

LCQ10: Development of Tso/Tong lands

Following is a question by the Hon Lau Kwok-fan and a written reply by the Secretary for Home Affairs, Mr Caspar Tsui, in the Legislative Council today (July 7):

Question:

The Government indicated in the 2019 Policy Address that it would resume, by invoking the Lands Resumption Ordinance (Cap. 124), those private lands zoned for high-density housing development but still without any development plans due to various reasons and assessed as suitable for public housing development. To this end, the Government reviewed 10 land parcels, and announced earlier on that it would resume the private lands within three of these land parcels. Such private lands include Tso/Tong lands the development of which has been difficult for many years as the unanimous consent of all clan members for selling such lands could not be obtained. In this connection, will the Government inform this Council:

(1) given that currently, as long as one member of the clan raises objection to the sale of Tso/Tong lands, the District Officer (DO) concerned will not issue consent to the sale decision, whether the Government will study amending the New Territories Ordinance (Cap. 97) to lower the threshold for selling Tso/Tong lands, e.g. by stipulating that a DO may issue consent for such sale if consent has been given by the Tso/Tong manager and the representatives of the various family branches, or that the relevant persons may, after obtaining the consent of a specific proportion of members of the clan, apply for compulsory sale of Tso/Tong lands;

(2) given that the Home Affairs Department and the Heung Yee Kuk New Territories set up a working group in 2018 to discuss and examine those issues in relation to the handling of Tso/Tong matters, of the work achievements of the working group; and

(3) as the Government indicated in its reply to a question raised by a Member of this Council on January 15 last year that it did not keep information relating to the number and area of the existing Tso/Tong lands across the territory, whether the Government will compile the relevant statistics; if so, of the details; if not, the reasons for that?

Reply:

President,

The consolidated reply to the Hon Lau Kwok-fan's question is as follows:

Section 15 of the New Territories Ordinance (Cap. 97) (the Ordinance) does not specify the threshold for the sale of Tso/Tong lands or the Government's procedures on handling applications for consent to such sale. Despite having the statutory power to give consent to Tso/Tongs' decisions on appointing managers and selling lands, the District Officers (DOs) have no

role to play in the decision-making process, as Tso/Tongs are by nature private organisations and it is up to them to decide on the sale of Tso/Tong lands. However, according to court judgments in the past, unanimity is required for ancestral Tso/Tongs to sell Tso/Tong lands. Thus, the DOs must ensure that unanimous consent is obtained from all members when handling applications for the sale of ancestral Tso/Tong lands.

If a DO receives an objection when processing an application, he/she will first contact both the applicant and the objector for mediation under appropriate circumstances, and will give consent to the application for the sale of Tso/Tong lands only after obtaining unanimity.

If necessary, the Administration will review and examine the necessity and feasibility of amending the requirements in the Ordinance pertaining to the handling of Tso/Tong lands by their managers. As lowering the threshold for the sale of ancestral Tso/Tong lands will have considerable impact on Tso/Tong members, it must be carefully considered upon full consultation with stakeholders.

To further improve Tso/Tong matters, the Home Affairs Department and the Heung Yee Kuk New Territories (HYK) set up a working group on New Territories Tso/Tong matters in 2018. Knowing that individual Tso/Tongs have internal rules in place, the working group is of the view that if Tso/Tongs make their internal rules, they could make reference to such rules when handling appointment of managers and other internal matters in future. Therefore, the working group has recommended that the HYK should examine how to assist Tso/Tongs in making their internal rules. It is understood that the HYK has proactively followed up on the recommendation and has been discussing the relevant matters with Tso/Tongs. However, not all members support the making of internal rules.

The DOs do not have statistics on the number and area of Tso/Tong lands as such information is not relevant to their decisions made in handling the sale of Tso/Tong lands. Neither does the Government have any plan to compile statistics on the number and area of the existing Tso/Tong lands across the territory.

