

Unauthorized Occupation of Government Land

4. **MR NG LEUNG-SING** (in Cantonese): *Madam President, will the Government inform this Council:*

- (a) *of the number of cases of unauthorized occupation of government land in the past year, the number and total area of land involved, broken down by district; among these cases, the number of those in respect of which the authorities have instituted prosecutions;*
- (b) *whether it has reviewed the adequacy and effectiveness of the existing legislation and relevant enforcement actions to prevent unauthorized occupation of government land; and*
- (c) *of the measures to improve the management of the government land mentioned in (a), in order to prevent such lands from adversely affecting the environment and the residential areas in the neighbourhood?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese):
Madam President, my reply to the three parts of the question is as follows:

- (a) There were 3 427 cases (involving 294 600 sq m of land) of unauthorized occupation of government land from April 2002 to March 2003. A breakdown by district is at Annex. About 91% of these cases have been rectified after posting of the relevant notice under the Land (Miscellaneous Provisions) Ordinance (Cap. 28). Among these cases, six have been prosecuted under Cap. 28 and the offenders were convicted with fines ranging from \$1,000 to \$1,500. Actions are being taken to recover the illegally occupied sites in the remaining 9% of the cases.
- (b) Under section 6 of Cap. 28, the Director of Lands is empowered to take action to clear any unauthorized occupation of government land, to prosecute the person identified for the offence, and to recover the cost of any clearance action taken.

If government land is occupied without permission, a notice will be posted on the site concerned requiring the alleged offender to cease the unauthorized occupation within a specified period. If the unlawful occupation continues after the expiry of the specified period, the District Lands Office concerned will consider taking further action such as:

- (i) evicting the persons (if any) from the land;
- (ii) taking possession of any property or structure on the land;
- (iii) demolishing the structure(s) on the land; and/or
- (iv) prosecuting the person(s) identified for the offence.

After the land is cleared, where appropriate, the area will be fenced off or bollards will be erected to prevent recurrence of unauthorized occupation.

As over 90% of cases have been rectified after posting of relevant notice, it is therefore considered that Cap. 28 and the enforcement actions outlined above are generally adequate and effective in dealing with the problem of unauthorized occupation of government land.

- (c) Apart from the aforementioned enforcement actions against unauthorized occupation of government land, the Lands Department also undertakes proactive measures in land control. Sites which are prone to unauthorized occupation are fenced off. If the intended permanent development of the sites is unlikely to take place for some time, they may be put to temporary uses through the letting of short-term tenancies. Such arrangement will help prevent unauthorized occupation of vacant government land. If no short-term uses can be identified for the vacant sites, the Administration will improve their environment by implementing some greening measures as far as practicable.

Annex

Cases of Unauthorized Occupation of Government Land
(1 April 2002 to 31 March 2003)

<i>District Lands Office</i>	<i>No. of Cases Discovered</i>	<i>Area of Government Land Involved (sq m)</i>
Hong Kong East	134	2 200
Hong Kong South	255	20 000
Hong Kong West	253	500
Kowloon East	162	30 000
Kowloon West	471	15 000
Islands	377	5 600
Kwai Tsing	146	73 000
North	212	16 600
Sai Kung	185	5 100
Sha Tin	241	1 200
Tuen Mun	124	17 700
Tai Po	80	6 900
Tsuen Wan	247	12 400
Yuen Long	540	88 400
Total	3 427	294 600

MR NG LEUNG-SING (in Cantonese): *Madam President, we can note from part (a) of the Government's main reply that there are over 3 400 cases of unauthorized occupation of government land within one year, that is, nearly eight to 10 cases per day. Besides, they involve as much as 300 000 sq m of land, which is almost 3 000 000 sq ft, and each case involves 8 000 sq ft of land. At present, convicted offenders have to pay a fine ranging from \$1,000 to \$1,500. In view of this, is the fine level too low that it has very little deterrent effect or is it not so effective?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): *Madam President, there are numerous cases involving unauthorized occupation*

of government land, with some occupying more and some less. For example, cases of larger-scale unauthorized occupation of government land include making the lot a private garden or conducting farming, vehicles dumping, refuse or waste dumping activities. As to other circumstances, such as the erection of structures, it really depends on the size of the relevant structures. Action is being taken to pinpoint these offences. As I explained just now, about 91 % of these cases were rectified after posting of the relevant notice. With regard to cases where prosecution has to be instituted, the Court would sentence the offender a fine according to the evidence provided by us and the relevant circumstances so as to achieve deterrent effect. According to our records, 91 % of unauthorized occupation cases were rectified after posting of the relevant notice. We therefore consider the deterrent effect does exist.

