territory. One caters for visually impaired children with normal intelligence while the other caters for those with mental handicap. In order to maintain the minimum class structure to cater for visually impaired children, there is a need to have two special schools for visually impaired children despite a relatively low enrolment situation.

2) Special schools for hearing impaired children:

There are 4 special schools for hearing impaired children in the territory. Two are located in Hong Kong, one of which is a secondary school while the other is a primary school. The other two schools are located in different districts of Kowloon to cater for both primary and secondary pupils with hearing impairment in Kowloon. In order to maintain the minimum class structure to cater for hearing impaired children in the territory, there is a need to have four special schools for hearing impaired children despite a relatively low enrolment situation.

3) Hospital school:

There is only one hospital school operating in 16 hospitals to cater for hospitalised compulsory school-aged children in different districts. The enrolment situation in the hospital school fluctuates throughout the year owing to the number of pupils admitted to and discharged from the hospital. For example, in July 1996, the enrolment figure was 458, which was 95.2% of the capacity.

4) Special schools for maladjusted children:

Maladjustment is a transient problem. Children with maladjustment will return to the mainstream as soon as they are ready for re-integration. Thus, the turnover rates in these schools are high.

According to our records, there has been an average of 122 declined cases annually for the maladjusted, which is comparatively higher than those in other categories of special schools. Most of these children declined special school placement for the following reasons:

- i) Objection from parents who are concerned with the possible stigmatizing effect of this type of special school;
- ii) Objection from pupils;

- iii) Some of the referrals were court cases. The children refused placement once they were discharged from the court;
 - iv) Some parents/pupils preferred placement in practical schools as an alternative; and
 - v) Some parents/pupils preferred to stay in mainstream schools.
- (b) The estimated number of children who have been assessed to have the need to attend special schools in the 1995/96 school year but have declined placement in such schools is as follows:

<i>Category</i>	<i>No.</i>
Blind	1
Deaf	7
Mildly MH	85
Moderately MH	13
Severely MH	2
Physically Handicapped	9
Hospital School	--
Maladjusted	122
Total	239

The declined cases in the mildly mentally handicapped category are mainly due to parents' preference for integration in mainstream schools. 43 out of the 85 declined cases for the mildly handicapped are now receiving mainstream schooling while the other 42 cases are attending resource classes in ordinary schools or adjustment programmes operated by the Education Department. The reasons for the 122 declined cases in special schools for maladjusted children are as explained in paragraph (4) of part (a) above.

All declined cases are followed up by the referring workers. Those children enrolled in ordinary schools but are absent for a long time will be followed up by officers of the Non-attendance Cases Team of the Education Department should they be under the age of 15.

End

Figures on students receiving overseas education

* * * * *

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

Question:

Will the Government inform this Council:

- (a) of the number of local students who went abroad to undertake undergraduate or postgraduate courses in the past three years;
- (b) of the number of persons who returned to Hong Kong after completing undergraduate or postgraduate courses abroad in each of the past three years; and
- (c) whether, in the light of the figures given in the answers to (a) and (b) above, there is a problem of brain drain among those who have completed higher education abroad, or whether there is an increase in the number of such persons returning to Hong Kong; and of the impact such a situation will have on the territory?

Reply:

Mr President,

Since the Government does not require Hong Kong residents to reveal the purpose of their entry into or exit from the territory, we do not have a record of the exact numbers of local students going abroad for undergraduate or postgraduate courses in the past three years or the numbers of persons returning to Hong Kong after completing those courses abroad. However, the following data may be of interest to Members -

- (a) Eight countries, namely the United States of America (USA), Canada, Australia, the United Kingdom (UK), the Netherlands, Germany, New Zealand and France, voluntarily report the numbers of student visas issued each year to the Census and Statistics Department through their respective Consulates in Hong Kong. The statistics for 1993 to 1995 are set out at Annex A. However, the UGC in its Review of Higher Education in Hong Kong estimated that the numbers of full-time students studying overseas in 1994/95 were 13,000 in the USA, 10,000 in the UK, 9,000 in Australia and 6,500 in Canada. Numbers for other places of study, such as Mainland China and Taiwan, were smaller but might amount to another 2,000 in all.
- (b) According to an enquiry on higher education attained outside Hong Kong which was conducted by the Census and Statistics Department via the General Household Survey in the fourth quarter of 1991, 57,200 persons aged 18 and above had returned to Hong Kong after completing their matriculation or higher education courses overseas (excluding China and Macau). Of these, 62% completed undergraduate courses and 23% completed postgraduate courses.
- (c) Since most undergraduate courses last from three to four years while the length of postgraduate courses varies widely from one to six or seven years, students who went abroad for undergraduate or postgraduate courses in the past three years and those who returned over that period are in most cases not the same persons. It is not possible, therefore, to identify whether there has been an increase or decrease of local students returning to Hong Kong after completing their studies abroad in the past three years based on the data mentioned above.

