

**立法會**  
**Legislative Council**

LC Paper No. CB(2)2146/14-15  
(These minutes have been  
seen by the Administration)

Ref : CB2/BC/9/13

**Bills Committee on Private Columbaria Bill**

**Minutes of the thirteenth meeting  
held on Monday, 29 June 2015, at 08:30 am  
in Conference Room 2A of the Legislative Council Complex**

- Members present** : Hon IP Kwok-him, GBS, JP (Chairman)  
Dr Hon Kenneth CHAN Ka-lok (Deputy Chairman)  
Hon LEE Cheuk-yan  
Hon James TO Kun-sun  
Hon Tommy CHEUNG Yu-yan, SBS, JP  
Hon WONG Kwok-hing, BBS, MH  
Hon CHAN Hak-kan, JP  
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP  
Hon Paul TSE Wai-chun, JP  
Hon Alan LEONG Kah-kit, SC  
Hon LEUNG Kwok-hung  
Hon Albert CHAN Wai-yip  
Hon WONG Yuk-man  
Hon Steven HO Chun-yin  
Hon WU Chi-wai, MH  
Hon CHAN Han-pan, JP  
Hon CHAN Yuen-han, SBS, JP  
Hon Alice MAK Mei-kuen, JP  
Dr Hon Helena WONG Pik-wan  
Hon Christopher CHUNG Shu-kun, BBS, MH, JP  
Hon Tony TSE Wai-chuen, BBS
- Members absent** : Hon Cyd HO Sau-lan, JP  
Hon CHEUNG Kwok-che  
Hon LEUNG Che-cheung, BBS, MH, JP  
Dr Hon Elizabeth QUAT, JP

**Public Officers : Item I  
attending**

Mr Christopher WONG, JP  
Deputy Secretary for Food and Health (Food)1  
Food and Health Bureau

Miss Diane WONG  
Principal Assistant Secretary for Food and Health  
(Food)2  
Food and Health Bureau

Ms Phyllis KO  
Senior Assistant Law Draftsman (II)1  
Department of Justice

Miss Cindy CHEUK  
Government Counsel  
Department of Justice

Mr CHIU Yu-chow  
Assistant Director (Grade Management and  
Development)  
Food and Environmental Hygiene Department

Mr YEUNG Chun-hoi  
Senior Superintendent (Cemeteries & Crematoria)  
Special Duties  
Food and Environmental Hygiene Department

Ms Olga LAM, JP  
Assistant Director (Estate Management)  
(Lands Administration Office/Headquarters)  
Lands Department

Ms Christine TSE  
Assistant Director of Planning (Special Duties)  
Planning Department

Mr Tommy TAM Wing-cheung  
Chief Building Surveyor/Legal Services  
Buildings Department

**Clerk in attendance** : Mr Colin CHUI  
Chief Council Secretary (2) 4

**Staff in attendance** : Ms Wendy KAN  
Assistant Legal Adviser 6

Ms Catherina YU  
Senior Council Secretary (2) 4

Miss Maggie CHIU  
Legislative Assistant (2) 4

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Action

**I. Meeting with the Administration**

[File Ref.: FH CR 2/3751/07, LC Paper Nos. CB(3)740/13-14, CB(2)2141/13-14(01), CB(2)2338/13-14(07) to (08), CB(2)305/14-15(01), CB(2)431/14-15(01) to (03), CB(2)630/14-15(01), CB(2)825/14-15(01), CB(2)878/14-15(01), CB(2)1063/14-15(01), CB(2)1286/14-15(01), CB(2)1535/14-15(01) and CB(2)1813/14-15(01)]

The Bills Committee deliberated (index of proceedings attached at **Annex**).