LCQ13: COVID-19 Vaccination Programme

Following is a question by Dr the Hon Pierre Chan and a written reply by the Secretary for Food and Health, Professor Sophia Chan, in the Legislative Council today (July 7):

Question:

Regarding the COVID-19 Vaccination Programme, will the Government inform this Council:

(1) of the respective up-to-date numbers of persons who have received vaccination at (i) Community Vaccination Centres and designated general outpatient clinics and (ii) designated private clinics, and set out, by the category of vaccinees, (a) the number of those who have received one dose of vaccine, (b) the number of those who have received two doses of vaccine, and (c) the percentage of those who have received two doses of vaccine in the population of that category (set out in tables of the same format as Table 1);

Table 1

Type of venue at which vaccinations were administered:

Category of vaccinees	(a)	(b)	(c)
Personnel in healthcare settings and those participating in anti-epidemic work			
Residents and staff of residential care homes for the elderly/persons with disabilities (PWDs), and staff of Community Care Service units for the elderly/PWDs			
Personnel maintaining critical public services (including employees of Government service contractors)			
Personnel working for cross-boundary transportation and those working at control points and ports			
Registered construction workers and other resident site personnel			
Practitioners of public transport (e.g. taxi/bus/public light bus drivers, train captains and station staff)			
Staff of food and beverages premises, markets, supermarkets, convenience stores and couriers (including couriers for takeaway food delivery)			
Personnel of property management (e.g. security guards, cleaning staff and property management office staff)			
Teachers and school staff (e.g. teaching and school staff as well as support personnel of kindergartens, primary and secondary schools and universities; staff of special schools; drivers and escorts of school buses/school private light buses)			
Practitioners of the tourism industry			
Staff of scheduled premises under the Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation (Cap. 599F) (e.g. staff of fitness centres and beauty parlours)			
Domestic helpers			
Others (persons who do not belong to any of the above groups)			
Total:			

(2) of the respective up-to-date numbers of (i) disciplined services staff and (ii) civil servants (including disciplined services staff) who have received vaccination, and set out, by the staff categories listed in Table 2,

among such persons, (a) the number of those who have received one dose of vaccine and (b) the number of those who have received two doses of vaccine, and (c) the percentage of those who have received two doses of vaccine in the total number of staff members of that category; and

Table 2

Category of staff who have received vaccination	(a)	(b)	(c)
Staff of the Hong Kong Police Force			
Staff of the Hong Kong Correctional Services Department			
Staff of the Customs and Excise Department			
Staff of the Hong Kong Fire Services Department			
Staff of the Immigration Department			
Staff of the Government Flying Service			
All civil servants			

(3) of the respective up-to-date numbers of persons holding Exit-entry Permit for Travelling to and from Hong Kong and Macao who are allowed to stay in Hong Kong as visitors having received one dose or two doses of vaccine in Hong Kong, and the total numbers of the persons concerned?

Reply:

President,

In response to the various parts of the question raised by Dr the Hon Pierre Chan, a reply from the Food and Health Bureau and the Civil Service Bureau, which are in charge of the COVID-19 Vaccination Programme (the Vaccination Programme), is as follows:

(1) Since the launch of the Vaccination Programme, as at July 5, we have administered around 4.03 million doses of COVID-19 vaccines for members of the public, out of which around 2.41 million persons have received the first dose vaccine. This accounts for 35.4 per cent of the total population aged 12 or above.

Currently, all Hong Kong residents aged 12 or above are eligible to receive COVID-19 vaccines free of charge. As long as members of the public meet the age requirement, they can make a booking and receive vaccination without having to declare the category they belong to. The Administration is unable to compile the number of vaccinated persons following the categories set out in the question. As regards individual organisations which provide medical and healthcare services (e.g. the Department of Health, the Hospital Authority and residential care homes for the elderly, etc.), they have compiled their vaccination figures. The Administration can also identify the vaccinated population who are foreign domestic helpers based on their identity documents. Catering premises have requirements for vaccination, hence the vaccination figures of their staff are also compiled. The relevant

figures of those who have received their first dose vaccine is below (as at early July).

	No. of persons with first dose vaccine (Note)	Vaccination rate
Department of Health (all professions)	4 600	55%
Doctors	470	87%
Nurses	950	52%
Dentists	280	79%
Pharmacists	180	59%
Other staff	2 700	51%
Hospital Authority (all professions)	40 300	47%
Doctors	5 200	77%
Nurses	11 700	43%
Allied healthcare workers	4 100	47%
Other staff	19 300	45%
Residents of residential care homes for the elderly/persons with disabilities	4 300	5%
Staff of residential care homes for the elderly/persons with disabilities	19 500	49%
Foreign domestic helpers	177 000	48%

Note: Figures are rounded to the nearest ten and hundred.