However, the 1996 by-census estimates that about 526,000 Hong Kong residents have completed or are attending their first-degree or postgraduate courses at local or overseas institutions or through distance learning. They represent about 8% of the total resident population in Hong Kong, which is two times the figure in the 1991 census (i.e. 255,979 persons, 4% of total population). This indicates that the educational attainment of our population has been significantly upgraded between 1991 and 1996. Both the rapid expansion of tertiary education in Hong Kong since 1989 and the increase of returning students and highly educated people from abroad have contributed to this process.

Annex A**Number of Student Visas Issued by Consulates in Hong Kong in 1993 to 1995**

Year	USA	UK ¹	Canada	Netherlands	Germany	Australia ²	New Zealand	France
1993	5 025	3 477 (53%) ³	2 828	0	0	3 153 (25%)	362 (4%)	70
1994	4 555	3 222 (49%)	2 787	0	7	3 109 (31%)	387 (8%)	70
1995	4 187	2 979 (48%)	2 603	0	10	3 579 (32%)	401 (5%)	67

¹ Figures include renewal of visas (about 5%).

² Figures include renewal of visas (about 10%).

³ The percentage in brackets denotes the proportion of applicants who indicate their intention to pursue undergraduate or postgraduate courses in the countries concerned.

Development of Students' Potential Committed

* * * * *

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

Question

It is learnt that some 6,000 primary and secondary students in the territory have recently taken part in the Third Mathematics and Science Study organised by the International Association for the Study of Educational Achievement. The University of Hong Kong has examined the results of the Study and found that the development in mathematics and science in the territory has remained static, and that the territory is trailing behind other developing countries in Asia in this regard. Researchers have attributed this to insufficient emphasis being placed on education by the Government. In this connection, will the Government inform this Council:

- (a) of the proportion of the funding on education to the territory's GNP in the past ten years;
- (b) whether any study has been conducted on the respective proportions of the education funding to the GNP in Singapore, South Korea, Japan and Taiwan in the same period; and
- (c) whether it has formulated any long-term education strategy, particularly in the areas of teaching science and mathematics, to ensure that bright and qualified people will be trained up to promote high technology development in the industries of the territory?

Reply:

Mr President,

The target group under the Third Mathematics and Science Study conducted by the International Association for the Study of Educational Achievement (IEA) was the two grades with the largest population of 13-year-olds, which in the context of Hong Kong corresponds to Secondary 1 and 2 students. Senior secondary students were not included in the study.

Our junior secondary curriculum aims to provide a balanced general education. When students move to the senior secondary level, they will follow either the science, arts, commercial or technical streams according to their interest and aptitude. According to the findings of the IEA Second Mathematics and Science study in 1988, our students at the senior secondary level performed extremely well, especially in Chemistry and Physics, although their performance at the junior secondary level was less satisfactory. Therefore, the results of a single study may not accurately reflect the overall performance of our students.

I now turn to the questions raised by the Member:

- (a) We are unable to provide statistics on funding on education as a percentage of Hong Kong's Gross National Product (GNP) in the past ten years as relevant figures are not available. Instead, we have attached at Appendix A a table showing the total funding for education as a percentage of the Gross Domestic Product (GDP).
- (b) Appendix B shows a comparison of total funding on education as a percentage of GDP among a number of countries/territories from 1985 to 1995. However, funding for education as a percentage of GDP may not be the most appropriate indicator of the proportion of public resources spent on education as our overall Government expenditure is only about 17% of GDP whereas the corresponding figures in many countries/territories are generally higher.
- (c) The Government is committed to developing the full potential of our children through education. We have taken a number of steps to ensure that our system of education and our curriculum, including the subjects of science and mathematics, are able to respond to the changing needs of the society. These include:
 - Regular updating of the school curriculum. Revised syllabuses for Mathematics at primary and secondary levels will be issued in 1999 and that for Science at junior secondary level in 1997;
 - Monitoring and advising schools on the quality of teaching through regular school inspections;
 - Providing in-service education programmes to teachers to upgrade their professional skills and update them on latest developments. The Education Department also provides teaching resources and guidelines as necessary;

- Mathematics and Science are among the compulsory subjects for pre-service teachers in both Curriculum and Academic Studies at the Hong Kong Institute of Education; and
- Promoting the Target Oriented Curriculum (TOC) at primary levels which is expected to enhance the performance of students in problem solving and communication skills in mathematics in the long run.

