

Index Page

Replies to initial written questions raised by Legislative Council Members in examining the Estimates of Expenditure 2022-23

Director of Bureau : Director of Administration

Session No. : 6

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Reply Serial No.	Question Serial No.	Name of Member	Head	Programme
CSO001	0868	CHAN Hok-fung	142	(1) Policy Innovation and Coordination Office
CSO002	0180	CHAN Kapui, Judy	142	(1) Policy Innovation and Coordination Office
CSO003	0225	CHOW Man-kong	142	-
CSO004	0619	LAM Shun-chiu, Dennis	142	-
CSO005	0593	LEE Hoey Simon	142	-
CSO006	0516	LEE Wai-king, Starry	142	(1) Policy Innovation and Coordination Office
CSO007	0792	LEE Wai-king, Starry	142	-
CSO008	0334	MA Fung-kwok	142	(2) Government Records Service
CSO009	0445	MAK Mei-kuen, Alice	142	-
CSO010	0049	NG Wing-ka, Jimmy	142	(1) Policy Innovation and Coordination Office
CSO011	0777	SO Cheung-wing	142	-
CSO012	0465	TIEN Puk-sun, Michael	142	-
CSO013	0444	YIM Kong	142	-
CSO014	0869	CHOW Ho-ding, Holden	94	-
CSO015	0064	QUAT Elizabeth	94	(1) Processing of Legal Aid Applications

CONTROLLING OFFICER'S REPLY

CSO001

(Question Serial No. 0868)

Head: (142) Government Secretariat: Offices of the Chief Secretary for Administration and the Financial Secretary

Subhead (No. & title): (000) Operational Expenses

Programme: (1) Policy Innovation and Co-ordination Office

Controlling Officer: Director of Administration (Daniel CHENG)

Director of Bureau: Director of Administration

Question:

It is mentioned in the estimate for the Offices of the Chief Secretary for Administration and the Financial Secretary (Head 142) for the coming year that the Policy Innovation and Co-ordination Office will assist the Chief Executive in reviewing the organisation of government business at the policy bureau level with a view to drawing up a detailed re-organisation proposal in the second quarter of 2022. Will the re-organisation of the Steering Committee on Land Supply be included in the proposal? If yes, will the Development Bureau earmark a provision for processing the proposal in the coming year?

Asked by: Hon CHAN Hok-fung (LegCo internal reference no.: 4)

Reply:

The re-organisation proposal submitted by the current-term Government to the Legislative Council in January this year mainly involves organisational changes at the policy bureau level and rationalisation of the distribution of policy functions among bureaux. The proposal did not recommend the re-organisation of the Steering Committee on Land Supply. The current-term Government will submit the proposal, together with Members' views expressed in the Panels and the motion debate on the 2021 Policy Address, to the Chief Executive-elect for consideration after the Chief Executive Election on 8 May this year, so that he/she may decide on the final re-organisation proposal and the relevant resources required.

- End -

CONTROLLING OFFICER'S REPLY**CSO002****(Question Serial No. 0180)**

Head: (142) Government Secretariat: Offices of the Chief Secretary for Administration and the Financial Secretary

Subhead (No. & title): (000) Operational expenses

Programme: (1) Policy Innovation and Co-ordination Office

Controlling Officer: Director of Administration (Daniel CHENG)

Director of Bureau: Director of Administration

Question:

The aim of the Policy Innovation and Co-ordination Office (PICO), which was established in 2018, is to conduct policy research and enhance policy innovation. In this connection, would the Government inform this Committee of the following:

1. the details of the establishment and salary band of civil servants of PICO in each financial year since its establishment?
2. the overall situation of contract staff of PICO in each financial year since its establishment? Please set out the details in the following tables:

	2018-19			
Contract Position	Number of recruits	Number of wastage	Pay range of position	Total payroll cost of position
Senior Policy and Project Co-ordination Officer				
Policy and Project Co-ordination Officer				
Systems Analyst				
General Clerk				

	2019-20			
Contract Position	Number of recruits	Number of wastage	Pay range of position	Total payroll cost of position
Senior Policy and Project Co-ordination Officer				
Policy and Project Co-ordination Officer				
Systems Analyst				
General Clerk				

	2020-21			
Contract Position	Number of recruits	Number of wastage	Pay range of position	Total payroll cost of position
Senior Policy and Project Co-ordination Officer				
Policy and Project Co-ordination Officer				
Systems Analyst				
General Clerk				

	2021-22			
Contract Position	Number of recruits	Number of wastage	Pay range of position	Total payroll cost of position
Senior Policy and Project Co-ordination Officer				
Policy and Project Co-ordination Officer				
Systems Analyst				
General Clerk				

Asked by: Hon CHAN Kapui, Judy (LegCo internal reference no.: 6)

Reply:

- The details of the establishment and salary band of civil servants in the Policy Innovation and Co-ordination Office (PICO) for the past 4 financial years are as follows:

Rank	Number (2018-19)	Number (2019-20)	Number (2020-21)	Number (2021-22)	Salary Point
Administrative Officer Staff Grade A1	1	1	1 [Note 1]	1 [Note 1]	Directorate Pay Scale Point 8
Administrative Officer Staff Grade B1	1	1	1	1	Directorate Pay Scale Point 4
Administrative Officer Staff Grade B	2	2	2	2	Directorate Pay Scale Point 3
Administrative Officer Staff Grade C/Principal Economist	4	4	4	4	Directorate Pay Scale Point 2
Directorate Civil Servants	8	8	8	8	
Senior Administrative Officer/ Senior Statistician/ Senior Economist/ Senior Town Planner/ Chief Executive Officer	9	9	10	10	Master Pay Scale Points 45-49
Senior Executive Officer/ Senior Information Officer/ Executive Officer I/ Statistical Officer I	7	7	8	9	Master Pay Scale Points 22-44

Rank	Number (2018-19)	Number (2019-20)	Number (2020-21)	Number (2021-22)	Salary Point
Clerical and Secretarial Grades Staff/Chauffeur/Motor Driver	22	23	23	22	Master Pay Scale Points 1-33
Non-Directorate Civil Servants	38	39	41	41	
Total Civil Service Establishment	46	47	49	49	

[Note 1] The Director of Administration, under delegated authority, has created 1 supernumerary post of Administrative Officer Staff Grade A for the incumbent to take up the post of Head/PICO. During this period, the supernumerary post concerned was created by holding against a temporarily vacant permanent post of Administrative Officer Staff Grade A1.

- The overall situation of non-civil service contract staff in PICO for the past 4 financial years is set out in the following tables:

	2018-19			
Contract Position	Number of recruits [Note 2]	Number of wastage	Pay range of position	Total payroll cost of position [Note 3]
Senior Policy and Project Co-ordination Officer	4	0	Ranges from \$60,000 to \$95,000	\$2.9 million
Policy and Project Co-ordination Officer	14	1	Ranges from \$30,000 to \$48,000	\$4.8 million
Systems Analyst	1	0	Comparable to Analyst/Programmer II (Master Pay Scale Points 16-27)	\$0.6 million
General Clerk	0	0	Comparable to Assistant Clerical Officer (Master Pay Scale Points 3-15)	-

	2019-20			
Contract Position	Number of recruits [Note 2]	Number of wastage	Pay range of position	Total payroll cost of position [Note 3]
Senior Policy and Project Co-ordination Officer	4	2	Ranges from \$60,000 to \$95,000	\$2.7 million
Policy and Project Co-ordination Officer	13	4	Ranges from \$30,000 to \$48,000	\$4.9 million
Systems Analyst	1	0	Comparable to Analyst/Programmer II (Master Pay Scale Points 16-27)	\$0.8 million
General Clerk	3	0	Comparable to Assistant Clerical Officer (Master Pay Scale Points 3-15)	\$0.5 million

