

LCQ20: Default on maintenance payments

Following is a question by the Hon Leung Che-cheung and a written reply by the Secretary for Home Affairs, Mr Lau Kong-wah, in the Legislative Council today (June 26):

Question:

The Social Welfare Department (SWD), in calculating the amounts of Comprehensive Social Security Assistance (CSSA) payments payable to CSSA recipients who are concurrently receiving maintenance payments, makes a deduction of the maintenance payments they may receive. If the CSSA recipients can prove to SWD that they have commenced legal proceedings to recover the arrears of maintenance payments, the deduction of their CSSA payments may be suspended. Some social welfare organisations have pointed out that it is very time-consuming to provide such a proof, and such recipients, who are mainly single parents, will immediately fall into financial difficulties once they are owed their maintenance payments. Besides, the work on implementing the maintenance order system falls within the remit of the Home Affairs Bureau and yet SWD, which provides support to single parents, is under the Labour and Welfare Bureau, resulting in a lack of coordination for and effectiveness of the relevant work. In this connection, will the Government inform this Council:

- (1) whether it knows the number of maintenance orders granted by the court in the past five years, with a tabulated breakdown by the group to which the amount of monthly maintenance payments belonged (i.e. below \$2,000, \$2,000 to \$3,999, \$4,000 to \$5,999, and \$6,000 or more);
- (2) of the respective numbers of requests for assistance (i) received and (ii) handled by SWD and non-governmental organisations in the past three years concerning default on maintenance payments;
- (3) whether it has compiled statistics on the number of cases in the past three years in which legal proceedings were commenced to recover arrears of maintenance payments;
- (4) whether it will dispense with the requirement for CSSA recipients to submit proof of having commenced legal proceedings, and stipulate that as long as they make a statutory declaration stating that they are owed their maintenance payments, the deduction of their CSSA payments will be suspended;
- (5) whether it will put the work on implementing the maintenance order system under the purview of the Labour and Welfare Bureau so as to enhance the coordination for the work relating to default on maintenance payments and the support for the single parents concerned; and
- (6) whether it will consider setting up a dedicated department to strengthen the support for single parents who are owed their maintenance payments?

Reply:

President,

After consulting the Judiciary, the Legal Aid Department (LAD), the Labour and Welfare Bureau (LWB) and the Social Welfare Department (SWD), a consolidated reply to the various parts of the question is as follows:

(1) According to the Judiciary, it does not keep information on applications for maintenance orders, granting of maintenance orders, nor the respective amount of maintenance payments.

(2) and (4) In assessing the amount of Comprehensive Social Security Assistance (CSSA) payments to be granted to a CSSA recipient, SWD will first assess his/her recognised needs. If the applicant has assessable income (including maintenance payments), the CSSA payments will be suitably deducted. Before the maintenance payments have been successfully recovered by the recipient, SWD will not, on account of such payments, reduce or stop the CSSA payments for which he/she is eligible. However, the recipients should declare on the designated undertaking their intention to take action in filing claims for maintenance payments.

SWD does not keep information on the number of CSSA cases involving default in maintenance payments.

(3) According to the statistics provided by the Judiciary, the number of judgment summons hearings and applications for Attachment of Income Orders (AIO) regarding the recovery of arrears of maintenance in the past three years are as follows:

	2016	2017	2018
Number of judgment summons hearings	844	839	783
Number of applications for AIO	12	14	9
Number of AIOs made	7	13	14

Note: AIOs might not be made in the same year as the applications were received.

LAD provides legal aid for eligible applicants who pass both the means and merits tests to recover arrears of maintenance. The number of judgment summons proceedings issued for cases handled by in-house lawyers of LAD is shown below:

	2016	2017	2018
Number of judgment summons proceedings issued	126	99	95
Number of cases closed	116	161	141
(i) Number of successful cases (%)	82 (71%)	104 (65%)	89 (63%)

(ii) Number of unsuccessful cases (%)	34 (29%)	57 (35%)	52 (37%)
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Notes:

1. Cases may not be closed in the same year as the judgment summons proceedings were issued.
2. LAD does not keep statistics on the number of judgment summons proceedings issued for cases handled by lawyers in private practice on LAD's panel.