In addition, mathematics and science education is also enhanced through informal activities such as:

- Inter-school and international mathematics and science activities such as Chemistry Olympiad and Mathematical Olympiad to promote students' interest in these subjects;
- Public lectures on topics of current interest for teachers and students to familiarise them with the latest developments. Some events are organised in collaboration with non-government organisations. In the past two years, a total of 24 lectures and 10 workshops were organised and participated by over 670 teachers and 5,300 students. In the 1996/97 school year, 11 lectures and 5 workshops will be organised.

In the tertiary sector, all the University Grants Committee (UGC)-funded institutions have been made aware of the updated manpower forecast of the territory and the projection of the demand for graduates in the various disciplines for their planning of the courses. Information on student enrolment for the past five years indicated that there has been a 52% increase in the student numbers in the science, mathematics and engineering subjects and even more so in respect of the number of postgraduate students in the UGC-funded institutions.

Teaching and learning at the tertiary level is also enhanced through research projects. The total amount of Earmarked Research Grants (ERG) disbursed to the Research Grants Council for the 1995-1998 triennium was \$1,003 million. Out of the grants designated for 1995/96, 54% was allocated to science, mathematics and engineering research projects carried out by researchers in the UGC-funded institutions.

Appendix A

Total Funding for Education 1987/88 to 1996/97

	1987-88	1988-89	1989-90	1990-91	1991-92	1992-93	1993-94	1994-95	1995-96 Revised	1996-97
	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Estimates	Estimates
	\$M	\$M	\$M	\$M	\$M	\$M	\$M	\$M	\$M	\$M
Total Funding for Education -- (a)	9,450	11,653	13,392	16,542	19,431	22,158	25,409	28,878	33,781	39,825
Gross Domestic Product (GDP) -- (b)	384,488	455,022	523,861	582,549	668,512	779,335	897,463	1,016,567	1,111,391	1,248,788
Total Funding for Education as % of GDP -- (a)/(b)	2.5%	2.6%	2.6%	2.8%	2.9%	2.8%	2.8%	2.8%	3.0%	3.2%
Total Funding for Education as percentage of Total Government Expenditure	17.6%	18.0%	16.3%	17.4%	18.0%	17.9%	16.4%	17.4%	17.3%	17.5%

Source: Finance Branch, Hong Kong Government

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Appendix B

Total Funding for Education as percentage of Gross Domestic Product (GDP)

Country/Territory	1985	1989	1990	1991	1992	1993	1994	1995
Hong Kong	2.8 [^]	2.6	2.8	2.9	2.8	2.8	2.8	3.0 *
U.S.A.	5.1	5.3	5.5	5.8	5.8	N.A.	N.A.	N.A.
U.K.	4.8	4.8	4.8	5.1	5.3	5.3	5.2	N.A.
Japan	5.6	5.0	5.1	5.0	5.1	5.2	N.A.	N.A.
China	2.5	2.4	2.5	2.5	2.3	2.2	2.2	N.A.
Korea, Republic of	3.7	3.5	6.2	3.6	4.1	4.1	3.9	N.A.
Malaysia	5.6	5.5	5.8	5.3	5.5	5.2	5.6	N.A.
Philippines	2.0	3.0	3.1	2.7	3.0	2.6	3.1	N.A.
Singapore	4.6	3.0	3.0	3.1	3.8	3.2	3.0	N.A.
Taiwan	4.1	4.1	4.7	5.1	5.4	5.7	5.7	N.A.
Thailand	3.8	2.6	2.8	3.0	3.1	3.5	3.5	N.A.

Notes

Comparative figures for 1986-1988 are not available.

[^] Expenditure on 'Special Education' are not included.

* Revised Estimate

N.A. = Not available

Fn: data/exp-gdpo

End

Enrolment of postgraduate students in tertiary institutions

* * * * *

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

Question:

Is the Government aware of:

- (a) whether the intakes of postgraduate students in various local tertiary institutions have reached the prescribed annual admission targets in the past three years;
- (b) the ratio between local and non-local postgraduate students in various tertiary institutions in each of the past three years, and the regions/countries where these non-local students have come from;
- (c) whether the University Grants Committee has any plan to relax the requirement that non-local students taking postgraduate courses should not exceed 20% of the total number of postgraduate students; if not, why not; and
- (d) whether the requirement that non-local postgraduate students should not exceed 20% of the total number of postgraduate students is consistent with the objective of developing the territory into an Asian education centre?

Reply:

Mr President,

- (a) The target and actual enrolment, in full-time-equivalent (fte) terms, of research postgraduate (RPg) and taught postgraduate (TPg) students in the University Grants Committee (UGC)-funded institutions for the past three academic years were as follows -

	<u>1993/94</u>	<u>1994/95</u>	<u>1995/96</u>
RPg target	2,217	2,746	2,995
RPg enrolment ¹	2,303	2,547	2,952
TPg target	3,742	4,219	4,558
TPg enrolment ²	3,904	4,236	4,921

Note

¹ The slight under-enrolment of RPg students in 94/95 and 95/96 was due to difficulties encountered by some institutions in recruiting qualified local RPg students. The UGC considered such slight under-enrolment acceptable.