	2020-21			
Contract Position	Number of recruits [Note 2]	Number of wastage	Pay range of position	Total payroll cost of position [Note 3]
Senior Policy and Project Co-ordination Officer	2	0	Ranges from \$60,000 to \$95,000	\$2.1 million
Policy and Project Co-ordination Officer	9	3	Ranges from \$30,000 to \$48,000	\$3.2 million
Systems Analyst	1	0	Comparable to Analyst/Programmer II (Master Pay Scale Points 16-27)	\$0.7 million
General Clerk	3	0	Comparable to Assistant Clerical Officer (Master Pay Scale Points 3-15)	\$0.6 million

	2021-22			
Contract Position	Number of recruits [Note 2]	Number of wastage	Pay range of position	Total payroll cost of position [Note 3]
Senior Policy and Project Co-ordination Officer	2	0	Ranges from \$60,000 to \$95,000	\$2.9 million
Policy and Project Co-ordination Officer	6	2	Ranges from \$30,000 to \$48,000	\$3.4 million
Systems Analyst	1	0	Comparable to Analyst/Programmer II (Master Pay Scale Points 16-27)	\$0.8 million
General Clerk	3	1	Comparable to Assistant Clerical Officer (Master Pay Scale Points 3-15)	\$0.5 million

[Note 2] The number of recruits means the total number of staff employed in that particular financial year.

[Note 3] The total payroll cost of position includes the remuneration and relevant expenditure, rounded to the nearest \$0.1 million.

- End -

CONTROLLING OFFICER'S REPLY

CSO003

(Question Serial No. 0225)

Head: (142) Government Secretariat: Offices of the Chief Secretary for Administration and the Financial Secretary

Subhead (No. & title): (-) Not Specified

Programme: (-) Not Specified

Controlling Officer: Director of Administration (Daniel CHENG)

Director of Bureau: Director of Administration

Question:

It is mentioned in the Budget that the Government will expeditiously introduce new legislation to prohibit landlords from terminating the tenancy of or not providing services to tenants of specified sectors for failing to settle rents on schedule, or taking relevant legal actions against them. The relief will be valid for 3 months and, if necessary, be extended one more time for the same duration, with the legislation automatically lapsing after 6 months. As the initiative concerned is unprecedented and has aroused public concern, please advise on the following:

1. What is the legal basis for this policy proposal? What will be the justifications in response to legal challenges?
2. Whether the policy proposal will also exert greater financial pressure on both landlords and tenants in the medium to long run?
3. Whether the Government will consider, in collaboration with banks, introducing relevant rent loan programmes by extending repayment in the form of instalments over a period of 2 to 3 years to replace the above proposal?

Asked by: Hon CHOW Man-kong (LegCo internal reference no.: 2)

Reply:

It was proposed in the 2022-23 Budget that the Government would introduce new legislation on rental enforcement moratorium for tenants of specified sectors. The relevant Bill (i.e. the Temporary Protection Measures for Business Tenants (COVID-19 Pandemic) Bill) was published in the Gazette on 18 March and introduced into the Legislative Council (LegCo) for the First Reading and the Second Reading on 23 March. As we have explained in the brief to the LegCo, the Government has sought the advice of the Department of Justice and has taken full account of the relevant legal justifications when formulating the measures, so as to ensure that the Bill is in conformity with the Basic Law, including the provisions concerning human rights. If there are any legal challenges, we will respond with strong justifications.

As we have reiterated before, the main purpose of the legislative proposal is to provide tenants of specified sectors in trouble with a much-needed breathing space so that they will not be forced out of business for failing to settle rents on schedule, while giving landlords and tenants room and an opportunity to work out a mutually agreeable rental arrangement in the interim through negotiation. Thus, the Bill provides that once new rental agreements are reached between landlords and tenants during the protection period, the rental enforcement moratorium would cease to apply in relation to the tenancies concerned. Even if they fail to reach an agreement, as the protection period will only be 3 months, landlords usually hold tenants' deposits and some tenants have been required to provide personal guarantee, the financial risks posed to landlords by tenants' failure to pay rents can be reduced. The arrangement can ease the cash-flow pressure of tenants during the protection period so that their financial pressure will not be aggravated.

To enhance the liquidity support for enterprises, it is also proposed in the Budget that the application period of all guarantee products under the SME Financing Guarantee Scheme (SFGS) be extended to the end of June 2023, and the Special 100% Loan Guarantee under the SFGS be further enhanced by (1) increasing the maximum loan amount per enterprise from the total amount of employee wages and rents for 18 months to that for 27 months with the loan ceiling raised from \$6 million to \$9 million; and (2) extending the maximum repayment period from 8 years to 10 years. It is believed that this initiative, together with the rental enforcement moratorium, will help tide businesses, in particular small and medium enterprises, over short-term cash flow problems arising from the pandemic.

- End -

CONTROLLING OFFICER'S REPLY

CSO004

(Question Serial No. 0619)

Head: (142) Government Secretariat: Offices of the Chief Secretary for Administration and the Financial Secretary

Subhead (No. & title): (-) Not Specified

Programme: (-) Not Specified

Controlling Officer: Director of Administration (Daniel CHENG)

Director of Bureau: Director of Administration

Question:

It is mentioned in the Budget Speech that the Government will “introduce new legislation to prohibit landlords from terminating the tenancy of or not providing services to tenants of specified sectors for failing to settle rents on schedule, or taking relevant legal actions against them. The relief will be valid for three months and, if necessary, be extended one more time for the same duration”. Although the policy intent is to relieve the rental pressure of small and medium enterprises, landlords still have to repay bank loans. This measure will have greater impact on small landlords. In this connection, will the Government inform this Committee whether it has considered other options, such as the possibility of providing tax incentive to encourage landlords to reduce rents? If yes, what are the details? If not, what are the reasons?

Asked by: Hon LAM Shun-chiu, Dennis (LegCo internal reference no.: 3)

Reply:

It was proposed in the 2022-23 Budget that the Government would introduce new legislation on rental enforcement moratorium for tenants of specified sectors. The relevant Bill (i.e. the Temporary Protection Measures for Business Tenants (COVID-19 Pandemic) Bill) was published in the Gazette on 18 March and introduced into the Legislative Council for the First Reading and the Second Reading on 23 March.

To relieve the short-term liquidity difficulties arising from the rental enforcement moratorium that may be faced by some landlord-borrowers, the Bill proposes a moratorium to bar lenders from taking actions in respect of the landlord-borrowers' failure to make related secured loan repayments against the landlord-borrowers, guarantors and sureties concerned, which include suing for the amount in default, letting or selling the specified premises, etc. The Hong Kong Monetary Authority (HKMA) will assume the oversight responsibility for the implementation of the moratorium. At the same time, HKMA has also been in close communication with the banking sector and will provide guidelines for banks on how to exercise flexibility if the repayment ability of any landlord is affected owing to reduction in

rental income, and how to provide appropriate assistance to the landlord-borrower in question through schemes such as the Pre-approved Principal Payment Holiday Scheme. In addition, considering the fact that the proposed legislation may create short-term financial pressure on individual landlords who live off rental income from the specified business premises they hold, we will provide them with an interest-free loan equivalent to 3-month rent in advance under the 100% Personal Loan Guarantee Scheme, subject to a ceiling of \$100,000.

As we have reiterated before, the main purpose of the legislative proposal is to provide tenants of specified sectors in trouble with a much-needed breathing space so that they will not be forced out of business for failing to settle rents on schedule, while giving landlords and tenants room and an opportunity to work out a mutually agreeable rental arrangement in the interim through negotiation. Thus, the Bill provides that once new rental agreements are reached between landlords and tenants during the protection period, the rental enforcement moratorium would cease to apply in relation to the tenancies concerned.