MISS CHOY-SO-YUK (in Cantonese): *Madam President, as far as I know, some of the sites have been occupied for several years and used as private car parks, but nobody has intervened. May I ask the Secretary, in general, how unauthorized occupation of government land is found? Will the Government send staff to carry out inspections? Why did the abovementioned unauthorized occupation take place, that is, why some people could brazenly run private businesses on government land without authorization for a very long period without being discovered?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, car parking is a special issue. With regard to the car parks we can see, most of them are let on short-term tenancies by the Lands Department, so they are subject to government control. Of course, it does not mean that there is no unauthorized use at all. For example, there were 14 cases of unauthorized occupation of government land as car parks last year. Staff of district lands offices would carry out inspections as part of their day-to-day duties to see if there are any such cases. Among the 14 cases discovered last year, the Government has successfully resumed the relevant government land, while the remaining three cases are still being dealt with. With regard to the conduct of car parking business on government land without authorization, if there is no specific land boundary or other complications, then the relevant district land office could take actions of land control quickly by taking possession of those sites. For that reason, the problem that we are facing in that respect is not so serious.

MR NG LEUNG-SING (in Cantonese): *Madam President, in the final part of the main reply the Secretary stated that "If no short-term uses can be identified for the vacant sites, the Administration will improve their environment by implementing some greening measures as far as practicable". The implementation of greening measures entails high costs, so has the Government ever considered contracting out the temporary vacant government land to estate agents? If the land is contracted out, estate agents can seal short-term tenancies for the Government more quickly and efficiently, but what the Government have to pay at most would just be the commission.*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, as I explained to Miss CHOY So-yuk just now, the Government itself is capable of making temporary uses of the land, moreover, we have our own lawyers and colleagues to deal with matters in relation to the letting of short-term tenancies. We would usually gazette notices and invite interested parties to participate in open tenders. For that reason, we have the capability of dealing with matters in this respect and we just wish to obviate outside involvement with a view to saving public money.

DR RAYMOND HO (in Cantonese): *Madam President, the Secretary mentioned that last year there were over 3 400 cases of unauthorized occupation of government land involving around 300 000 sq m of land, but over 90% of cases were rectified after posting of relevant notice. May I ask the Secretary whether the Government has information on all government land? Why this notice is not posted on every government lot? Had this been done, none of these circumstances should have occurred. Will the Government exert more efforts in this respect?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, as we all know, government lands are scattered all over the territory. I have explained in my main reply that for sites which are prone to unauthorized occupation, we have adopted deterrent measures such as fencing them off or erecting notice on them. I think Honourable Members should have seen these measures in many places. With regard to remote places in the New Territories, the situations mentioned by Dr Raymond HO just now are more likely to take place. Of course, we hope to take some remedial measures and straighten them up.

MISS CHOY-SO-YUK (in Cantonese): *Madam President, the Secretary mentioned that there were over 3 000 cases of unauthorized occupation of government land. How many of them were discovered by the Government on its own initiative and how many of them were reported by the public before the Government realized that some people had occupied government land without authorization?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, I am sorry that I do not have the accurate and detailed figures at hand, but I know that most of the cases were discovered by our colleagues in their routine work. Of course, we do not dismiss the possibility that we could only obtain the relevant information upon receipt of reports from the public. I would provide detailed information in this respect in writing if Honourable Members deem it necessary. (Appendix I)

MR NG LEUNG-SING (in Cantonese): *Madam President, some actions mentioned in the main reply involve government expenditure. Considering the tight financial position, should the cost of demolishing the structures erected on the relevant land be recovered from the unauthorized occupant afterwards?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, I have made it very clear in the main reply that the Government would recover the cost from the relevant parties.

Appendix I

WRITTEN ANSWER

Written answer by the Secretary for Housing, Planning and Lands to Miss CHOY So-yuk's supplementary question to Question 4

The information on the unauthorized occupation of government land in 2002-03 as detected by different sources is as follows:

<i>Sources of Detection</i>	<i>Number of cases</i>
- By District Lands Offices	840
- Referrals from other government departments	1 937
- Through public complaints	650
Total:	3 427