² The TPg enrolment figures include the non-local students that institutions are permitted to enrol beyond their target.

- (b) Between 1993/94 and 1995/96, the UGC-funded institutions have been permitted to enrol 2% of non-local undergraduates (Ug) and TPg students beyond their target number of Ug and TPg and 20% of non-local RPg students within their target number of RPg. The ratio between local and non-local TPg and RPg students in the UGC-funded institutions in the past three academic years were as follows -

	<u>1993/94</u>	<u>1994/95</u>	<u>1995/96</u>
Local RPg : non-local RPg (% of non-local RPg students in relation to target RPg number)	4.4:1 (19.3%)	3.1:1 (22.7%)	2.9:1 (25.5%)
Local TPg : non-local TPg (% of non-local TPg students in relation to target TPg number)	57:1 (1.8%)	52:1 (1.9%)	55:1 (2.0%)

There is a slight excess enrolment of non-local students in the RPg category. This is because the institutions may, in addition to the non-local RPg students enrolled within their approved student number targets, enrol additional non-local RPg students who are supported by the Earmarked Research Grants awarded by the Research Grants Council (RGC), by other public sources of funding such as the Industry and Technology Development Council's Applied Research and Development Scheme and the Co-operative Applied Research and Development Scheme, or by private funding agencies such as the Croucher Foundation and the Hong Kong Jockey Club.

The non-local students came mainly from the People's Republic of China, the United States, the United Kingdom, India, Malaysia and other Asian and European countries.

- (c) The Government has recently accepted the UGC's recommendation in its Review Report: Higher Education in Hong Kong that the number of non-local students should be increased. The permitted proportion of non-local RPg students has now be raised from 20% to 33% within the RPg target, and the non-local of Ug and TPg has been revised from 2% beyond the target of local students to include a further 2% within the local student target number.
- (d) This policy is consistent with our aim of developing Hong Kong's tertiary institutions as an internationally recognised education centre for the region as a whole.

End

Provision for purchase of neuroleptic drugs

* * * * *

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:

It is known that new antipsychotic drugs are more readily accepted by patients, and this has reduced the number of cases of patients failing to turn up for follow-up consultation and treatment. In this connection, is the Government aware of the following data for the past year:

- (a) the amount of provision earmarked by the Hospital Authority (HA) for the purchase of neuroleptic drugs, and the proportion of such provision to HA's total expenditure on drugs;
- (b) the average expenditure by the HA on drugs per mental patient and per non-mental patient respectively; and

- (c) the respective amounts allocated by the HA for the purchase of antischizophrenic drugs and new antipsychotic drugs, and the respective proportions of these amounts to the total provision for the purchase of neuroleptic drugs?

Reply:

In 1995/96, the amount of provision earmarked by the Hospital Authority for the purchase of neuroleptic drugs was \$30.75 million, representing 3.14% of the total spending on drugs. A comparison between the average drug cost for psychiatric and non-psychiatric patients based on data obtained from the month of October 1996 is provided below -

	Psychiatric Patients	Non-psychiatric Patients
Average cost per in-patient discharged	\$1,119	\$705
Average cost per specialist out-patient attendance	\$115	\$80

The amount of provision allocated for the purchase of antischizophrenic drugs and new antipsychotic drugs, as well as their respective proportions in relation to the total spending on neuroleptic drugs in 1995/96 are as follows -

	Expenditure (\$m)	% of Total Budget for Neuroleptic Drugs
Antischizophrenic drugs	14.2	46.2%
New antipsychotic drugs	1.89	6.1%

For 1996/97, an additional provision of \$3.3 million has been earmarked specifically for the procurement of new antipsychotic drugs.

End

Public housing offered to Kai Cheung THA residents

* * * * *

Following is a question by the Hon Albert Chan and a written reply by the Secretary for Housing, Mr Dominic Wong, in the Legislative Council today (Wednesday):

Question:

The Government has recently provided the LegCo Panel on Housing with information regarding the clearance of Kai Cheung Temporary Housing Area (THA). According to the information, 62.7% of the residents affected have been offered rehousing in new public rental housing (PRH) flats. In this connection, will the Government inform this Council:

- (a) of the numbers and percentages of residents in the squatter areas and THAs, which are earmarked for clearance in the same period as that for the Kai Cheung THA, who have been offered rehousing in new and old PRH flats respectively;
- (b) whether the overall percentage of residents referred to in (a) above being allocated new PRH flats is lower than that of Kai Cheung THA residents; if so, what the reasons are; and
- (c) how the Housing Department determines whether residents of squatter areas and THAs affected by clearance will be allocated new or old PRH flats?