We understand there are suggestions in the community that the Government should use public money to subsidise merchants in paying their rents. However, having regard to the Government's financial position as well as our society and economy which have been hard-hit by the epidemic and many people are still in desperate need of the Government's assistance, it may not be appropriate to use public money to subsidise the rental income of commercial landlords. As for providing incentives through tax relief to encourage landlords to cut rents, not only is it complicated from an administrative point of view, it is also difficult to monitor in actual practice. Therefore, after consideration, we did not accept these suggestions. As a matter of fact, we noted that since the announcement of the rental enforcement moratorium, a number of small merchants have found their landlords more willing to discuss the possibility of a rent cut. In response to the Government's appeal, certain developers have also waived rents until mid-April for tenants required to be closed under the anti-epidemic measures. We hope that more well-off developers and landlords will take up their social responsibilities and support small and medium enterprises, such that in the spirit of mutual understanding and accommodation, a rent restructuring solution that is both acceptable to the landlord and affordable to the tenant can be reached through negotiation.

- End -

CONTROLLING OFFICER'S REPLY

CSO005

(Question Serial No. 0593)

Head: (142) Government Secretariat: Offices of the Chief Secretary for Administration and the Financial Secretary

Subhead (No. & title): (-) Not Specified

Programme: (-) Not Specified

Controlling Officer: Director of Administration (Daniel CHENG)

Director of Bureau: Director of Administration

Question:

It is mentioned in paragraph 117 of the Budget Speech that in order to alleviate the operating difficulties faced by small and medium-sized enterprises amid the epidemic, the Government will introduce new legislation to prohibit landlords from recovering rent arrears from them. The relief will be valid for 3 months initially and, if necessary, be extended one more time for the same duration. However, a few days after the announcement of the proposal, the Government revised its line and said that it intended to provide elderly owners relying on rental income to earn a living with lending relating to the rents subject to a ceiling of \$100,000 and introduce legislation in parallel to prohibit mortgage banks from recovering mortgage instalments from landlords during the said relief period. In this connection, will the Government inform this Committee of the following:

1. as far as protection of private properties is concerned, whether there is any difference between the leasing of residential units relating to people's livelihood and leasing of commercial premises by enterprises;
2. in considering introducing legislation to prohibit landlords from recovering rent arrears from tenants, whether the Government has considered if such prohibition will deprive owners of properties of their rights to reasonably use or dispose of properties, and whether it has taken into full account the legal principles of the Yook Tong Electric Company Limited v Commissioner for Transport case;
3. what does the Government mean by the so-called lending? Do landlords still have to repay the lending if they cannot recover the rent arrears?
4. whether the Government will consider setting up a reimbursement or subsidy fund to compensate landlords affected by the legislation, including the interests on the amount of overdue rent and the portion of total rent arrears that the tenants fail to repay in the end? If so, what are the details; if not, what are the reasons;
5. regarding the Financial Secretary's remark that "the United Kingdom, Australia and Singapore also have similar legislations or measures in place", will the Government give a broad outline of the relevant legislations or measures of the above places, and briefly coordinate and compare the relevant information in terms of procedures and legal bases; and

6. apart from the above places, whether the Government can list other common law jurisdictions with similar legislations or measures in place amid the COVID-19 pandemic?

Asked by: Hon LEE Hoey Simon (LegCo internal reference no.: 1)

Reply:

It was proposed in the 2022-23 Budget that the Government would introduce new legislation on rental enforcement moratorium for tenants of specified sectors. The relevant Bill (i.e. the Temporary Protection Measures for Business Tenants (COVID-19 Pandemic) Bill) was published in the Gazette on 18 March and introduced into the Legislative Council (LegCo) for the First Reading and the Second Reading on 23 March.

Our reply to the various parts of the question is as follows:

- (1) and (2) As we have explained in the brief to the LegCo, the Government has sought the advice of the Department of Justice and has taken full account of the relevant legal justifications when formulating the measures, so as to ensure that the Bill is in conformity with the Basic Law, including the provisions concerning human rights. If there are any legal challenges, we will respond with strong justifications.
- (3) Regarding interest-free rental advancement, it concerns with individual landlords who live off rental income from specified business premises they hold. As they are barred from taking certain specified actions during the protection period for outstanding rental, the Government will provide them with an interest-free loan equivalent to 3-month rent in advance under the 100% Personal Loan Guarantee Scheme, subject to a ceiling of \$100,000. The loan has to be repaid in instalments based on the terms of the Scheme.
- (4) As we have reiterated before, the main purpose of the legislative proposal is to provide tenants of specified sectors in trouble with a much-needed breathing space so that they will not be forced out of business for failing to settle rents on schedule, while giving landlords and tenants room and an opportunity to work out a mutually agreeable rental arrangement in the interim through negotiation. Thus, the Bill provides that once new rental agreements are reached between landlords and tenants during the protection period, the rental enforcement moratorium ceases to apply in relation to the tenancies concerned. Even if they fail to reach an agreement, as the protection period will only be 3 months, landlords usually hold tenants' deposits and some tenants have been required to provide personal guarantee, the financial risks posed to landlords by tenants' failure to pay rents can be reduced. After expiry of the protection period, landlords may exercise their legal rights to recover from tenants and their guarantors or sureties the rents and the interest or surcharge on the rents that the tenants fail to pay. Moreover, the arrangement is not applicable to the rents that tenants of specified sectors fail to pay before 1 January 2022. Landlords can still take actions to recover such rent arrears in accordance with the law.

To relieve the short-term liquidity difficulties arising from the rental enforcement

moratorium that may be faced by some landlord-borrowers, the Bill proposed a moratorium to bar lenders from taking actions in respect of the landlord-borrowers' failure to make related secured loan repayments against the landlord-borrowers, guarantors and sureties concerned, which include suing for the amount in default, letting or selling the specified premises, etc. The Hong Kong Monetary Authority (HKMA) will assume the oversight responsibility for the implementation of the moratorium. On the other hand, the HKMA has also been in close communication with the banking sector and will provide guidelines for banks on how to exercise flexibility if the repayment ability of any landlord is affected owing to reduction in rental income, and how to provide appropriate assistance to the landlord-borrower in question through schemes such as the Pre-approved Principal Payment Holiday Scheme. In addition, landlords in need may also be provided with the interest-free loan mentioned in part (3) above.

- (5) and (6) We have made reference to the practices of other jurisdictions before introducing the legislative proposal. In fact, imposing a rental enforcement moratorium for business tenants of specified sectors is not something novel. Countries such as the United Kingdom, Singapore and Australia have rolled out measures of a similar nature, but even wider in scope and more stringent amid the extremely serious epidemic situation. As for the local legislation work, we have been listening to the views of various sectors and major stakeholders since putting forward the proposal. Having considered the views gathered, we have made 5 improvements to refine the original proposal. The Bill has been formulated taking the local epidemic situation and local circumstances into consideration. It has struck a right balance between offering business tenants of specified sectors the needed protection and addressing the reasonable concerns of affected landlords.

We will provide more information on the practices of other jurisdictions for Members' reference during the Bills Committee's consideration of the Bill.

- End -

CONTROLLING OFFICER'S REPLY

CSO006

(Question Serial No. 0516)

Head: (142) Government Secretariat: Offices of the Chief Secretary for Administration and the Financial Secretary

Subhead (No. & title): (000) Operational expenses

Programme: (1) Policy Innovation and Co-ordination Office

Controlling Officer: Director of Administration (Daniel CHENG)

Director of Bureau: Director of Administration

Question:

This January, the Chief Executive proposed to re-organise the Government structure such that the number of policy bureaux will increase from 13 to 15. Nine policy bureaux will be put under the supervision of the Chief Secretary for Administration, while the Financial Secretary will oversee the remaining six. The proposal will be submitted for the Chief Executive-elect's consideration. Will the Government inform this Committee the progress of working out the detailed re-organisation proposal? What is the timetable? As the Chief Executive Election has to be postponed due to the epidemic, preparation of the next-term Government will have to be completed within a short time. Has the Government set aside sufficient resources for immediate use by the next-term Government if it accepts the re-organisation proposal? If so, what are the details? If no, what are the reasons?