(5) The Home Affairs Bureau is responsible for the work on implementing the maintenance order system. The Government has no plan to transfer the work to the Labour and Welfare Bureau at present.

(6) The Government is committed to enhancing the effectiveness of the system of collecting maintenance payments and enforcing maintenance orders. The measures taken so far include relaxing the requirement for the court to make an AIO, imposing interest or surcharge against defaulting maintenance payers, allowing designated government departments to disclose the addresses of maintenance payers upon the request of legal professionals, increasing the amount of monthly maintenance that may be exempted from the Director of Legal Aid's First Charge, streamlining the referral procedures for CSSA applicants to apply for legal aid for recovery of arrears of maintenance, as well as strengthening efforts in publicity and education.

In addition, the Government commissioned through the Family Council a research team in June 2018 to conduct a consultancy study on various issues related to marriage and divorce, including whether it is appropriate to set up a dedicated department to handle maintenance-related matters, in order to facilitate our consideration of the way forward. The consultancy study is expected to be completed in 18 months (late 2019/early 2020).

[LCQ9: Air quality in train compartments and railway stations](#)

Following is a question by the Hon Chan Kin-por and a written reply by the Secretary for Transport and Housing, Mr Frank Chan Fan, in the Legislative Council today (June 26):

Question:

Railway is a major mode of public transport used by members of the public on a long-term basis. The findings of a research conducted by a university, which were published last year, showed that (i) when train doors opened, the concentrations of fine suspended particulates at the door-side surged, and (ii) those particulates contained metals which, after being

breathed into the lungs, might cause respiratory and cardiovascular diseases, and even lung cancer. In this connection, will the Government inform this Council:

(1) whether it knows the timetable for and other details of the regular tests currently carried out by the MTR Corporation Limited (MTRCL) on the air quality of train compartments and railway stations, and the latest concentration levels of air pollutants obtained from such tests;

(2) whether it knows if MTRCL conducted any study in the past three years on ways to reduce the concentration levels of air pollutants in train compartments and railway stations; if MTRCL did, of the details; if not, the reasons for that; and

(3) given that MTRCL currently monitors the air quality in railway facilities according to the Practice Note for Managing Air Quality in Air-conditioned Public Transport Facilities: Railways published in 2003 by the Environmental Protection Department (EPD), whether EPD has updated the Practice Note since 2003; if not, when EPD will update the Practice Note?

Reply:

President,

Having consulted the Environmental Protection Department (EPD) and the MTR Corporation Limited (MTRCL), my reply to the Hon Chan Kin-por's question is as follows:

(1) and (2) In 2003, the EPD issued the "Practice Note for Managing Air Quality in Air-conditioned Public Transport Facilities – Railways (Practice Note 2/03)" (Practice Note) to assist railway service providers in monitoring and managing air quality in railway facilities. According to the Practice Note, railway service providers should ensure ventilation of its railway facilities in order to achieve and maintain a good air quality. Carbon dioxide is the monitoring indicator of the effectiveness of ventilation system. Moreover, railway service providers should establish a framework and action plan to achieve and maintain a good indoor air quality in their facilities.

As railway service providers, the MTRCL has all along complied with the Practice Note in managing the air quality of its facilities, providing a safe and comfortable environment for passengers travelling on and waiting for MTR trains. Specifically, MTR stations and train compartments are equipped with ventilation systems and air filters, bringing in outdoor fresh air to stations and train compartments to improve ventilation. The MTRCL also regularly arranges for cleansing or replacement of ventilation system filters and air-conditioning systems so as to maintain a good indoor air quality.