As at end June, there are around 16 400 catering premises which are licensed by the Food and Environmental Hygiene Department (FEHD). Under the "vaccine bubble", catering premises operating under the Type C and Type D modes of operation need to register relevant information at the designated website of the FEHD. There are around 1 200 catering premises licensed by FEHD operating under Type C and Type D modes of operation. Over 70 per cent of the relevant staff of these premises have received at least one dose of vaccine.

(2) The Government strongly encourages government employees in all departments to get vaccinated to safeguard the health of the individual employees and the public they serve, as well as fulfill their civic obligations. Since the vaccination appointments are arranged by government employees themselves, we do not have relevant information on vaccination.

(3) According to the information provided by Immigration Department, there are currently over 40 000 Mainland residents holding the Exit-entry Permit

for Travelling to and from Hong Kong and Macao (EEP) who are allowed to stay in Hong Kong as a visitor. Most of them have exit endorsement for visiting relatives in Hong Kong. EEP holders who are allowed to stay in Hong Kong as a visitor and can complete two doses of vaccination within their limit of stay without extension can make appointments for completing two doses of vaccination in the Community Vaccination Centres within their limit of stay. As at July 4, 2021, 19 498 and 9 580 EEP holders who are allowed to stay in Hong Kong as visitors have received one and two doses of COVID-19 vaccine respectively.

LCQ8: Management of public swimming pool complexes

Following is a question by the Hon Yung Hoi-yan and a written reply by the Secretary for Home Affairs, Mr Caspar Tsui, in the Legislative Council today (July 7):

Question:

Since April 2 this year, the Leisure and Cultural Services Department (LCSD) has reopened one after another the public swimming pool (swimming pool) complexes that had been closed earlier due to the epidemic. However, in order to reduce the risk of epidemic spreading, LCSD has adopted a number of special measures for the reopened swimming pool complexes, including limiting the attendances to 30 per cent of their capacities (such percentage having been relaxed to 50 per cent since June 24) and opening the swimming pool facilities only partly. At present, some swimming pool complexes are still closed. Regarding the management of swimming pool complexes, will the Government inform this Council:

(1) of the following information on those swimming pool complexes that have all along been closed since April 2 this year: (i) the names of the complexes, (ii) the reasons for closure, (iii) the facilities which have been closed, (iv) the estimated number of affected swimmers, (v) the expected earliest reopening dates, and (vi) the considerations for determining the reopening dates;

(2) as the epidemic has now subsided, and it has been reported that recently there have been instances of a large number of swimmers waiting outside a number of swimming pool complexes for 30 minutes or more before they were admitted, whether LCSD will further raise the ceiling for the attendances at swimming pool complexes and open all swimming pool facilities in the various complexes; if not, of the reasons for that;

(3) of the total number of full-time and part-time seasonal lifeguards since April 2 this year who worked for less numbers of days or hours due to the

partial or full closure of swimming pool complexes; the highest, lowest and average numbers of their working hours per week which were cut; the respective current numbers of full-time and part-time seasonal lifeguards whose working hours are below the levels in the swimming seasons before the epidemic; whether it has provided financial support for those seasonal lifeguards whose income has dropped due to reduced working hours; if so, of the details;

(4) whether the arrangement of cutting working hours has resulted in wastage of or difficulties in recruiting seasonal lifeguards; whether there is a shortage of seasonal lifeguards in any swimming pool complexes at present; if so, of the details of the shortage; and

(5) of the estimated (i) staff establishment and strength of civil service lifeguards in swimming pool complexes and (ii) number of seasonal lifeguards to be recruited, for the coming year; how such figures compare with those in the past two years?

Reply:

President,

The Leisure and Cultural Services Department (LCSD) currently provides 44 public swimming pools in the 18 districts over the territory. My reply to the questions raised by the Hon Yung Hoi-yan is as follows:

(1) LCSD has reopened 40 public swimming pools to date. Only four public swimming pools are still temporarily closed, including Kowloon Tsai Swimming Pool which is under redevelopment (works scheduled for completion in 2024 tentatively). The other three swimming pools, namely Ho Man Tin Swimming Pool, Sheung Shui Swimming Pool and Jockey Club Yan Oi Tong Swimming Pool, are all leisure pools.