2. The Bills Committee requested the Administration to –

- (a) consider proposing amendments to section 4(2) and (3) of Schedule 1 to deal with the situation where the Chairperson (or Deputy Chairperson, if applicable) of the future Private Columbaria Licensing Board ("the Licensing Board") had to be disregarded for the purposes of constituting a quorum of a meeting, and section 4(4) of Schedule 1 as to whether the Deputy Chairperson of the Licensing Board had a casting vote if the Chairperson of the Licensing Board was absent from a meeting;
- (b) consider specifying in section 1(1) of Schedule 1 that a majority of members of the Licensing Board should be non-public officers;

Action

- (c) consider deleting the word "pecuniary" from section 5 of Schedule 1;
- (d) give a response in relation to section 4(6) of Schedule 1 on what constituted a good reason for holding a meeting of the Licensing Board in private;
- (e) consider stipulating in the procedures and guidelines of the Licensing Board that the applicants whose interests were affected by its decisions should be given the right to be heard (i.e. to make representations if their applications in respect of specified instruments (i.e. a licence, an exemption or a temporary suspension of liability) were not renewed, or were revoked or suspended);
- (f) consider making information on disclosure of interests of members of the Licensing Board more transparent;
- (g) give a response in relation to section 4(5) of Schedule 1 on the proposed arrangements for transacting business by way of circulation of papers by the Licensing Board, and consider removing section 4(5) of Schedule 1 from the Bill;
- (h) provide examples of provisions concerning transaction of business by way of circulation of papers by some statutory bodies;
- (i) give a response as to whether to provide in section 4 of Schedule 1 that applicants should be given the opportunity to make representations in relation to matters under clause 7(1)(a)(i) or (iii);
- (j) review clauses 71(4), clause 94(3) and 94(4);
- (k) consider specifying in the Bill the term of appointment of the Chairperson and Deputy Chairpersons of the Private Columbaria Appeal Board ("Appeal Board") and members of the Panel for hearing appeals;
- (l) provide examples of how other statutory appeal boards handled requests for changing Presiding Officer or member(s) for hearing appeals;

Action

- (m) consider amending clause 72 to make clear what other decisions of the Licensing Board would be appealable;
- (n) provide a response on whether residents who were not satisfied with the Licensing Board's decisions might lodge appeals to the Appeal Board; and
- (o) consider making clear the policy intent behind the term "persons aggrieved" under clause 72(1) by spelling out the persons who could lodge appeals.

**II. Date of next meeting**

- 3. Members noted that the next meeting would be held on Monday, 6 July 2015 at 10:45 am.

**III. Any other business**

- 4. There being no other business, the meeting ended at 10:27 am.

Council Business Division 2  
Legislative Council Secretariat  
30 September 2015

**Proceedings of the thirteenth meeting of the  
Bills Committee on Private Columbaria Bill  
on Monday, 29 June 2015, at 8:30 am  
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker(s)	Subject(s)	Action required
<i>Agenda item I – Meeting with the Administration</i>			
000242 - 000456	Chairman	Opening remarks	
Clause-by-clause examination			
000457 - 001006	Chairman Admin ALA6	<p>Examination of Schedule 1 – section 4</p> <p>ALA6's enquiry and the Administration's response regarding the quorum of a meeting of the future Private Columbaria Licensing Board ("Licensing Board") where the Chairperson of the Licensing Board ("the Chairperson") and/or the Deputy Chairperson of the Licensing Board ("Deputy Chairperson") was absent and the Deputy Chairperson had to be disregarded for the purposes of constituting the quorum pursuant to section 4(7) of Schedule 1, or where both the Chairperson and Deputy Chairperson had to be disregarded for the purposes of constituting the quorum.</p> <p>The Administration undertook to consider proposing amendments to section 4(2), (3) and (4) of Schedule 1 where appropriate in view of the questions raised by ALA6 earlier in relation to quorum and casting vote.</p>	Admin
001007 - 001328	Chairman Mr Alan LEONG Admin	<p>Mr Alan LEONG's enquiry and the Administration's response regarding the number of public officers to be appointed as members of the Licensing Board. Mr LEONG's view that the fewer public officers to serve as members of the Licensing Board the better, and his suggestion of specifying in section 1(1) of Schedule 1 that a majority of members of the Licensing Board should be non-public officers. The Administration undertook to consider the suggestion.</p> <p>The Chairman's enquiry and the Administration's response regarding how the Chairperson's casting vote should be exercised.</p>	Admin
001329 - 001518	Chairman Admin ALA6	Examination of Schedule 1 – section 5	