Asked by: Hon LEE Wai-king, Starry (LegCo internal reference no.: 8)

Reply:

The current-term Government will relay the government re-organisation proposal, which was submitted to the Legislative Council (LegCo) in January this year, together with Members' views expressed in the Panels and the motion debate on the 2021 Policy Address, to the Chief Executive-elect for consideration after the Chief Executive Election on 8 May this year. The total staff costs and other expenditures of the offices of the directors of the two new policy bureaux are estimated to be about \$32 million per year. However, the actual resource requirements can only be determined after the Chief Executive-elect has decided on the final re-organisation proposal. The current-term Government will give full support to the exercise by setting aside sufficient resources to meet the relevant expenses, and submitting the proposal, as well as the requisite legislative amendments, staffing and financial proposals to the LegCo as soon as possible, to enable the new government structure to come into operation on 1 July this year.

- End -

CONTROLLING OFFICER'S REPLY

CSO007

(Question Serial No. 0792)

Head: (142) Government Secretariat: Offices of the Chief Secretary for Administration and the Financial Secretary

Subhead (No. & title): (-) Not Specified

Programme: (-) Not Specified

Controlling Officer: Director of Administration (Daniel CHENG)

Director of Bureau: Director of Administration

Question:

Following the rental enforcement moratorium initiative to be introduced for tenants of specific sectors through legislation as mentioned in paragraph 117 of the Budget Speech, the Financial Secretary has put forward a number of supporting measures to ensure the smooth implementation of the rental enforcement moratorium arrangement: (1) deferred payment of rates can be arranged for properties affected by the above initiative; (2) the legislation will stipulate that if owners fail to repay their mortgage on schedule as a result of their rental income being affected by the above initiative, a moratorium on repayment to banks can also be offered to these owners; (3) for elderly owners relying on the rental income from a single business property to earn a living, the Government will pay up to a 3-month rent in advance, subject to a ceiling of \$100,000. Will the Government inform this Committee:

1. whether it has made reference to other countries and regions with similar measures in place; if yes, whether they have concurrently introduced other supporting measures; and of the details;
2. whether it has assessed the amount of deferred payment of rates; and of the details;
3. whether it has assessed the amount to be borne for its advance payment; and of the details?

Asked by: Hon LEE Wai-king, Starry (LegCo internal reference no.: 6)

Reply:

It was proposed in the 2022-23 Budget that the Government would introduce new legislation on rental enforcement moratorium for tenants of specified sectors. The relevant Bill (i.e. the Temporary Protection Measures for Business Tenants (COVID-19 Pandemic) Bill) was published in the Gazette on 18 March and introduced into the Legislative Council for the First Reading and the Second Reading on 23 March.

We have made reference to the practices of other jurisdictions before introducing the legislative proposal. In fact, imposing a rental enforcement moratorium for business tenants of specified sectors is not something novel. Countries such as the United Kingdom,

Singapore and Australia have rolled out measures of a similar nature, but even wider in scope and more stringent amid the extremely serious epidemic situation. As for the local legislation work, we have been listening to the views of various sectors and major stakeholders since putting forward the proposal. Having considered the views gathered, we have made 5 improvements to refine the original proposal. The Bill has been formulated taking the local epidemic situation and local circumstances into consideration. It has struck a right balance between offering business tenants of specified sectors the needed protection and addressing the reasonable concerns of affected landlords.

As regards the measure of deferred payment of rates and Government rents, upon request by affected landlords or tenants under the rental enforcement moratorium arrangement, payment of rates and Government rents will be deferred, free of surcharge or interest. To date, it is estimated that more than 100 000 premises are involved. In the absence of their detailed addresses and as business conditions may vary for individuals, it is difficult to estimate the amount of deferred payment of rates and Government rates involved. The loss of public revenue is, however, expected to be insignificant. As for the interest-free loan equivalent to 3-month rent in advance provided by the Government to individual landlords in need under the 100% Personal Loan Guarantee Scheme, the loan if taken up will be met from within the existing provision for the scheme. Since the borrowers in question will be landlords, the default risks for the loan concerned should be extremely low. Thus, the impact of increase in the net expenditure of the Government arising from additional loan defaults should be limited.

- End -

CONTROLLING OFFICER'S REPLY

CSO008

(Question Serial No. 0334)

Head: (142) Government Secretariat: Offices of the Chief Secretary for Administration and the Financial Secretary

Subhead (No. & title): (000) Operational expenses

Programme: (2) Government Records Service

Controlling Officer: Director of Administration (Daniel CHENG)

Director of Bureau: Director of Administration

Question:

- (a) Did the Government procure any archival records on the history of Hong Kong from other places in 2021-22? If so, what are the contents of the records and the related expenditure? Please also provide the estimated expenditure for the procurement of archival records relating to Hong Kong from other places in 2022-23.
- (b) It is stated in Matters Requiring Special Attention in 2022-23 that the Government will implement public education and publicity programme on Hong Kong's documentary heritage. What specific publicity programme will the Government launch to achieve the objective?
- (c) What are the Government's plans to further implement the digitisation of archival records of Hong Kong, so that certain government records or reports open for public access can be viewed online?

Asked by: Hon MA Fung-kwok (LegCo internal reference no.: 8)

Reply:

- (a) Since 2009, the Government Records Service (GRS) has been procuring copies of archival records relating to Hong Kong from other archives to enrich its holdings. So far, about 4 000 copies have been procured. In view of the considerable number of copies of archival records procured over the years, and having regard to the relevant arrangements of various archives in the Mainland and overseas as well as factors such as the existing holdings of GRS, the need to acquire records and the actual usage, GRS considers it appropriate to regularly review its collection development and the access status of relevant records kept by other archives, and to consider the procurement of copies of archival records relating to Hong Kong on a need basis. Although GRS has not procured copies of archival records in 2021-22, it has agreed with the Second Historical Archives of China on a list of records relating to Hong Kong and reached a consensus with the latter on some of the terms and conditions of the procurement

agreement. GRS will arrange for the procurement upon finalising the remaining details on the terms and conditions.

In 2022-23, GRS has earmarked \$200,000 for the procurement of copies of archival records.

(b) GRS organises exhibitions, seminars, workshops, group visits and other educational activities regularly to promote the documentary heritage of Hong Kong. Details of GRS' public education and publicity programmes scheduled for 2022-23 are set out below:

1. organise about 30 onsite or online group visits to GRS with around 1 200 participants;
2. conduct about 5 onsite or online educational workshops to facilitate teachers and students using the archival records kept by GRS and conducting research on Hong Kong's development in different areas. The estimated number of participants in each onsite workshop and each online workshop is 40 and 150 respectively;
3. select and edit video holdings on different topics to produce a series of thematic film clips of around 30 minutes to facilitate the public to look back and understand more about different stages and changes in the development of Hong Kong, thereby enhancing the public understanding and appreciation of Hong Kong's documentary heritage;
4. organise an annual thematic exhibition cum roving exhibitions and an online Reference Resources Page to help the public better understand, appreciate and utilise the local documentary heritage and archival records kept by GRS;
5. enrich the online Educational Resources Portal to enable more people to view the archival holdings and information therein. Frequently used and popular holdings will be digitised for more convenient access; and
6. enrich the content of the Public Records Office Facebook page (fb.com/grs.publicrecordsoffice) to attract more online viewers to like, follow and share the page and posts, so as to strengthen connection and interaction with the public.