Under the current directions of the Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation (Cap. 599F) (the Regulation), leisure pools, children's pools, toddlers' pools and Jacuzzis (if any) should remain closed. Thus, the above-mentioned three public swimming pools cannot be reopened at this stage. LCSD does not have any estimation on the number of swimmers being affected by the closure of swimming pool complexes owing to the pandemic. LCSD will review the opening arrangements of facilities having regard to the latest development of the pandemic as well as the directions for scheduled premises as stipulated in the Regulation.

(2) According to the latest directions under the Regulation issued on June 22, 2021, the maximum number of persons allowed in swimming pools has been relaxed to 50 per cent of capacity with effect from June 24, 2021. LCSD has immediately made an upward adjustment on the maximum number of persons allowed to be admitted in public swimming pool. LCSD will pay close attention to the latest development of the pandemic as well as the directions for scheduled premises as stipulated in the Regulation and review the above-mentioned opening arrangements in due course.

(3) & (4) The lifeguards employed by LCSD include civil service lifeguards and seasonal lifeguards employed during the swimming season. As at June 1, 2021, there were 1 372 civil service lifeguards (including senior lifeguards) and 214 seasonal lifeguards in LCSD. All 214 seasonal lifeguards are non-civil service contract full-time seasonal lifeguards employed on a monthly basis. Their income will not be affected by the closure of swimming pool complexes.

To ensure the safety of swimmers, LCSD will provide sufficient lifeguards on duty at the public swimming pools while they are open for service. In light of the COVID-19 pandemic, LCSD's public swimming pools were closed between December 2020 and March 2021. The selection interview and trade test for seasonal lifeguards for this year, originally scheduled during this period, were also suspended. As LCSD has been reopening some public swimming pools starting from April 2, 2021, the selection interview and trade test for seasonal lifeguards have been resumed. The recruitment exercise is being expedited. It is expected that both full-time and part-time seasonal lifeguards will report for duty gradually to provide services to pools and beaches in need.

(5) Due to the short-term job nature, the mobility of seasonal lifeguards is higher than that of civil service lifeguards. Furthermore, the effectiveness of recruiting seasonal lifeguards is more affected by employment conditions at the time of recruitment. To improve the stability of the lifeguard workforce, LCSD has secured additional resources for creating a total of 161 civil service lifeguard posts in 2019-20 and 2020-21 to replace the same number of seasonal lifeguard posts. All these posts have been filled and the recruited lifeguards will report for duty gradually. The ratio of vacancies of civil service lifeguards to the establishment remained at a low level, and there was adequate supply of suitable candidates to fill the vacancies of civil service lifeguards.

As for the seasonal lifeguards who are additionally recruited during the swimming season to augment lifeguard services during that period, their manpower requirement will be adjusted in light of actual operational needs. Due to the impact of the COVID-19 pandemic, public swimming pools were temporarily closed for some time in 2020. Hence, the manpower requirement of lifeguards for the year is not comparable to that for the coming year. Subject to the development of the pandemic and actual operational needs, LCSD will conduct necessary recruitment exercises in due course.

LCQ11: Travel Industry Authority

Following is a question by the Hon Yiu Si-wing and a written reply by the Secretary for Commerce and Economic Development, Mr Edward Yau, in the Legislative Council today (July 7):

Question:

The Travel Industry Authority (TIA), established under the Travel Industry Ordinance (Cap. 634) in January 2020, will take over the functions of licensing and regulating the tourism trade from the Travel Agents Registry and the Travel Industry Council of Hong Kong, as well as the administration of the Travel Industry Compensation Fund (the new regulatory regime). While the Government allocated \$350 million as seed money to the TIA in February 2020 to support the initial operation of the TIA, the TIA will run on a self-financing basis in the long run. Its major sources of revenue are levies on outbound fares received by travel agents, licence fees, and registration fees on inbound tour groups from the Mainland. To reduce the impacts brought about by the new regulatory regime on the trade, the Government has proposed maintaining, for the first five years from the full implementation of Cap. 634, the former two items of levies and fees at the levels when Cap. 634 came into operation. In this connection, will the Government inform this Council:

- (1) whether it knows the timetable for TIA's preparation for the full implementation of the new regulatory regime; whether the preparation work has been delayed under the impact of the COVID-19 epidemic;
- (2) whether it knows the latest progress of TIA's work on drafting the subsidiary legislation under Cap. 634 and on formulating the relevant administrative guidelines; whether the TIA will, when carrying out the relevant work, consult the tourism trade to ensure the operability of such instruments;
- (3) as some members of the tourism industry have pointed out that the tourism industry was hit consecutively by the social incidents and the epidemic in the past two years and the road to recovery is long, which may thus affect the revenue of the TIA, whether the Government will consider my earlier suggestion of increasing the seed money to \$500 million, so that TIA's financial situation will be more stable; and
- (4) how the current organisation structure and staff establishment of the TIA compare with those initially planned by the Government; if adjustments have been made, of the details?

Reply:

President,

The Government introduced the Travel Industry Bill to the Legislative Council (LegCo) in March 2017 following the general consensus reached after the public consultation in 2011. The Bill proposed to regulate travel agents, tourist guides and tour escorts in a holistic and impartial manner through the establishment of the Travel Industry Authority (TIA) with a view to enhancing the professionalism of the travel trade and fostering the healthy long-term development of the industry. The TIA will take up the trade regulatory and licensing roles from the Travel Industry Council of Hong Kong

and the Travel Agents Registry respectively.

The Travel Industry Ordinance (Cap. 634) (the Ordinance) was passed by the LegCo in November 2018. The Government immediately commenced preparations for the implementation of the new regulatory regime and allocated \$350 million as seed money for the TIA. The Ordinance commences in two phases. Firstly, the provisions of the Ordinance for establishing the TIA were brought into operation in December 2019. The Chief Executive also appointed the Chairman and Members of the TIA with effect from January 1, 2020. Since its establishment, the TIA has embarked on various preparatory tasks for implementing the new regulatory regime, including drafting subsidiary legislation of the Ordinance in relation to the conditions imposed on a licence, the requirements that licensees must comply with, and the fees payable to the TIA; and devising directives, guidelines and codes of conduct regulating licensees. All of the subsidiary legislation and the other provisions of the Ordinance will take effect upon the completion of the transitional arrangements.

In response to the question raised by the Hon Yiu Si-wing, my reply is as follows:

(1) The Government is committed to supporting the TIA in preparing for the formulation of the new regulatory regime for the travel industry, including preliminary administrative work (such as staff recruitment and office leasing matters), drafting subsidiary legislation, and formulating licensing frameworks, directives, guidelines and codes of conduct, etc. Progress of the preparatory work has inevitably been affected by the epidemic. However, the Government still aims to implement the new regulatory regime in about two years after the establishment of the TIA. It is expected that the regime will be fully implemented within 2022 as planned.

(2) According to the Ordinance, the TIA may prescribe the conditions imposed on a licence, the requirements that licensees must comply with, and the fees payable to the TIA, etc, through making subsidiary legislation. The TIA may also regulate the licensees through issuing guidelines, directives and codes of conduct, etc. The TIA is actively taking forward the relevant work regarding the drafting of subsidiary legislation, as well as the drafting of directives, guidelines, and codes of conduct applicable to travel agents, tourist guides and tour escorts under the new regulatory regime with reference to the existing codes of conduct and guidelines. The TIA maintains close liaison with the trade on the relevant work, and will consult the trade in a timely manner when detailed proposals are available.

(3) As mentioned above, to support the initial operation of the TIA, the Government has allocated in February 2020 \$350 million as seed money for the TIA. The TIA has been closely monitoring its financial situation and has set up a standing committee to advise it on issues relating to financial management (including investment). If the TIA requires additional funding from the Government, the Government will handle it in accordance with the established procedures.

(4) The current organisational structure and manpower requirement of the TIA are similar to the original plan. The administration of the TIA is led by an Executive Director. Under its organisational structure, there are three divisions, namely Regulatory Affairs Division, Operations Division, and Corporate Services Division. The estimated number of staff members required is about 90.