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		<p>ALA6's enquiry and the Administration's response regarding the reasons for setting the threshold at a direct or indirect pecuniary interest, instead of at a direct or indirect interest, as in clause 73(5). The Administration undertook to consider deleting the word "pecuniary" from section 5 of Schedule 1.</p>	Admin
001519 - 002241	<p>Chairman Deputy Chairman Admin</p>	<p>The Deputy Chairman's enquiry and the Administration's response regarding the nature of the committees appointed by the Licensing Board, the mechanism for disclosure of interests by members, the transparency of meetings of the Licensing Board and whether practice and procedures of the Licensing Board would be governed by the Private Columbaria Ordinance ("the Ordinance").</p> <p>The Deputy Chairman's view that a mechanism should be put in place to ensure that disclosure of interests by members of the Licensing Board was transparent. Members of the Licensing Board should be required to disclose and periodically update their interests in writing.</p> <p>To address the Deputy Chairman's concern about what constituted a good reason for holding a meeting of the Licensing Board in private, the Administration explained that it might not be possible for the provisions in the Bill to be exhaustive, but undertook to give a response in relation to section 4(6) of Schedule 1 on what constituted a good reason for holding a meeting in private.</p>	Admin
002242 - 002928	<p>Chairman Dr Priscilla LEUNG Admin</p>	<p>Dr Priscilla LEUNG's enquiry and the Administration's response regarding whether the Licensing Board would be required to provide reasons for refusing applications for renewal or for revocation of specified instruments (i.e. a licence, an exemption or a temporary suspension of liability). The Administration explained that the Licensing Board would be required to do so, as provided for under sections 1 and 5 of Schedule 3 to be read together with clause 2(2). A mechanism would be put in place to deal with requests for review of the Licensing Board's decisions. Examples cited included non-renewal, non-extension, revocation and suspension of specified instruments.</p> <p>Dr LEUNG's reiteration that applicants whose interests were affected by the Licensing Board's decisions should be given the right to be heard</p>	

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		(i.e. to make representations to the Licensing Board if their applications were not renewed or were revoked or suspended). The Administration undertook to study the suggestion and revert to the Bills Committee.	Admin
002929 - 002948	Chairman ALA6 Admin	The Administration's response to ALA6's enquiry that it would issue guidelines to illustrate the circumstances under which members of the Licensing Board might or would be considered to have a direct or indirect interest for the purposes of section 5 of Schedule 1.	
002949 - 003447	Chairman Mr WONG Kwok-hing Admin	Mr WONG Kwok-hing's enquiry and the Administration's response regarding the exercise of casting vote by the Chairperson. The Administration's advice that this was spelt out in section 4(4) of Schedule 1. Under clause 83 of the Bill, the Licensing Board might issue guidelines on the performance of its functions or providing guidance on the operation of any provision of the Ordinance. Where required, the guidelines could provide further elaboration.	
003448 - 004037	Chairman Mr Alan LEONG Admin	<p>Mr Alan LEONG's concern and the Administration's response regarding transacting business of the Licensing Board by way of circulation of papers.</p> <p>Mr LEONG's view that applicants' rights to be heard should be laid down clearly to ensure that their applications would not be dealt with by way of circulation of papers.</p> <p>The Chairman's view that the Administration should consider including applicants' right to be heard in the Licensing Board's guidelines. He also considered that section 4(6) of Schedule 1 (which required a meeting of the Licensing Board or a committee to be an open meeting unless the Licensing Board or committee determined that there was a good reason for it to be held in private) was required in order to provide flexibility for meetings to be held in private, but the reason had to be made clear. Interests disclosed by members of the Licensing Board should be made more transparent.</p> <p>The Administration undertook to consider the views of Mr LEONG and the Chairman and revert to the Bills Committee with its response.</p>	Admin
004038 - 004538	Chairman Mr Tommy CHEUNG	Mr Tommy CHEUNG's view that the Licensing Board should not be provided with the flexibility	