(c) GRS has all along been committed to digitising its holdings to make them more accessible by the public and better preserve its archival records. In 2021, GRS produced about 390 000 digital images of the holdings, bringing the total number of digital images to about 3.1 million. In the coming year, apart from raising the number of images to be digitised to 420 000, which represents a 10% increase over 2021, GRS will digitalise different types of holdings to meet the public's need for access to various kinds of records.

After digitisation, GRS will gradually make available digital copies of records which can be open for public access and endeavour to upload them to its online catalogue "@PRO" for public viewing under the principle of protecting copyright and personal privacy. As at the end of 2021, GRS has uploaded about 570 000 digitised images to the online catalogue "@PRO". Besides, GRS will regularly prepare digitised

holdings/photo albums and online exhibitions on various topics, and upload them to the GRS website and the PRO Facebook page for sharing with the public. GRS will continue to deploy manpower and resources to expedite the digitalisation of archival records in the future.

- End -

CONTROLLING OFFICER'S REPLY

CSO009

(Question Serial No. 0445)

Head: (142) Government Secretariat: Offices of the Chief Secretary for Administration and the Financial Secretary

Subhead (No. & title): (-) Not Specified

Programme: (-) Not Specified

Controlling Officer: Director of Administration (Daniel CHENG)

Director of Bureau: Director of Administration

Question:

As mentioned in the Budget Speech, the Government will introduce rental enforcement moratorium for tenants of specified sectors by legislation, saying that it will prohibit landlords from recovering the rent from tenants who fail to settle rents on schedule for a period of 3 to 6 months. Will the Government inform this Committee of:

- (1) the specified sectors to be covered under the moratorium and the estimated number of premises benefited in each sector;
- (2) as stated by the Financial Secretary, various complementary measures are employed to ensure the smooth operation for the moratorium, the details of these measures and the expenditure involved or the provision earmarked;
- (3) whether the Government will offer assistance to landlords of mortgaged premises by way of repayment deferral; and the Government departments and manpower for providing assistance in case the landlords fail to recover the rent after the moratorium;
- (4) the timetable for the law drafting work and implementation schedule for rental enforcement moratorium; and the expenditure involved for the entire project; and
- (5) as stated by the Financial Secretary, the moratorium aims to enable a gradual return of normal business and capital flow for merchants in various sectors, in this regard, apart from the moratorium, whether the Government has any more comprehensive and specific plan and measures to stimulate the specified sectors mentioned above so that they will be able to resume business and capital flow during the 6-month rental enforcement moratorium; if so, the details; if not, whether discussion on business recovery plan will be made with the sectors concerned?

Asked by: Hon MAK Mei-kuen, Alice (LegCo internal reference no.: 10)

Reply:

It was proposed in the 2022-23 Budget (Budget) that the Government would introduce new legislation on rental enforcement moratorium for tenants of specified sectors. The relevant Bill (i.e. the Temporary Protection Measures for Business Tenants (COVID-19 Pandemic)

Bill) was published in the Gazette on 18 March and introduced into the Legislative Council for the First Reading and the Second Reading on 23 March.

Our reply to the various parts of the question is as follows:

- (1) The Bill provides temporary protection for specified premises, particularly premises that are required to be closed for business, or where business has been significantly restricted by the tightening of social distancing measures due to the fifth wave of epidemic. The specified premises set out in Part 2 of the Schedule to the Bill include:
 1. Scheduled premises under Cap. 599F (excluding cruise ship and supermarket);
 2. Catering business premises;
 3. Child care centre;
 4. Kindergarten;
 5. Private primary day school and private secondary day school, including international school, private independent school, and other private primary day school and private secondary day school offering formal curriculum;
 6. Retail shop (excluding supermarket);
 7. Tutorial school;
 8. Premises where hobby classes are provided;
 9. Premises where the business of travel agents is carried on;
 10. Premises where the business of cruise ships is carried on;
 11. Premises where the business of employment agencies is carried on;
 12. Premises where the business of organising pop concerts is carried on;
 13. Premises where the business of providing catering services for schools and post secondary education institutions is carried on;
 14. Premises where the laundry trade is carried on;
 15. Premises where the dishware washing trade is carried on;
 16. Premises where a performing arts group in the arts and culture sector operates the business of the group; and
 17. Premises where the fresh food wholesale business is carried on.

It is roughly estimated that over 100 000 premises will benefit from this temporary protection measure.

- (2) We have been listening to the views of various sectors and major stakeholders since putting forward the proposal. Having considered the views gathered, we have made 5 improvements to the original proposal, which include the following: payment of rates and Government rents for affected properties will be deferred upon request by affected landlords or tenants, free of surcharge or interest; and in respect of individual landlords who live off rental income from the specified business premises they hold, we will provide such landlords with an interest-free loan equivalent to 3-month rent in advance under the 100% Personal Loan Guarantee Scheme (PLGS), subject to a ceiling of \$100,000. Regarding the deferral of collection of rates and Government rents, the revenue forgone is not expected to be significant. As for the interest-free loan, it will be met from within the existing provision for the scheme. Since borrowers in question will be landlords, the default risks for the loan concerned should be extremely low. Thus, the impact of increase in the net expenditure of the Government arising from additional loan defaults should be limited.

- (3) To relieve the short-term financial difficulties arising from the rental enforcement moratorium that may be faced by some landlord-borrowers, the Bill imposes a moratorium to bar lenders from taking actions in respect of the landlord-borrowers' failure to make related secured loan repayments against the landlord-borrowers, guarantors and sureties concerned. The Hong Kong Monetary Authority (HKMA) will assume the oversight responsibility for the enforcement of the moratorium.
- (4) As the work arising from the legislation will be absorbed by existing staffing resources of the Financial Secretary's Office and the Department of Justice, no additional expenditure is involved. Regarding the work arising from implementation, it will be met by existing resources of the Rating and Valuation Department and the HKMA. The Government will render support in explaining the legislative proposal, in order to enable the early passage and implementation of the legislation to help more small and medium enterprises (SMEs) to tide over the difficult times.
- (5) Preserving SMEs is the key to stabilising our economic vitality and resilience and is conducive to the early recovery of our economy. In light of this, the Budget has put forward a series of measures to support SMEs on different fronts, including alleviating the operation cost of business, providing liquidity support and stimulating the market. For easing the operation pressure of businesses, the Budget has proposed reducing profits tax, providing rates concession for non-domestic properties, waiving business registration fees, continuing to waive water and sewage charges payable by non-domestic households, extending the waivers/concessions of various government fees and charges, continuing to grant rental concession currently applicable to eligible tenants of government premises, etc.

On providing liquidity support for businesses, in addition to the rental enforcement moratorium, the Budget also proposes to extend the application period of all guarantee products under the SME Financing Guarantee Scheme (SFGS) to the end of June 2023, and further enhance the Special 100% Loan Guarantee product under the SFGS by (1) increasing the maximum loan amount per enterprise from the total amount of employee wages and rents for 18 months to that for 27 months with the loan ceiling raised from \$6 million to \$9 million, and (2) extending the maximum repayment period from 8 years to 10 years. Besides, the Pre-approved Principal Payment Holiday Scheme will also be extended for 6 months to the end of October this year.

On stimulating the economy, the Government has announced earlier the disbursement details of the new round of Consumption Voucher Scheme, including consumption vouchers in Phase I to be disbursed in April in light of the epidemic, so as to relieve the pressure faced by citizens and different merchants amid the epidemic. Consumption vouchers in Phase II will be launched in mid-2022 with the aim to sustain the effect on stimulating consumption and benefit various sectors.

