

LCQ9: CE's power to issue instructions to statutory bodies

Following is a question by the Hon Emily Lau and a written reply by the Secretary for Home Affairs, Dr Patrick Ho, in the Legislative Council today (October 18):

Question:

Regarding the Chief Executive (CE) giving directions to statutory bodies in accordance with legislation, will the Executive Authorities inform this Council:

- (a) of the ordinances which empower CE to give directions to statutory bodies; and
- (b) whether they will review if it is an outdated practice to stipulate in legislation that CE may give directions to statutory bodies, and whether such a practice will undermine the independence of statutory bodies; if they will conduct a review, of the details; if not, the reasons for that?

Reply:

Madam President,

(a) A list of the ordinances which contain empowering provisions for the Chief Executive (CE) to give directions to statutory bodies is at Annex.

(b) The power of the CE to give directions to the statutory bodies in question has been vested in the CE by law, as part of the statutory scheme under which those bodies were established. In every case, the Legislative Council had in the legislative process agreed that it was appropriate, and in the public interest, for the CE to be vested with the power to give directions. The power cannot be said to undermine the degree of independence of the statutory bodies concerned, which is enshrined in the relevant ordinances. There is also no question of the CE's directions working to undermine the independence of these statutory bodies. In practice, the power would not be, and has not been, exercised lightly. The CE would only exercise the power where there is a clearly justified need and when he is satisfied that it is in public interest to do so. The Administration therefore does not see the need to review the

provisions.

Ends/Wednesday, October 18, 2006