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		Mr LEONG's suggestion of providing in section 4 of Schedule 1 that applicants should be given the opportunity to make representations in relation to matters under clause 7(1)(a)(i) or (iii). The Administration undertook to give a response as to whether this should be done by reference to clause 7(1)(a)(i) or the part on exercising the power to revoke or suspend a specified instrument in clause 7(1)(a)(iii); or alternatively by reference to the powers to not renew or to revoke or suspend a specified instrument in the relevant clauses in other parts of the Bill.	Admin
010039 - 010214	Chairman Dr Priscilla LEUNG	Dr Priscilla LEUNG's view that applicants should have the right to be heard in the event of refusal of renewal or revocation or suspension of specified instruments but the Administration could have the discretion to consider an application in absentia, if applicants did not exercise their rights to be heard in their cases.	
010215 - 010834	Chairman Mr LEUNG Kwok-hung Admin	Examination of Part 9 - clauses 93 and 94  Mr LEUNG Kwok-hung's enquiry and the Administration's response regarding the civil and criminal liabilities of and immunity from civil liability for the Licensing Board and the meaning of "in good faith" in clause 94.	
010835 - 011233	Chairman Mr Alan LEONG Admin	Mr Alan LEONG's enquiry and the Administration's response regarding the civil liabilities of members of the Licensing Board and its committees and public officers implementing its decisions. Mr LEONG's view that consideration should be given to clarifying the following -  (a) for clause 94(3), "taking possession of, breaking open, seizing, removing, impounding or disposing of property" by public officers referred to in clause 94(2)(d); and  (b) for clause 94(4), an act or omission of a public officer referred to in clause 94(2)(c) or (d).	
011234 - 011526	Chairman Admin	Examination of Part 8 – clause 70	
011527 - 011938	Chairman Dr Priscilla LEUNG Miss CHAN Yuen-han Admin	Dr Priscilla LEUNG and Miss CHAN Yuen-han agreed with Mr Alan LEONG's views on clause 94(3). The Administration undertook to review clause 94(3) and (4).	Admin

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		Dr Priscilla LEUNG's enquiry and the Administration's response regarding the authority and power of the presiding officer of the Private Columbaria Appeal Board ("Appeal Board").	
011939 - 012135	Chairman Admin	Examination of Part 8 – clause 71	
012136 - 012357	Chairman ALA6 Admin	ALA6's enquiry and the Administration's response regarding the need to provide for clause 71(4) in the Bill, and the meaning of "public officer" as referred to in clause 71(2)(a) and whether the term included a Justice of Appeal and other judicial officers. The Administration's response that with the benefit of advice from the Administrative Services of the Judiciary, the Administration's latest intention was not to appoint Justice of Appeal and other judicial officers as panel members of the Appeal Board.	
012358 - 013007	Chairman Dr Priscilla LEUNG Mr LEUNG Kwok-hung Admin	<p>The Administration's response to the enquiries of Dr Priscilla LEUNG and Mr LEUNG Kwok-hung that under clause 71(2)(a), public officers would not be appointed as members of the panel of the Appeal Board ("Panel") for hearing appeals against decisions of the Licensing Board. According to case law, "public officer" included judicial officers. Hence, judges would not be appointed as members of the Panel. Section 71(4) would be removed from the Bill to reflect the policy intent.</p> <p>Dr Priscilla LEUNG's enquiry and the Administration's response regarding the Chinese name of the Panel (i.e. 委員團).</p>	Admin
013008 - 013717	Chairman Dr Helena WONG Admin	<p>Dr Helena WONG's enquiry and the Administration's response regarding the composition of the Appeal Board and the Panel, the reasons for not appointing judges as members of the Panel and the meaning of "legally qualified" in clause 70.</p> <p>Dr WONG's view that persons who had an interest in an appeal should not be appointed as members of the Appeal Board to hear and determine the appeal concerned, and specific criteria for composition of the Appeal Board (namely the Presiding Officer and four Panel members) should be drawn up to ensure just and impartial appeal decisions. The</p>	