As regards to monitoring, the MTRCL, in accordance with the Practice Note, has been conducting regular checking of the air quality of train compartments and all train stations at least once a year, in order to monitor the air quality of its facilities. Meanwhile, the MTRCL also conducts

checking on its railway facilities (including new stations and trains, relevant facilities and locations of public concern) as and when necessary. Based on the results of the relevant checking, in 2018, the air quality of MTR trains compartments and all stations reached Level 1, the highest level representing good air quality under the Practice Note, which means that the hourly average concentration of carbon dioxide is below 2 500 parts per million (4 500 milligrams per cubic metre). This indicates that MTR train compartments and stations are adequately ventilated and the air quality therein is good.

The MTRCL will continue its work in managing and monitoring air quality. It welcomes views from the Government, the trades, other professional bodies and the public in this respect, and will continue to strive to provide a good indoor air quality and safe and comfortable environment for passengers travelling on MTR trains.

(3) According to the EPD, it is studying the latest developments of various countries on the management of indoor air quality of transport facilities, with a view to reviewing whether the Practice Note requires any updating.

LCQ7: Road safety involving crane lorries

Following is a question by Dr Hon Lo Wai-kwok and a written reply by the Secretary for Transport and Housing, Mr Frank Chan Fan, in the Legislative Council today (June 26):

Question:

It has been reported that on the 16th of last month, the crane of a crane lorry running on the road in the Western District hooked and damaged an overhead cable of the tramway system, allegedly because the crane had not been folded properly. As a result, the tram service at the road section concerned was suspended for works personnel to repair the cable. Regarding road safety involving crane lorries, will the Government inform this Council:

(1) of the number of traffic accidents caused by cranes of crane lorries not folded properly and the resultant casualties, in each of the past five years;

(2) whether it reviewed and improved, in the past three years, the measures regulating the operation of crane lorries, such as raising the penalties for contravening the work safety requirements; if so, of the details; if not, the reasons for that; and

(3) whether it will discuss with members of the relevant trades ways to improve the design of crane lorries and the operational guidelines as well as

enhance the training for the operators in relation to safe work practices, so as to avoid the occurrence of similar kind of accidents; if so, of the details; if not, the reasons for that?

Reply:

President,

My reply to the various parts of Dr Hon Lo Wai-kwok's question is as follows:

(1) According to the records of the Transport Department (TD), during the period from January 2014 to May 2019, there were two cases of traffic accidents involving crane lorries with cranes not properly folded. One of the cases occurred in 2015 causing minor injury to a passenger, and the other occurred in 2018 causing serious injury to a driver of a crane lorry. The TD does not maintain records of traffic accidents not involving casualties.

(2) and (3) At present, the Government has put in place appropriate regulations regarding the safety requirements for crane lorries running on roads. All commercial vehicles (including crane lorries) running on roads must undergo and pass vehicle examination prior to first registration and annually thereafter in order to ensure that the vehicles are roadworthy and all on-board mobile industrial equipment is securely installed. As stipulated under regulation 6 of the Road Traffic (Construction and Maintenance of Vehicles) Regulations (Cap. 374A), the overall height of a crane lorry (including the load and equipment it carries) must not exceed 4.6 metres when running on roads. Also, when a crane lorry is operated in an industrial undertaking, the crane operator must comply with the training and qualification requirements as stipulated under the Factories and Industrial Undertakings Ordinance (Cap. 59) for protection of safety of the workers.

Separately, regulation 58 of the Road Traffic (Traffic Control) Regulations (Cap. 374G) provides that the driver of a motor vehicle on a road shall ensure that the motor vehicle, all its parts and accessories, and its load shall be such that no danger is caused or is likely to be caused to any person; or no damage is caused or is likely to be caused to a road or to public or private property. Otherwise, the driver commits an offence, and is liable to a fine of \$5,000 and imprisonment for three months on first conviction.