Answer:

Mr President,

The numbers of residents in squatter areas and Temporary Housing Areas, who are being cleared at about the same period as Kai Cheung Temporary Housing Area and who have been offered rehousing in new or refurbished public rental housing flats, are as follows -

	Residents rehoused in new flats Number (percentage)	Residents rehoused in refurbished flats Number (percentage)	Total Number (percentage)
Squatter areas	965 (53%)	862 (47%)	1,827 (100%)
Temporary Housing Areas	10,847 (74%)	3,896 (26%)	14,743 (100%)
Squatter areas and Temporary Housing Areas	11,812 (71%)	4,758 (29%)	16,570 (100%)

The percentage of Kai Cheung Temporary Housing Area residents allocated new public rental housing flats is a little lower than that for residents of squatter areas and Temporary Housing Areas during this period.

The type of flat offered to eligible residents of squatter areas and Temporary Housing Areas depends mainly on the availability of flats at the time, both new and refurbished, and, to some extent, on the personal preferences of residents. Residents who are more selective have to wait significantly longer.

End

Research and campaign efforts on anti-smoking

* * * * *

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

Question:

According to figures released by the Census and Statistics Department in March this year, 14.8 % of people aged fifteen and over smoke daily, compared with 14.9 % in 1993. The percentage of young male smokers aged 15-19 has risen sharply from 2.4 % to 5.9 % since 1993, whereas the percentage of young female smokers of the same age group has increased from 0.9 % in 1993 to 1.3 % this year. In this connection, will the Government inform this Council whether:

- (a) it has conducted any research to find out the causes of the rising rate of young smokers;
- (b) it has taken into account the rising rate of young smokers in planning anti-smoking campaigns; if not, how it plans to counter this trend in its campaign strategy; and
- (c) the Health and Welfare Branch will consider launching a large scale anti-smoking campaign with emphasis being placed on educating young people about the adverse effects of smoking?

Reply:

To set the record straight, the Census and Statistics Department survey, conducted in January 1996, showed that 5.9% of males aged 15-19 are daily smokers. They constitute 2.1% of the total daily smoking male population. These compare with figures of 7.5% and 2.4% respectively for surveys conducted in 1993. In other words, the proportion of males aged 15-19 who smoke daily has declined in terms of rate in that age group (from 7.5% in 1993 to 5.9% in 1996), in percentage out of the total daily smoking male population (from 2.4% in 1993 to 2.1% in 1996) and in absolute numbers (from 14,800 to 14,100 in 1993 and 1996) respectively.

The rate of young female smokers has indeed increased from 0.9% to 1.3% of the 15-19 age group between 1993 and 1996.

A table showing daily smokers by age and sex for 1993 and 1996 is at Annex A. A table showing the longer-term trend for the 15-19 age group from 1982 to 1996 is at Annex B. While the smoking rate for both sexes aged 15-19 has fluctuated over the years, the rates today are still higher than the lowest recorded in 1984.

Apart from research into the causes of juvenile smoking in other countries, both The Chinese University of Hong Kong and the University of Hong Kong carried out similar research in Hong Kong in 1994*. They found a positive relationship between cigarette advertising and smoking. Additionally, the CUHK's research found that the influence of close friends and family members, attitudes towards the effect of smoking on health, and age were important variables in predicting teenage smoking behaviour.

These local and overseas studies validate Government's current multi-faceted anti-smoking strategy. This looks to legislation to restrict tobacco advertising, publicity to inform the community about the health hazards of smoking, and education to influence individual and peer group attitudes towards smoking.

As an important part of our strategy, the Hong Kong Council on Smoking and Health (COSH) -- a statutory body wholly funded by Government -- has focussed its campaign efforts towards helping young people to establish a correct perception about smoking, namely that it is hazardous to health and is not healthy, glamorous, trendy or "cool". A total of \$7.5 million has been granted to COSH to intensify its activities in this area. COSH has produced three Announcement of Public Interests broadcast on TV targeted particularly at youth. Apart from this form general publicity, COSH have staged 80 anti-smoking drama performances and delivered 69 health talks in schools in 1995/96.

The Department of Health, which is responsible for primary health care, also plays a part through its Health Ambassador Scheme. Each year, about 1,000 secondary schools students are trained by the Department of Health as Health Ambassadors. They are taught about health issues and healthy lifestyles, with anti-smoking being one of the topics. These Ambassadors then organize different programmes in their schools, districts and neighbourhoods with advice from the Department. Anti-smoking messages are thus disseminated effectively through these channels to our young people as well as their friends and families. As an on-going effort to promote a smokefree culture, leaflets on the hazards of smoking are placed in the Department's Student Health Service Centres, so that students coming to the centre for checkings can take the information home with them.