Furthermore, the Government has announced in mid-March a new round of the Employment Support Scheme (ESS) to assist SMEs in retaining their employees and jobs. The ESS provides eligible employers of specified sectors 3-month wage subsidies, and is estimated to benefit more than 1 million employees involving an amount of around \$26 billion to \$31 billion. The Policy Innovation and Co-ordination Office is now

working on the details of the scheme and targets to invite applications in April.

- End -

CONTROLLING OFFICER'S REPLY

CSO010

(Question Serial No. 0049)

Head: (142) Government Secretariat: Offices of the Chief Secretary for Administration and the Financial Secretary

Subhead (No. & title): (000) Operational expenses

Programme: (1) Policy Innovation and Co-ordination Office

Controlling Officer: Director of Administration (Daniel CHENG)

Director of Bureau: Director of Administration

Question:

According to Programme (1), in the next financial year, the Policy Innovation and Co-ordination Office (PICO) will assist the Chief Executive in reviewing the organisation of government business at the policy bureau level with a view to drawing up a detailed re-organisation proposal in the second quarter of 2022. Will the re-organisation proposal be completed on schedule? Regarding the renaming of the Innovation and Technology Bureau (ITB) as the Innovation, Technology and Industry Bureau, will PICO provide assistance in formulating the policy blueprint for Industry 4.0 so that the new bureau can implement more effective measures for promoting re-industrialisation in Hong Kong by integrating into the development of Guangdong-Hong Kong-Macao Greater Bay Area? The re-organisation of government structure proposed in the 2021 Policy Address clearly stated that the ITB would be expanded and renamed as Innovation, Technology and Industry Bureau. It is different from the description in a recent document on the re-organisation of government structure that it is simply a change of title to the Innovation, Technology and Industry Bureau to reflect its existing functions without mentioning how it will be expanded. Will the Government explain the reasons behind?

Asked by: Hon NG Wing-ka, Jimmy (LegCo internal reference no.: 4)

Reply:

Subsequent to the initial ideas on the re-organisation of the government structure that were put forward in the 2021 Policy Address, the current-term Government submitted a paper to the Legislative Council (LegCo) to present details of the latest re-organisation proposal in January this year. After the Chief Executive Election on 8 May this year, we will relay these proposals, together with Members' views expressed in the Panels and the motion debate on the 2021 Policy Address, to the Chief Executive-elect for consideration. Once the Chief Executive-elect has decided on the final re-organisation proposal, the current-term Government will give full support and submit the proposal and the requisite legislative amendments to the LegCo as soon as possible so that the new government structure could come into operation on 1 July this year.

The Policy Innovation and Co-ordination Office (PICO) mainly assists the Chief Executive in reviewing the organisation structure of the government at the policy bureau level and rationalising the distribution of policy functions among policy bureaux. PICO is not involved in the policy formulation of individual policy bureaux.

According to the latest re-organisation proposal, the Innovation and Technology Bureau (ITB) will be re-titled as the Innovation, Technology and Industry Bureau (ITIB) to reflect its mission of driving re-industrialisation with innovation and technology (I&T) and smart production. In fact, the ITB is currently responsible for a lot of work in promoting re-industrialisation. The re-titling of ITB as ITIB will make clear that re-industrialisation is a standing policy function and work focus of the bureau in the future, and relevant stakeholders will know which policy bureau will be their counterpart. Building on the current foundation, the bureau's policy function of driving the application of I&T and re-industrialisation will also be further strengthened, including taking forward the development of the San Tin Technopole in the Northern Metropolis as mentioned in the Policy Address and assisting the Hong Kong Science and Technology Parks Corporation in planning for the construction of the second Advanced Manufacturing Centre.

- End -

CONTROLLING OFFICER'S REPLY

CSO011

(Question Serial No. 0777)

Head: (142) Government Secretariat: Offices of the Chief Secretary for Administration and the Financial Secretary

Subhead (No. & title): (-) Not Specified

Programme: (-) Not Specified

Controlling Officer: Director of Administration (Daniel CHENG)

Director of Bureau: Director of Administration

Question:

A legislative proposal is announced by the Financial Secretary, Mr Paul CHAN, in the Budget Speech to prohibit landlords from, in a specific period, recovering rent from specified sectors, terminating their tenancy or not providing them with services, or taking other relevant legal actions against them. The legislative proposal will, in fact, deal a severe blow to landlords of small and medium businesses, since a number of landlords have currently mortgaged their business premises to secure capital for development. If the rental enforcement moratorium initiative is to be implemented mandatorily and business tenants are not paying their rent, landlords of small and medium businesses will have to pay mortgage interests to banks without rental income, and may therefore incur losses. Notwithstanding that the Financial Secretary has proposed to offer landlords an interest-free loan through the 100% Personal Loan Guarantee Scheme, landlords will still have to make repayment in the future. The legislative proposal is not only merely shifting the financial loss from tenants to landlords of small and medium businesses without giving both parties due care and support to tide over their difficulties, but also contrary to the spirit of contracts. In this connection, will the Government inform this Committee:

1. whether a comprehensive assessment has been conducted before the Financial Secretary's announcement of the legislative proposal; of the detailed analysis of the assessment;
2. of the measures to provide affected landlords with assistance if the Government is to implement the legislation mandatorily; whether the Government will undertake to include at the same time in the legislation a moratorium on repayment to banks in the course of legislation with a view to safeguarding landlords against difficulties in loan repayment; and
3. whether the Government has considered allocating a certain amount of provision as direct lending to landlords to address their pressing need for repayment?

Asked by: Hon SO Cheung-wing (LegCo internal reference no.: 12)

Reply:

It was proposed in the 2022-23 Budget (Budget) that the Government would introduce new legislation on rental enforcement moratorium for tenants of specified sectors. The relevant Bill (i.e. the Temporary Protection Measures for Business Tenants (COVID-19 Pandemic) Bill) was published in the Gazette on 18 March and introduced into the Legislative Council for the First Reading and the Second Reading on 23 March.

Our reply to the various parts of the question is as follows:

- (1) The magnitude and severity of the fifth wave of the COVID-19 epidemic has been unprecedented since its outbreak in early January this year. Stringent social distancing measures have not only discouraged the public's desire for consumption, but also caused a shocking impact to many sectors, leaving a large number of enterprises, in particular small and medium enterprises (SMEs), with enormous difficulties in operating their business. At this critical juncture of the fight against the epidemic, the Government must take all necessary measures to preserve the vitality of the economy and in particular, preventing a massive wave of SME closures which could lead to considerable job losses and social instability. Preserving SMEs could safeguard the job opportunities of a large number of grassroots citizens, protect people's livelihood and maintain social stability. This is also a key part of Government's support to fight the epidemic.

Against the above background and considering that rent is a major part of SMEs' operating costs, the Budget put forward a legislative proposal on the rental enforcement moratorium. The main purpose of the legislative proposal is to provide tenants of specific sectors in trouble with a much-needed breathing space so that they will not be forced out of businesses for failing to settle rents on schedule, while giving landlords and tenants room and an opportunity to work out a mutually agreeable rental arrangements in the interim through negotiation.

As explained in the Legislative Council brief, the Government has fully considered the impact of the proposals in various aspects when putting forward the legislative proposal. It is noteworthy that the rental enforcement moratorium, which will only last for 3 months, is an exceptional measure in exceptional times. The arrangement will not take away the right of landlords to receive or the obligation of tenants to pay rent. It will only cause a slight deferral of certain actions that the landlords may take in respect of the tenants' failure to pay rent. On economic implications, it is expected that the arrangement will mitigate the impact of the epidemic on business tenants of specified sectors and help them tide over difficult times under the current wave of epidemic. This will help safeguard jobs and preserve our economic vitality, thereby enabling our economy to recover as soon as possible when this wave of the epidemic is brought under control.