The TD has also prescribed the Code of Practice for the Loading of Vehicles, which reminds crane operators to have the crane lowered and returned to its stowed position after operating the crane attached to the vehicle. The Code of Practice also recommends the installation of warning systems on vehicles to alert drivers if the cranes are out of their stowed position when the vehicles are in motion. The TD will continue its publicity and education efforts to remind crane lorry owners, drivers and crane operators to take greater heed of and observe the safety regulations on the use of lorries running on roads. The TD will also seek to raise the trade's awareness of safe driving of crane lorries through its regular meeting with the goods vehicle trade and publication of the Goods Vehicle Trade

Newsletter.

The Government will continue to monitor the safety of crane lorries running on roads with a view to examining the need to strengthen regulation in a timely manner.

LCQ7: Road safety involving crane lorries

Following is a question by Dr Hon Lo Wai-kwok and a written reply by the Secretary for Transport and Housing, Mr Frank Chan Fan, in the Legislative Council today (June 26):

Question:

It has been reported that on the 16th of last month, the crane of a crane lorry running on the road in the Western District hooked and damaged an overhead cable of the tramway system, allegedly because the crane had not been folded properly. As a result, the tram service at the road section concerned was suspended for works personnel to repair the cable. Regarding road safety involving crane lorries, will the Government inform this Council:

(1) of the number of traffic accidents caused by cranes of crane lorries not folded properly and the resultant casualties, in each of the past five years;

(2) whether it reviewed and improved, in the past three years, the measures regulating the operation of crane lorries, such as raising the penalties for contravening the work safety requirements; if so, of the details; if not, the reasons for that; and

(3) whether it will discuss with members of the relevant trades ways to improve the design of crane lorries and the operational guidelines as well as enhance the training for the operators in relation to safe work practices, so as to avoid the occurrence of similar kind of accidents; if so, of the details; if not, the reasons for that?

Reply:

President,

My reply to the various parts of Dr Hon Lo Wai-kwok's question is as follows:

(1) According to the records of the Transport Department (TD), during the period from January 2014 to May 2019, there were two cases of traffic accidents involving crane lorries with cranes not properly folded. One of the

cases occurred in 2015 causing minor injury to a passenger, and the other occurred in 2018 causing serious injury to a driver of a crane lorry. The TD does not maintain records of traffic accidents not involving casualties.

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The TD has also prescribed the Code of Practice for the Loading of Vehicles, which reminds crane operators to have the crane lowered and returned to its stowed position after operating the crane attached to the vehicle. The Code of Practice also recommends the installation of warning systems on vehicles to alert drivers if the cranes are out of their stowed position when the vehicles are in motion. The TD will continue its publicity and education efforts to remind crane lorry owners, drivers and crane operators to take greater heed of and observe the safety regulations on the use of lorries running on roads. The TD will also seek to raise the trade's awareness of safe driving of crane lorries through its regular meeting with the goods vehicle trade and publication of the Goods Vehicle Trade Newsletter.

The Government will continue to monitor the safety of crane lorries running on roads with a view to examining the need to strengthen regulation in a timely manner.

LCQ1: Remittance of money to the Mainland

Following is a question by the Hon Ho Kai-ming and a reply by the Secretary for Financial Services and the Treasury, Mr James Lau, in the Legislative Council today (June 26):

Question:

It is learnt that in order to save time and cost, quite a number of Hong Kong people choose to use money changers instead of banks to remit Renminbi for them from Hong Kong to the Mainland. However, such money changers are regarded as "underground banks" as they have not been granted approval by the Mainland authorities for operating cross-border remittance business. Upon detection of illegal remittances, the law enforcement agencies on the Mainland may freeze the accounts of money changers and the Mainland beneficiaries concerned. As a result, the remitters fall into a "remittance trap" inadvertently. In this connection, will the Government inform this Council:

(1) of the number of complaints involving money changers received by the Government in each of the past three years, with a breakdown by type of complaints and the level to which the amount of money involved belonged;

(2) of the measures to enhance the regulation of the service of remitting money for customers to the Mainland provided by money changers, so as to avoid Hong Kong people suffering losses; and

(3) whether it will improve the current procedure and arrangements for banks to remit money for their customers to the Mainland, including discussing with the Mainland authorities the raising of the daily remittance limit per person and simplifying the vetting and approval procedure; if so, of the details?