While anti-smoking publicity and education are mainly carried out by COSH and the Department of Health, Government plays its part by providing a legislative framework which includes no-smoking areas, health warnings for tobacco products and restrictions on tobacco advertising. We have already banned tobacco advertising on TV, on radio and in cinemas. Since April last year, we have also prohibited the sale or giving of tobacco products to people under the age of 18. We are currently considering further legislative measures and aim to introduce these into the Legislative Council next year.

* Research references:

Department of Community Medicine, HKU, The Youth Smoking and Health Survey 1994 - Youth Smoking, Health and Tobacco promotion, Hong Kong Council on Smoking and Health, Report No. 1, November 1994.

Leo Y M Sin, Cigarette Advertising and Juvenile Smoking Behavior : A Logit-Model Analysis, The Chinese University of Hong Kong, October 1994.

Table 2a Daily smokers by age and sex

Aug - Sep 1993 enquiry

Age group	Male			Female			Overall		
	No. ('000)	%	Rate*	No. ('000)	%	Rate*	No. ('000)	%	Rate*
15 - 19	14.8	2.4	7.5	1.8	2.8	0.9	16.6	2.4	4.2
20 - 29	109.0	17.5	23.8	11.2	17.7	2.2	120.2	17.5	12.5
30 - 39	161.5	25.9	28.1	10.8	17.0	1.8	172.2	25.1	14.8
40 - 49	136.3	21.8	34.1	3.6	5.7	1.0	139.9	20.4	18.6
50 - 59	92.4	14.8	34.8	6.7	10.7	3.1	99.1	14.4	20.7
≥ 60	109.9	17.6	27.5	29.2	46.1	6.4	139.0	20.2	16.3
Overall	623.8	100.0 (90.8)	27.2	63.2	100.0 (9.2)	2.7	687.1	100.0 (100.0)	14.9

Jan 1996 enquiry

Age group	Male			Female			Overall		
	No. ('000)	%	Rate*	No. ('000)	%	Rate*	No. ('000)	%	Rate*
15 - 19	14.1	2.1	5.9	2.4	3.1	1.3	16.5	2.2	3.8
20 - 29	99.7	15.1	23.0	22.0	27.5	4.1	121.7	16.4	12.5
30 - 39	173.6	26.3	29.0	15.9	19.8	2.5	189.5	25.6	15.2
40 - 49	148.6	22.5	30.0	11.0	13.7	2.4	159.6	21.6	16.8
50 - 59	99.7	15.1	35.3	9.8	12.2	4.1	109.4	14.8	20.9
≥ 60	124.7	18.9	29.7	19.0	23.7	4.0	143.7	19.4	16.1
Overall	660.3	100.0 (89.2)	26.7	80.1	100.0 (10.8)	3.1	740.4	100.0 (100.0)	14.8

* As a percentage of all persons aged 15 or over in the respective age and sex sub-group.

Note: Figures in brackets represent the proportion to all daily smokers.

Source: General Household Survey, Census and Statistics Department

Smoking Statistics : Daily Smokers

Age Group : 15 -19

<u>Year</u>	<u>Male (%)</u>	<u>Female (%)</u>	<u>Both sexes</u>
1982	7.9	0.4	4.2
1983	6.3	0.3	3.4
1984	4.6	NA	2.3
1986	7.3	0.5	4.0
1988	5.5	1.3	3.4
1990	7.8	1.1	4.6
1993	7.5	0.9	4.2
1996	5.9	1.3	3.8

NA-Not available

Source : General Household Survey, Census and Statistics Department

[smoke/figure]

End

Major renovation and improvement works in QE and QM

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

Question:

Regarding the renovation and improvement works undertaken in Queen Elizabeth Hospital and Queen Mary Hospital since 1992, is the Government aware of:

- (a) the total financial provision earmarked for the renovation and improvement works in Queen Elizabeth Hospital (inclusive of donations from the Hong Kong Jockey Club) and the amount spent so far; and
- (b) the total financial provision earmarked for the renovation and improvement works in Queen Mary Hospital and the amount spent so far?

Reply:

The total approved project estimates and cumulative expenditure of major renovation and improvement works undertaken in Queen Elizabeth Hospital since 1992 are as follows -

Project Title	Approved Project Estimate (\$million)	Date of Finance Committee Approval	Cumulative Expenditure as at 30.10.1996 (\$ million)
*Block B Extension Phase II - Air Conditioning to Existing Wards	316.0	21.2.1992	300.2
Refurbishment and Improvement to Blocks A, C, E, G & H	432.0	21.2.1992	353.0
Redevelopment of Specialist Out-Patient Clinic	238.0	17.6.1994	136.9
Redevelopment of the Operating Theatre Block and Rehabilitation Block	671.3	12.1.1996	7.8
Hong Kong Jockey Club Institute of Radiotherapy and Oncology	350.0	N/A	201.5

