

**立法會**  
**Legislative Council**

LC Paper No. CB(2)1725/15-16  
(These minutes have been  
seen by the Administration)

Ref : CB2/BC/9/13

**Bills Committee on Private Columbaria Bill**

**Minutes of the seventeenth meeting**  
**held on Tuesday, 13 October 2015, at 2:30 pm**  
**in Conference Room 2B of the Legislative Council Complex**

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

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

Ms Viola YIM  
Senior Superintendent (Cemeteries & Crematoria)  
Special Duties  
Food and Environmental Hygiene Department

Mr Thomas LEUNG  
Assistant Director/New Buildings 1  
Buildings Department

Ms Doris CHOW  
Assistant Director (Estate Management)  
(Lands Administration Office/Headquarters)  
Lands Department

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

**Clerk in** : Mr Colin CHUI  
**attendance** 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), CB(2)1813/14-15(01), CB(2)1905/14-15(01) and CB(2)20/15-16(01)]

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

2. The Bills Committee requested the Administration to:

- (a) provide provisions setting out general principles for disposing of human remains in the Public Health and Municipal Services Ordinance (Cap. 132) and examples on how non-compliance with these provisions were handled;
- (b) consider strengthening publicity to enhance public awareness of the obligations of relevant parties in the disposal of ashes;
- (c) provide a time limit for a person to give a specified response under clauses 59(1) and 60(1);
- (d) consider stipulating in the Bill that a relevant person might not be regarded as having abandoned a columbarium if he or she could provide reasonable excuses for not being able to give a specified response;

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- (e) consider revising clause 61 to specify that giving written undertaking to carry out the prescribed ash disposal procedures was not necessary in the event of temporary suspension of a specified instrument;
- (f) replace "section 59" by "section 59(1)", and "section 60" by "section 60(1)" in clause 63;
- (g) replace "an offence under section 8" by "an offence under section 9" in clause 64(1);
- (h) consider spelling out the time of acquisition of the columbarium premises by different categories of persons in possession;
- (i) consider clarifying whether the a specified officer could only take steps necessary for carrying out ash disposal under clause 65(2) pursuant to a court order; and
- (j) consider stipulating in the Bill a time limit for keeping ashes in the temporary storage facilities provided by the Administration.

**II. Date of next meeting**

3. Members noted that the next meeting would be held on Monday, 26 October 2015 at 10:45 am.

**III. Any other business**

4. There being no other business, the meeting ended at 4:27 pm.

**Proceedings of the seventeenth meeting of the  
Bills Committee on Private Columbaria Bill  
on Tuesday, 13 October 2015, at 2:30 pm  
in Conference Room 2B of the Legislative Council Complex**

Time marker	Speaker(s)	Subject(s)	Action required
<i>Agenda item I – Meeting with the Administration</i>			
000830 - 000922	Chairman	Opening remarks	
000923 - 001215	Admin	The Administration's briefing on the thrust of the ash disposal procedures provided for in the Bill.	
Clause-by-clause examination			
001216 - 001544	Chairman Admin	<p>Examination of Part 7 Clauses 55 and 56</p> <p>The Administration's response regarding ALA6's question raised in her letter to the Administration on 13 October 2015 (LC Paper No. CB(2)20/15-16(01)), ("the letter") which was tabled at the meeting, in relation to the expression "均適用本部" adopted in the Chinese text of clause 56.</p>	
001545 - 002321	Chairman ALA6 Deputy Chairman Admin	<p>Examination of Part 7 Clause 57</p> <p>ALA6's enquiry and the Administration's response regarding the legal consequences for a person who failed to comply with clause 57. The Administration's advice that such general guiding principles would provide useful reference when parties concerned, e.g. the future Private Columbaria Licensing Board ("the Licensing Board") and the Court, considered such issues.</p> <p>The Chairman's enquiry and the Administration's response as to how a person would be required to rectify the situation, if he or she did not have regard to the respect for, and the dignity of, the deceased persons in disposing of ashes. The Administration's explanation of the objectives of clause 57.</p> <p>ALA6's enquiry and the Administration's response regarding the reasons for including in the Bill general guiding principles which did not provide for legal consequences. The Administration's advice that such general guiding principles for disposing of human remains also appeared in the Public Health and Municipal Services Ordinance (Cap. 132). It undertook to provide relevant provisions in Cap. 132 for members' reference and, at the</p>	Admin (paragraph