Time marker	Speaker(s)	Subject(s)	Action required
		<p>Administration's explanation of how an Appeal Board hearing and determination of an appeal was constituted, and the provisions in the Bill stipulating that those with direct or indirect interest in an appeal must not serve on the relevant Appeal Board (clause 73).</p> <p>Dr WONG's enquiry and the Administration's response regarding whether an appellant could request changing the line-up (Presiding Officer or Panel member(s)) of the relevant Appeal Board for hearing and determining his or her appeal if, in his or her view, the Presiding Officer or Panel member concerned had an interest in the appeal.</p>	
013718 - 013899	Chairman Dr Priscilla LEUNG Admin	<p>Dr Priscilla LEUNG's view that an appellant should have the right to object to the composition of the Appeal Board, before his or her appeal was heard.</p> <p>Dr LEUNG's enquiry and the Administration's response regarding whether public officers included judicial officers.</p>	
013900 - 014125	Chairman Dr Helena WONG Admin	Dr Helena WONG's enquiry and the Administration's response regarding the size of the Panel and the Appeal Board.	
014126 - 014215	Chairman ALA6 Admin	ALA6's enquiry and the Administration's response regarding whether the term of appointment of the Chairperson, Deputy Chairpersons and members of the Panel would be expressly provided for in the Bill and the number of Deputy Chairpersons to be appointed to the Panel. The Administration undertook to consider specifying in the Bill the term of appointment of the Chairperson, Deputy Chairpersons and members of the Panel.	Admin
014216 - 014349	Chairman Dr Helena WONG Admin	Dr Helena WONG's enquiry about how an appellant's request for changing Presiding Officer or members of the Appeal Board for hearing his or her appeal would be handled. The Administration undertook to provide examples of how such requests were handled by other statutory appeal boards.	Admin
014350 - 014555	Chairman Admin	Examination of Part 8 – clause 72(1)	
014556 - 014648	Chairman ALA6 Admin	ALA6's enquiry and the Administration's response regarding whether, under clause 72, the Licensing Board's decisions to revoke or	

Time marker	Speaker(s)	Subject(s)	Action required
		suspend the authorization under a licence to sell interment rights in respect of the columbarium concerned pursuant to clause 33(1)(a)(ii) and to refuse an application made pursuant to clause 35(1)(a) to suspend the operation of the Licensing Board's decision made under clause 33(1) were appealable. The Administration undertook to review clause 72 to reflect the policy intent.	Admin
014649 - 015344	Chairman Mr LEE Cheuk-yan Miss CHAN Yuen-han Admin	<p>The Administration's response to Mr LEE Cheuk-yan's enquiry that the Bill did not expressly provide that residents who were not satisfied with the Licensing Board's decisions could lodge appeals to the Appeal Board.</p> <p>Views of Mr LEE Cheuk-yan and Miss CHAN Yuen-han that residents who were not satisfied with the Licensing Board's decisions should be allowed to lodge appeals with the Appeal Board.</p> <p>The Administration's response to enquiries of the Chairman and Mr LEE regarding avenues for residents who were affected by the operation of a columbarium to air their grievances. Its explanation of section 4 of Schedule 3 (i.e. publication of licence applications and consideration of public views by the Licensing Board) and clause 17 (i.e. considerations of the Licensing Board in determining applications for specified instruments), as well as clause 7(1)(a)(iii) on handling complaints.</p> <p>The Chairman's enquiry about the appeal mechanisms available for handling residents' appeals against the Licensing Board's decisions.</p> <p>The Administration undertook to provide a response on how to handle the case of residents who were not satisfied with the Licensing Board's decisions.</p>	Admin
015345 - 015532	Chairman Dr Helena WONG Admin	Dr Helena WONG's view that residents' right to appeal against the Licensing Board's decisions should be provided for in the Bill.	
015533 - 015649	Chairman Mr Paul TSE Admin	Mr Paul TSE's view that to avoid ambiguity and future disputes, the policy intent should be made clear by spelling out the persons intended to be covered by the term "a person aggrieved" in clause 72(1), i.e. who might appeal to the Appeal Board as provided for in the Bill. The Administration undertook to consider the suggestion.	Admin

<b>Time marker</b>	<b>Speaker(s)</b>	<b>Subject(s)</b>	<b>Action required</b>
015650 - 015716	Chairman	Date of next meeting	
015717 - 015756	Chairman Mr LEE Cheuk-yan	The Chairman's response to Mr LEE Cheuk-yan's enquiry that the Bills Committee would not be able to complete the scrutiny of the Bill by July 2015.	

Council Business Division 2  
Legislative Council Secretariat  
30 September 2015