The total approved project estimates and cumulative expenditure of major renovation and improvement works undertaken in Queen Mary Hospital since 1992 are as follows -

Project Title	Approved Project Estimate (\$million)	Date of Finance Committee Approval	Cumulative Expenditure as at 30.10.1996 (\$ million)
Reprovisioning of the Sai Ying Pun Specialist Out-patient Clinic	377.5	5.7.1996	-
Radiotherapy Department Extension	113.6	8.3.1996	4.5

- * A total of \$255 million at July 1986 prices was approved by the Finance Committee on 23.7.1986. The approved project estimate was subsequently revised to \$316 million at November 1991 prices by the Finance Committee on 21.2.1992.

End

Chairman of SFC

Following is a question 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:

Will the Government inform this Council of -

- (a) the expiry dates of the agreements of the current chairman and deputy chairman of the Securities and Futures Commission (SFC);
- (b) the criteria adopted by the authority concerned for determining whether the agreements of the current chairman and deputy chairman of the SFC will be renewed; and
- (c) whether the authority concerned has considered selecting the chairman and deputy chairman of the SFC through open recruitment?

Reply:

- (a) The agreement of the current Chairman of the Securities and Futures Commission (SFC) will expire on June 30, 1997. The Deputy Chairman's agreement expires on December 31, 1996 and it has been agreed that it be extended for one year.
- (b) In considering whether the agreements of the Chairman and Deputy Chairman, and for that matter, those of all executive directors should be extended, the Administration will have regard to the need for continuity of senior staff at a particular point in time, as well as the suitability and the wish of the persons concerned to continue their service with the SFC.
- (c) Open recruitment procedures have been, and will continue to be used when appropriate. In the case of the current Deputy Chairman, a decision was taken to extend his agreement by one year.

End

Cases of police officers framing innocent persons

* * * * *

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

Question:

Will the Government inform this Council:

- (a) of the number of complaints received by the Police in each of the past three years concerning police officers framing innocent persons, together with a breakdown of such cases by category relating to false accusations of "possession of dangerous drugs", "obstructing a police officer in the due execution of his duty", "robbery", "wounding" and "assaulting a police officer", as well as the number of complaints alleging police officers taking fingerprints by force to fabricate evidence for the purpose of bringing about a conviction; the number of complaints found to be substantiated in each category and the punishment imposed on the police officers concerned;

- (b) in regard to those complaints which have been found to be substantiated, of the reasons why police officers have framed innocent persons; and
- (c) of the mechanism in place within the Police Force to prevent the occurrence of cases of police officers framing innocent persons?

Reply:

Mr President,

- (a) (i) Detailed breakdown on complaints received alleging Police officers framing innocent persons in each of the past three years is at Annex. The Police do not keep separate statistics on complaints alleging taking fingerprints by force to fabricate evidence. They keep statistics on such complaints according to the offences arising from the alleged fabricated evidence. As such, the figures at Annex have already included cases, if any, related to taking fingerprints by force.
- (ii) For cases substantiated in 1993, 4 officers were convicted with imprisonment ranging from 3 to 7 months. 5 others were disciplined with 1 receiving caution and 4 interviewed by their senior officers with an entry of the incident in their record of service. Disciplinary proceedings against the 10 officers under the category of "obstructing / assaulting a police officer" are in progress.
- (iii) For cases substantiated in 1994, 1 officer was disciplined with "severe reprimand" and barred from promotion for two years. The other officer is under interdiction in connection with another criminal trial. As such, disciplinary action against that officer will be taken after the conclusion of his criminal trial.

(b) The reasons behind the 6 substantiated cases at Annex are as follows:

Year/ Nature of Cases	Reasons for framing
1993 "Others"	A traffic warden wrongly issued 8 fixed penalty tickets and fabricated evidence when the mistake was discovered. He was disciplined with a "caution".
"Others"	4 police officers were accused of stealing property from an illegal immigrant. During the investigation, the 4 officers gave false information regarding the circumstances under which the illegal immigrant was arrested. They were interviewed by senior officers with an entry into their record of service.
"Obstructing/ assaulting a police officer" (2 cases)	4 police officers were convicted of unlawfully assaulting 5 persons during a stop and search action with imprisonment ranging from 3 to 7 months. These officers together with another 10 officers attending the scene fabricated evidence afterwards to support the arrest. Disciplinary action against the 10 officers are in progress.
1994 "Obstructing/ assaulting a police officer"	An off duty police officer involved in a traffic accident falsely accused the driver of another vehicle of assault. Disciplinary action against the officer will be taken after the completion of his criminal trial in connection with another case.
"Others"	A police officer summonsed a shop owner for "Articles Obstruction" when the owner was away from Hong Kong. The officer was disciplined with "severe reprimand".