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		Deputy Chairman's request, provide examples (if available) on how non-compliance with the relevant provisions in Cap. 132 were handled.	2(a) of the minutes)
002322 - 002631	Chairman Admin	Examination of Part 7 Clause 58	
002632 - 003252	Chairman Admin	Examination of Part 7 Clause 59  The Chairman's enquiry and the Administration's response regarding the consequences for failing to give a specified response within one month after the date on which the Director of Food and Environmental Hygiene ("DFEH") gave a notice about a suspected abandonment (clause 59(3)).	
003253 - 003530	Chairman Mr Albert CHAN Admin	The Administration's response to Mr Albert CHAN's enquiry that a person who, without lawful authority or reasonable excuses, removed or defaced a notice posted under clause 59(2)(b) was liable on conviction to a fine at level 4 and to imprisonment for six months.  Mr CHAN's enquiry and the Administration's response regarding whether a private columbarium operator ("operator") could evade his/her obligations by not calling his/her columbarium premises a "columbarium" or by changing operator of the columbarium. The Administration's advice that clause 2 provided a clear definition of columbarium premises. In drafting the Bill, the Administration had taken account of situations such as a change to the operators of private columbaria. The Bill had covered operators' obligations under such situations.  Mr CHAN's view that the Administration should step up publicity to remind members of the public to be cautious about the unscrupulous acts of some operators.	
003531 - 004131	Chairman Deputy Chairman Admin	The Deputy Chairman's enquiry and the Administration's response regarding whether the Bill had provided for obligations of the parties involved in the change of a columbarium operator when the transaction was still in progress. The Administration advised that clause 63 (i.e. the offence provision) would come into operation when the Private Columbaria Ordinance ("Ordinance") came into operation. The Administration also explained that Part 7 (which concerned ash disposal and cessation of columbaria) applied to any disposal of ashes interred in a columbarium, or	

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		<p>abandonment of a columbarium, by a person on or after the day on which the Ordinance was published in the Gazette ("the enactment date"), whether or not the receipt of the ashes for interment in the columbarium or the operation, keeping, management or control of the columbarium by the person occurred before the enactment date.</p> <p>The Deputy Chairman's view that the Administration should ensure that there were provisions in the Bill to identify the responsible parties under situations where the change of a columbarium operator had not yet been completed. The Administration should also strengthen publicity to enhance public awareness of the obligations of relevant parties in the disposal of ashes. The Administration's response that the Bill had provided for such obligations. It undertook to consider the suggestion of enhancing publicity.</p>	Admin (paragraph 2(b) of the minutes)
004132 - 004324	Chairman ALA6 Admin	ALA6's enquiry and the Administration's response regarding when a person should give a specified response under clause 59(1) in order to avoid being regarded as having abandoned a columbarium. The Administration's advice that it would provide for a time limit in clause 59(1).	Admin (paragraph 2(c) of the minutes)
004325 - 004754	ALA6 Admin Chairman	<p>The Administration's response to ALA6's enquiry regarding the rationale of regarding a person as having abandoned a columbarium if the person failed to give a specified response (clause 59(1)(b)), although the columbarium concerned was still in operation. The Administration's advice that a person whose columbarium was in operation would not be regarded as having abandoned a columbarium if he or she could provide a specified response within the specified period. ALA6's view that such a provision should be included in the Bill.</p> <p>The Administration's explanation of the meaning of specified response in clause 61.</p> <p>The Administration's response to ALA6's enquiry that clause 61(a) and (b) applied only to clause 60 while clause 61(c) applied to both clauses 59 and 60.</p>	Admin (paragraph 2(d) of the minutes)
004755 - 005032	ALA6 Admin Chairman Mr LEUNG Kwok-hung Admin	ALA6's enquiry and the Administration's response regarding whether the Director's notice" referred to in clause 59(2) meant the notice mentioned in clause 59(2)(a) or that mentioned in clause 59(2)(b) or in both; and the	

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		<p>meaning of "The notice" referred to in clause 59(3).</p> <p>Mr LEUNG Kwok-hung's view that there was no ambiguity in the meaning of "notice" referred to in clause 59(2) and (3).</p>	
005033 - 005147	ALA6 Admin	ALA6's enquiry and the Administration's response regarding the meaning of "other persons having an interest in the columbarium" referred to in clause 59(3) and the reasons for the requirement to warn these persons under clause 59(3).	
005148 - 005852	Chairman Mr LEUNG Kwok-hung Admin	<p>Examination of Part 7 Clause 60</p> <p>Mr LEUNG Kwok-hung's enquiry and the Administration's response regarding whether information on ash disposal by private columbaria would be made available for public inspection. The Administration's explanation of section 16 of Schedule 5.</p> <p>Mr LEUNG's suggestion of uploading information on ash disposal by private columbaria onto dedicated websites for public inspection.</p>	
005853 - 010100	Chairman ALA6 Admin	At ALA6's request, the Administration undertook to make reference to the views expressed earlier on clause 59(1) and consider providing in clause 60(1) a time limit for a person to give a specified response and including in the Bill the provision of reasonable excuses by a person who failed to give a specified response.	Admin (paragrap 2(c) and (d) of the minutes)
010101 - 010345	Chairman Admin	<p>Examination of Part 7 Clause 61</p> <p>ALA6's enquiry and the Administration's response regarding the reasons for providing that failure to give to DFEH or authorized officer a written undertaking to carry out the prescribed ash disposal procedures in accordance with clause 61(c) was regarded as failure to give a specified response under clause 60(1) in case where the Licensing Board only suspended for a certain period of time a specified instrument in respect of a columbarium pursuant to clause 33. The Administration undertook to consider revising clause 61 to specify that giving written undertaking to carry out the prescribed ash disposal procedures was not necessary in the event of temporary suspension of a specified instrument.</p>	Admin (paragraph 2(e) of the minutes)