- (2) & (3) To relieve the short-term liquidity difficulties arising from the rental enforcement moratorium that may be faced by some landlord-borrowers, we have improved the original legislative proposal by proposing a moratorium in the Bill to bar lenders from taking actions in respect of the landlord-borrowers' failure to make related secured loan repayments against the landlord-borrowers, guarantors and sureties

concerned, which include suing for repayment of the amount in default, letting or selling the specified premises, etc. The Hong Kong Monetary Authority (HKMA) will assume the oversight responsibility for the implementation of the moratorium. At the same time, the HKMA has also been in close communication with the banking sector and will provide guidelines for banks on how to exercise flexibility if the repayment ability of any landlord is in turn affected owing to reduction in rental income, and how to provide appropriate assistance to the landlord-borrower in question through schemes such as the Pre-approved Principal Payment Holiday Scheme. In addition, considering the fact that the proposed legislation may create short-term financial pressure on individual landlords who live off rental income from the specified business premises they hold, we will provide such landlords with an interest-free loan equivalent to 3-month rent in advance under the 100% Personal Loan Guarantee Scheme, subject to a ceiling of \$100,000. Therefore, the Government has no plan to provide separate loans for the landlords concerned.

– End –

CONTROLLING OFFICER'S REPLY

CSO012

(Question Serial No. 0465)

Head: (142) Government Secretariat: Offices of the Chief Secretary for Administration and the Financial Secretary

Subhead (No. & title): (-) Not Specified

Programme: (-) Not Specified

Controlling Officer: Director of Administration (Daniel CHENG)

Director of Bureau: Director of Administration

Question:

The Financial Secretary indicates in his Budget Speech that the Government will introduce new legislation to prohibit landlords from terminating the tenancy of or not providing services to tenants of specified sectors for failing to settle rents on schedule, or taking relevant legal actions against them. In this connection, will the Government advise this Committee of the following:

1. the details of how banks will exercise flexibility if the repayment ability of any landlord is affected owing to reduction in his rental income;
2. the supportive measures the Government will provide to the landlords with financial difficulties arising from reduction in their rental income; and
3. given the views that the legislation on rental enforcement moratorium may lead to short-term plights for landlords and it can neither offer much assistance to tenants as they still have to repay a lump sum of rent arrears after the grace period, whether the Government will consider providing tax concessions to support landlords on rent reduction; if so, the details; if not, the reasons for that?

Asked by: Hon TIEN Puk-sun, Michael (LegCo internal reference no.: 7)

Reply:

It was proposed in the 2022-23 Budget that the Government would introduce new legislation on rental enforcement moratorium for tenants of specified sectors. The relevant Bill (i.e. the Temporary Protection Measures for Business Tenants (COVID-19 Pandemic) Bill) was published in the Gazette on 18 March and introduced into the Legislative Council for the First Reading and the Second Reading on 23 March.

Our reply to the various parts of the question is as follows:

- (1) and (2) To relieve the short-term liquidity difficulties arising from the rental enforcement moratorium that may be faced by some landlord-borrowers, the Bill proposed a moratorium to bar lenders from taking actions in respect of the landlord-

borrowers' failure to make related secured loan repayments against the landlord-borrowers, guarantors and sureties concerned, which include suing for the amount in default, letting or selling the specified premises, etc. The Hong Kong Monetary Authority (HKMA) will assume the oversight responsibility for the implementation of the moratorium. At the same time, HKMA has also been in close communication with the banking sector and will provide guidelines for banks on how to exercise flexibility if the repayment ability of any landlord is affected owing to reduction in rental income, and how to provide appropriate assistance to the landlord-borrower in question through schemes such as the Pre-approved Principal Payment Holiday Scheme. In addition, considering the fact that the proposed legislation may create short-term financial pressure on individual landlords who live off rental income from the specified business premises they hold, we will provide them with an interest-free loan equivalent to 3-month rent in advance under the 100% Personal Loan Guarantee Scheme, subject to a ceiling of \$100,000.

- (3) As we have reiterated before, the main purpose of the legislative proposal is to provide tenants of specified sectors in trouble with a much-needed breathing space so that they will not be forced out of business for failing to settle rents on schedule, while giving landlords and tenants room and an opportunity to work out a mutually agreeable rental arrangement in the interim through negotiation. Thus, the Bill provides that once new rental agreements are reached between landlords and tenants during the protection period, the rental enforcement moratorium would cease to apply in relation to the tenancies concerned.

We understand there are suggestions in the community that the Government should use public money to subsidise merchants in paying their rents. However, having regard to the Government's financial position as well as our society and economy which have been hard-hit by the epidemic and many people are still in desperate need of the Government's assistance, it may not be appropriate to use public money to subsidise the rental income of commercial landlords. As for providing incentives through tax relief to encourage landlords to cut rents, not only is it complicated from an administrative point of view, it is also difficult to monitor in actual practice. Therefore, after consideration, we did not accept these suggestions. As a matter of fact, we noted that since the announcement of the rental enforcement moratorium, a number of small merchants have found their landlords more willing to discuss the possibility of a rent cut. In response to the Government's appeal, certain developers have also waived rents until mid-April for tenants required to be closed under the anti-epidemic measures. We hope that more well-off developers and landlords will take up their social responsibilities and support small and medium enterprises, such that in the spirit of mutual understanding and accommodation, a rent restructuring solution that is both acceptable to the landlord and affordable to the tenant can be reached through negotiation.

- End -

CONTROLLING OFFICER'S REPLY

CSO013

(Question Serial No. 0444)

Head: (142) Government Secretariat: Offices of the Chief Secretary for Administration and the Financial Secretary

Subhead (No. & title): (-) Not Specified

Programme: (-) Not Specified

Controlling Officer: Director of Administration (Daniel CHENG)

Director of Bureau: Director of Administration

Question:

Though the Government has put in place relevant measures to support landlords with difficulties arising from reduction in rental income, there might be few financially capable tenants who deliberately evade payment of rent such as withholding rent or getting into long-term rental arrears. What regulatory measures will the Government take to effectively prevent deliberate evasion of rental payment?

Asked by: Hon YIM Kong (LegCo internal reference no.: 4)

Reply:

It was proposed in the 2022-23 Budget that the Government would introduce new legislation on rental enforcement moratorium for tenants of specified sectors. The relevant Bill (i.e. the Temporary Protection Measures for Business Tenants (COVID-19 Pandemic) Bill) was published in the Gazette on 18 March and introduced into the Legislative Council for the First Reading and the Second Reading on 23 March.

As we have reiterated before, the main purpose of the legislative proposal is to provide tenants of specified sectors in trouble with a much-needed breathing space so that they will not be forced out of business for failing to settle rents on schedule, while giving landlords and tenants room and an opportunity to work out a mutually agreeable rental arrangement in the interim through negotiation. Thus, the Bill provides that once new rental agreements are reached between landlords and tenants during the protection period, the rental enforcement moratorium ceases to apply in relation to the tenancies concerned. Even if they fail to reach an agreement, as the protection period will only be 3 months, landlords usually hold tenants' deposits and some tenants have been required to provide personal guarantee, the financial risks posed to landlords by tenants' failure to pay rents can be reduced.

The arrangement can ease the cash-flow pressure of tenants during the protection period so that their financial pressure will not be aggravated. After expiry of the protection period,

landlords may exercise their legal rights to recover from tenants and their guarantors or sureties the rents and the interest or surcharge on the rents that the tenants fail to pay. Moreover, the arrangement is not applicable to the rents that tenants of specified sectors fail to pay before 1 January 2022. Landlords can still take actions to recover such rent arrears in accordance with the law.