(c) The following mechanism is in place to prevent the occurrence of cases of police officers framing innocent persons -

- (i) enhancing the quality of police officers through careful recruitment and training;
- (ii) inculcating a high standard of ethics and values among police officers through different channels;

- (iii) examination of all evidence to be presented before the Court for prosecution of all criminal cases by officers of or above the rank of inspector in order to determine their reliability and cogency;
- (iv) taking a serious view on police officers framing innocent persons and instituting criminal/disciplinary action against officers concerned by the Police Force senior management; and
- (v) enhancing the existing complaint system comprising the Complaints Against Police Office with oversight by the Independent Police Complaints Council to ensure that any complaint against police officers , including fabrication of evidence, will be thoroughly investigated.

Statistics on Complaints of Fabrication of Evidence

	<u>1993</u>			<u>1994</u>			<u>1995</u>		
	No. of Cases Received	No. of Cases Substantiated	No. of Officers Convicted/ Disciplined	No. of Cases Received	No. of Cases Substantiated	No. of Officers Convicted/ Disciplined	No. of Cases Received	No. of Cases Substantiated	No. of Officers Convicted/ Disciplined
Possession of Dangerous Drugs	97	0	0/0	77	0	0/0	100	0	0
Obstructing/ Assaulting a Police Officer	40	2	4/10	45	1	0/1	20	0	0
Robbery	10	0	0/0	8	0	0/0	8	0	0
Wounding	12	0	0/0	16	0	0/0	9	0	0
Others	133	2	0/5	133	1	0/1	126	0	0
Total	292	4	4/15	279	2	0/2	272	0	0

Sentences under Her Majesty's pleasure

* * * * *

Following is a question by the Hon Leung Yiu-chung and a written reply by the Secretary for Security, Mr Peter Lai, in the Legislative Council today (Wednesday):

Question:

It is learnt that section 70 of the Criminal Procedure Ordinance, under which the court could order a young offender who was under 18 when the offence was committed to be detained until Her Majesty's pleasure shall be known, was repealed in 1993. At present, there are still such prisoners being detained pending the Governor's decision on their sentences, and some of them have already been detained for 10 years or more. The Board of Review on Long Term Prison Sentences (the Board) now reviews such cases once every year, and after the prisoners concerned have reached the age of 21, the cases are reviewed once every two years, so that recommendations may be made to the Governor regarding the remission of the sentences of the prisoners concerned. In this connection, will the Government inform this Council:

- (a) whether the prisoners concerned and their families will be advised of the outcome of the Board's review and the reasons for the Board's recommendations; if not, what the reasons are;
- (b) of the appeal channels open to the prisoners concerned if they are dissatisfied with the outcome of the Board's review;
- (c) given that such prisoners are not allowed to apply for parole as their sentences have yet to be determined, whether the Government has considered if the existing arrangement of detaining such prisoners pending the Governor's decision on their sentences has deprived the rights of such prisoners, and if such prisoners may suffer greater mental stress than other prisoners; and
- (d) whether there is a minimum length of sentence imposed on such prisoners and whether the Government will consider setting a deadline (e.g. within one year after the prisoner reaches the age of 21) for determining the length of sentence for such prisoners, so as to ensure that these prisoners will not have to serve sentences longer than those served by adult prisoners committing the same offences?

Reply:

Mr President,

- (a) The results of reviews by the Board of Review, Long Term Prison Sentences (the Board) are conveyed to the prisoners concerned by the Prison Superintendent or his representative, and to the prisoners' families upon request. The Board does not disclose any information on its decision-making process, i.e. deciding whether to recommend to the Governor the exercise of the prerogative of mercy.
- (b) Prisoners who are dissatisfied with the outcome of their reviews may make representations to the Governor.
- (c) The existing arrangement does not deprive prisoners serving sentences under Her Majesty's pleasure their right of receiving regular reviews of their sentences by the Board. The Board reviews each of these cases every year until the prisoner has reached the age of 21, and thereafter every two years. If the prisoner's sentence is changed to a determinate one on the recommendation of the Board, he will be eligible for consideration for release under supervision in accordance with the provisions of the Prisoners (Release Under Supervision) Ordinance or the Post-Release Supervision of Prisoners Ordinance. At present, we are preparing legislation to establish a statutory Board of Review, Long Term Prison Sentences, and one of the proposals under consideration is to allow an appropriate tariff period to be determined in each of these prisoners' cases, and to enable the new Board to consider their suitability for release after the prisoners have served their tariff periods.
- (d) Sentences under Her Majesty's pleasure are not subject to a minimum length because they are indeterminate sentences. The actual length of sentence served will depend on, among other things, the length of the determinate sentence if recommended by the Board and granted by the Governor. The Board considers each case on its merits.

End