LCQ6: Overseas judges of the Court of Final Appeal

Following is a question by the Hon Paul Tse and a reply by the Chief Secretary for Administration, Mr John Lee, in the Legislative Council today (July 7):

Question:

Article 82 of the Basic Law stipulates that the Court of Final Appeal (CFA) may as required invite judges from other common law jurisdictions (overseas judges) to sit on the CFA. The CFA is constituted by five judges, including either a non-permanent Hong Kong judge or an overseas judge. In this connection, will the Government inform this Council if it knows:

- (1) the principles and conditions in accordance with which the Chief Justice of the CFA (CJ) decides on the necessity to select a judge from the list of overseas judges to sit on the CFA to hear individual cases;
- (2) the total number of cases heard by the CFA in the past five years and, among them, the number of those in which no overseas judges sat on the CFA; and
- (3) whether the CJ has, when deciding which judge on the list of overseas judges is to be selected to sit on the CFA to hear individual cases, considered if a judge was an appropriate choice from the national security perspective; whether the CJ will, in the light of the implementation of the National Security Law for Hong Kong, take national security as a key factor for consideration in making the relevant decision?

Reply:

President,

Based on the information provided by the Judiciary, the Government's consolidated reply is as follows:

As stipulated under Article 92 of the Basic Law, judges of the Hong Kong Special Administrative Region (HKSAR) shall be chosen on the basis of their

judicial and professional qualities and may be recruited from other common law jurisdictions. In making recommendations on judicial appointments, it is important to maintain the highest professional standards in the Judiciary.

Under section 16 of the Hong Kong Court of Final Appeal Ordinance (Cap. 484), all appeals shall be heard and determined by the Court of Final Appeal, which is constituted by five judges as follows:

- (i) the Chief Justice or a Permanent Judge (PJ) designated to sit in his place under the Hong Kong Court of Final Appeal Ordinance;
- (ii) three PJs nominated by the Chief Justice; and
- (iii) one non-permanent Hong Kong judge or one judge from another common law jurisdiction selected by the Chief Justice and invited by the Court of Final Appeal.

Under section 10 of the Hong Kong Court of Final Appeal Ordinance, the total number of persons holding office as non-permanent judges shall not at any one time exceed 30.

At present, there are 13 serving non-permanent judges from other common law jurisdictions (CLNPs), nine of whom are from the United Kingdom, three are from Australia and one is from Canada. These CLNPs are all judges of the most eminent standing in the entire common law community, with profound judicial experience as well as the highest professional status and reputation. Their participation in hearings of the Court of Final Appeal is conducive to maintaining the high degree of confidence in the independent judicial system under the Basic Law and allows Hong Kong to maintain strong links with other common law jurisdictions.

With the exception of a few cases, all along the arrangement has been that a judge is drawn from the list of CLNPs to sit on the Court of Final Appeal. These exceptional occasions were mainly due to the unavailability of the CLNPs at the scheduled hearing dates or because there were unforeseen circumstances which rendered it not possible for the CLNPs to hear the appeals as planned.

There are mainly two major types of cases heard by the Court of Final Appeal, namely applications for leave to appeal and appeals.

In respect of applications for leave to appeal, section 18 of the Hong Kong Court of Final Appeal Ordinance stipulates that the power of the Court of Final Appeal to hear and determine any application for leave to appeal shall be exercised by the Appeal Committee. The Appeal Committee consists of the Chief Justice and two PJs nominated by the Chief Justice, or three PJs nominated by the Chief Justice, without having to invite the CLNPs to sit in the hearings.

In relation to appeal cases, from 2016 to 2020, the Court of Final Appeal disposed of a total of 143 cases, including those cases which have been allowed, dismissed, withdrawn, abandoned or discontinued. There were only two appeals in which the CLNPs were not invited to sit in the hearings

during those five years.

The listing and handling of cases, as well as the assignment of which judge or judges are to handle cases have always been judicial functions to be exercised by the Judiciary independently, and the decisions concerned are to be made by the court leaders of the relevant levels of courts. Apart from stipulating that the courts are to assign judges from a list of "designated judges" to handle cases related to national security, the National Security Law in the HKSAR has not brought about any changes to the abovementioned judicial powers and functions. As such, in selecting and inviting the CLNPs to sit in every hearing, the Chief Justice of the Court of Final Appeal will, as an established approach, consider all relevant factors, including the availability of the relevant judges, their areas of legal expertise, and the nature of the cases to be heard, etc.

Thank you, President.