- End -

CONTROLLING OFFICER'S REPLY**CSO014****(Question Serial No. 0869)**Head: (94) Legal Aid DepartmentSubhead (No. & title): (-) Not SpecifiedProgramme: (-) Not SpecifiedControlling Officer: Director of Legal Aid (Chris YT CHONG)Director of Bureau: Director of AdministrationQuestion:

Regarding the legal aid provided by the Legal Aid Department for criminal and various types of civil cases including judicial review cases in the past year, please set out in tabular form the total number of applications received, the number of cases approved and a breakdown of the expenditure involved.

Asked by: Hon CHOW Ho-ding, Holden (LegCo internal reference no.: 6)Reply:

For civil cases, the numbers of legal aid applications and certificates granted by the Legal Aid Department (LAD) in 2021 and the expenditure incurred in 2020-21 broken down by case type are as follows -

Type of Civil Legal Aid Applications	Number of Legal Aid Applications Received in 2021	Number of Legal Aid Certificates Granted in 2021	Expenditure of civil legal aid cases in 2020-21 [Note 1] (\$ million)
Personal Injuries Claims	4 929	2 430	413.7
Matrimonial Cases	4 570	2 079	127.7
Land and Tenancy Disputes	465	85	47.1
Employment Disputes	57	5	7.5
Immigration Matters	112	0	4.4
Wage Claims	45	30	0.5
Judicial Review	450	84	34.0
Others	1 247	203	68.4
Total	11 875	4 916	703.3

Note 1: The expenditure of civil legal aid cases incurred is by financial year. The expenditure incurred in this financial year may include expenditure on cases where legal aid certificates were issued in previous years.

For criminal cases, the numbers of legal aid applications received and certificates granted by LAD in 2021, as well as the expenditure incurred in financial year 2020-21 are tabulated below. LAD does not maintain separate statistics of legal aid certificates or the public expenditure broken down by nature of the offences or the type of cases.

Number of Criminal Legal Aid Applications Received in 2021	Number of Criminal Legal Aid Certificates Granted in 2021	Expenditure of Criminal Legal Aid Cases in 2020-21 [Note 2] (\$ million)
3 209	2 431	249.8

Note 2: The expenditure of criminal legal aid cases incurred is by financial year. The expenditure incurred in this financial year may include expenditure on cases where legal aid certificates were issued in previous years.

- End -

CONTROLLING OFFICER'S REPLY

(Question Serial No. 0064)

Head: (94) Legal Aid Department
Subhead (No. & title): (-) Not Specified
Programme: (1) Processing of Legal Aid Applications
Controlling Officer: Director of Legal Aid (Chris YT CHONG)
Director of Bureau: Director of Administration

Question:

With regard to the processing of legal aid applications, please provide the following information:

1. how many legal aid applications lodged by non-refoulement claimants were received, approved or refused by the Legal Aid Department (LAD) respectively; and what are the numbers of legal aid cases related to judicial review (JR) and the amounts of expenditure involved in each of the past 3 years?
2. among the people prosecuted for having participated in the riots against the extradition bill 3 years ago, some might have received financial aid for legal costs from a third party while at the same time being eligible for legal aid. When assessing these applications, did the LAD check whether the applicants had received any financial aid from a third party? How does the new computerised system help identify defendants who have received financial aid and improve the procedures and arrangements for granting legal aid to ensure that public money is properly spent?
3. the number of counsel's chambers from which the counsel who were assigned JR-related legal aid cases came in the past 3 years; the details of the top 5 chambers whose counsel were assigned the highest numbers of such cases (including the names of the chambers, particulars of the cases and the amounts of the legal aid costs involved); and
4. for releasing more data and information about legal aid cases, whether the LAD will, by once again drawing reference from the practice of the Judiciary in making public judgments and reasons for verdict on its website, make public on the Internet the justifications for granting or rejecting legal aid applications on the premise of not violating the principles of privacy protection and confidentiality, so as to enhance transparency?

Asked by: Hon QUAT Elizabeth (LegCo internal reference no.: 10)

Reply:

1. The number of legal aid applications lodged by non-refoulement claimants, certificates granted and notices of refusal issued in the past 3 years are set out in the table below –

Year	No. of legal aid applications lodged by non-refoulement claimants	No. of legal aid certificates granted to non-refoulement claimants*	No. of legal aid refusal issued#
2019	690	71	620
2020	351	63	272
2021	427	70	320

* Certificates may not be granted in the same year as the applications were received.

Refusal may not be issued in the same year as the applications were received.

The number of legal aid certificates related to judicial review (JR) cases and the expenditure of JR cases in the past 3 years are set out in the tables below –

Year	No. of legal aid certificates related to JR
2019	81
2020	82
2021	84

Financial Year	Legal expenditure on JR cases (\$ million)
2018-19	29.5
2019-20	37.6
2020-21	34.0

- The Legal Aid Department (LAD) assesses all criminal legal aid applications in accordance with the Legal Aid in Criminal Cases Rules (Cap. 221D). Any person who can satisfy both the merits test and the means test will be granted legal aid.

In relation to the means test, the Director of Legal Aid (DLA) considers the financial resources of the applicants for all legal aid cases in accordance with the Legal Aid (Assessment of Resources and Contributions) Regulations (Cap. 91B). When applying for legal aid, applicants are required to declare alternative source(s) of financial aid received from a third party, whether by way of income or capital, which will be taken into account when calculating the applicants' financial resources. The aided persons are also required to inform LAD of any changes to their financial resources, including the provision of financial aid from any third party, during the course of the legally aided proceedings. Should any applicant fail the means test (i.e. financial resources exceeding the prevailing limit of \$420,400), DLA will refuse granting legal aid or discharge legal aid.

LAD introduced a new 'Declaration System' in December 2021 for legal aid applicants to declare alternative source(s) of financial aid for their cases before and after the legal aid applications have been approved. The Declaration System seeks to ensure that public fund is properly spent.

All legal aid applicants have a duty to make full and frank disclosure of their income

and capital. According to the Legal Aid Ordinance (Cap. 91), any person seeking or receiving legal aid who knowingly furnishes false statement or false representation shall be guilty of an offence and liable to a fine of \$10,000 and imprisonment for 6 months. Where necessary, LAD will refer the cases to the Police for further investigation.

The revamped Case Management and Case Accounting System and the related query system, Knowledge Support System, will as a whole increase LAD's efficiency and effectiveness in processing legal aid applications and managing legally aided cases. With the enhanced functions in the revamped system, LAD will be able to more efficiently assess legal aid applicants' and aided persons' financial resources and determine their eligibility on means after their disclosure of alternative sources of financial aid, if any.

3. Counsel work independently in the chambers and therefore LAD does not maintain statistics on the number of cases assigned on the basis of counsel's chambers.
4. The legal system in Hong Kong is based on common law, which is based on a system of case precedents to gradually establish legal principles in detail. Under the common law legal system, it is an established practice to make public the judgments and the related records handed down by judges. In addition, as the trial of cases is mostly held in public, the practice of making judgments public does not violate the principles of privacy protection and confidentiality.

However, LAD is restricted by the provisions of the Legal Aid Ordinance and the Personal Data (Privacy) Ordinance (Cap. 486) and should not disclose any information involving an individual applicant without consent of the applicant or aided person concerned, including LAD's reasons for refusing or granting legal aid. Also, if the legal proceedings are ongoing, disclosure of relevant information or reasons may also affect the proceedings and cause unfairness to parties to the proceedings. We therefore need to handle the matter with great caution. To enhance the transparency of LAD's work and better address the community's concern over certain JR-related legal aid cases, LAD has since December 2021 been requesting legal aid applicants for JR cases to give their written consent to LAD for disclosing the result and/or the reason for granting or refusing their applications whenever DLA considers appropriate. Most of the applicants have provided consent. Without contravention to the provisions of the Personal Data (Privacy) Ordinance and relevant legislation, LAD will disclose relevant information as appropriate through press release or other suitable channel to address public concerns.

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