Reply:

President,

Having regard to the international standards on anti-money laundering and counter terrorist-financing (AML/CFT), the Government commenced the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (AMLO) (Cap. 615) in 2012 to impose statutory customer due diligence and record-keeping requirements on financial institutions (including money service operators (MSOs)). The Ordinance also introduces a licensing regime for MSOs and empowers the Customs and Excise Department (C&ED) to supervise their AML/CFT compliance.

Under the AMLO, any person who operates a money service business (including money changing service and/or remittance service) in Hong Kong

must obtain a licence from the C&ED. the C&ED may grant a licence to an MSO applicant only if it is satisfied that the applicant and ultimate owners (if any) are fit and proper persons to operate a money service business. If the applicant is a corporation or a partnership, all directors, partners, and ultimate owners (if any) must be fit and proper persons. In deciding whether a person is fit and proper, the C&ED must have regard to whether the person has been convicted of an offence relating to money laundering or terrorist financing under the Organized and Serious Crimes Ordinance (Cap. 455), Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405) or United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575) (including similar offences in other jurisdictions); whether he/she has persistently failed to comply with the AML/CFT requirements stipulated under the AMLO or the AML/CFT Guideline promulgated by the C&ED; whether he/she has been convicted for an offence for which it was necessary to find that the person had acted fraudulently, corruptly or dishonestly; whether the person, being an individual, is an undischarged bankrupt or is the subject of any bankruptcy proceedings; and whether the person, being a corporation, is in liquidation or is the subject of a winding up order, etc. In addition to the above, the C&ED may consider any other matter that it considers relevant in determining whether a person is fit and proper.

My reply to various parts of the question raised by the Hon Ho Kai-ming is as follows:

(1) From 2016 to 2018, the C&ED received a total of 37 complaints relating to MSOs, 18 of which relate to failure to complete remittance transactions for various reasons after MSOs received funds from their customers.

(2) On top of the AMLO, MSOs must comply with other legislations, including those relating to consumer protection. For example, the Trade Descriptions Ordinance (TDO) (Cap. 362) stipulates that any trader (including MSOs) who applies a false or misleading claim during the course of offering a service to a consumer commits an offence; such offence may be reported to the C&ED. Further, a report may be made to the Police if an MSO or any trader is suspected of fraud or other criminal offences.

Aside from criminal investigation, the C&ED will also commence an investigation under the AMLO against the alleged MSO. If the licensee is found not to have complied with the AMLO or the AML/CFT Guideline, the C&ED may institute a criminal prosecution or impose administrative measures against the licensee, including public reprimand, order for remedial action, fines and/or imposition of additional licensing conditions. If the licensee is no longer considered to be a fit and proper person to operate a money service business, the C&ED will suspend or revoke his/her MSO licence.

From January to April 2019, two persons who operate a money service business were arrested for suspected contravention of the TDO and theft respectively, and their MSO licences have been suspended by the C&ED. Investigation is ongoing. During the same period, the C&ED suspended/revoked another five MSO licences for various other reasons.

In addition to strengthening enforcement, the C&ED conducts regular outreach (e.g. distribution of pamphlets, providing latest information at its website, etc) to remind the public to engage only licensed MSOs and stay vigilant to the laws and regulations of other jurisdictions when remitting money so as to prevent any loss.

(3) The Hong Kong Monetary Authority (HKMA) attaches importance to the accessibility of financial and banking services to Hong Kong residents in the Mainland. The HKMA maintains liaison with the Mainland authorities on issues relating to payment, account opening, wealth management, and remittance etc, and measures of financial facilitation are introduced accordingly. The HKMA will follow up as appropriate with the Mainland authorities on arrangements to remit Renminbi having regard to the local situation.

Thank you, President.