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010346 - 010726	Chairman ALA6 Admin Mr Alan LEONG	Examination of Part 7 Clauses 62 and 63  ALA6's enquiry and the Administration's response regarding the scope of the offence under clause 63.  The Administration's response to Mr Alan LEONG's enquiry that it would replace "section 59" by "section 59(1)" and "section 60" by "section 60(1)" in clause 63.	Admin (paragraph 2(f) of the minutes)
010727 - 011643	Chairman Admin	Examination of Part 7 Clause 64  The Administration's advice that, in response to ALA6's question raised in the letter, it would replace "an offence under section 8" by "an offence under section 9" in clause 64(1).	Admin (paragraph 2(g) of the minutes)
011644 - 011921	Chairman ALA6 Admin	The Administration's response to ALA6's enquiry regarding the appropriateness of using the words "acquired the premises" in clause 64(2), and the time of acquisition of the premises by each category of person in possession, given that the time of acquisition might vary according to the categories of person in possession. ALA6's suggestion of spelling out the time of acquisition of the premises by different categories of persons in possession. The Administration undertook to consider the suggestion and would revert to the Bills Committee.	Admin (paragraph 2(h) of the minutes)
011922 - 012331	Chairman Mr Albert CHAN Admin	Mr Albert CHAN's enquiry and the Administration's response regarding the definition of taking possession of the columbarium premises and the legal obligations of the person who had taken possession of a columbarium. The Administration's explanation of on-site portion and off-site portion of the ash disposal procedures to be carried out by a person in possession of a columbarium as required by the Bill.	
012332 - 012555	Chairman Mr Albert CHAN ALA6 Admin	The Administration's response to Mr Albert CHAN's enquiry that the process in relation to land premium for a lease modification to permit private columbarium operation should be completed before a person applied for a licence for columbarium operation.  At the Chairman's request, ALA6 advised that the process in relation to land premium for a lease modification should be dealt with at a prior stage.	

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012556 - 014346	Chairman Mr James TO Admin Mr LEUNG Kwok-hung	<p>Mr James TO's enquiry and the Administration's response regarding the ash disposal procedures under the situation where a landlord refused to take possession of an abandoned columbarium. The Administration's explanation of the application of certificates of cessation of columbarium use and the registration of such certificates against the premises concerned in the Land Registry under clause 68.</p> <p>Mr TO's enquiry and the Administration's response regarding the obligation of a landlord, without knowing that his or her premises were used for columbarium operation, with respect to ash disposal prescribed in the Bill.</p> <p>The Administration's response to Mr TO's enquiry regarding the legal consequences for a landlord of columbarium premises under situations where he or she, without taking possession of the premises or having no knowledge of the columbarium operation, collected a fee for entering the premises.</p> <p>Mr TO's enquiry and the Administration's response regarding whether a landlord of columbarium premises who did not carry out the ash disposal procedures prescribed in the Bill would be penalized. The Administration's advice that a person was liable to pay to DFEH all expenses DFEH incurred in carrying out ash disposal.</p> <p>Views of Mr TO and Mr LEUNG Kwok-hung that the Bill had victimized the landlords who had no knowledge of the columbarium operation in the premises. Mr TO's view that to safeguard the interests of these landlords, the Administration should provide a grace period for operators to dispose of ashes interred in the premises.</p> <p>The Administration's advice that in drawing up the ash disposal procedures, it had endeavoured to balance the interests of relevant parties. The Administration advised that there was a time limit for completing the ash disposal procedures.</p>	
014347 - 014820	Chairman Admin	Examination of Part 7 Clause 65	
014821 - 014859	Chairman ALA6 Admin	ALA6's enquiry and the Administration's response regarding whether a specified officer could only take steps necessary for carrying out ash disposal under clause 65(2) pursuant to a	

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		<p>court order .</p> <p>The Administration's response to the Chairman's enquiry regarding situations where the prescribed ash disposal procedures should be carried out pursuant to a court order.</p> <p>At ALA6's request, the Administration undertook to consider spelling out in clause 65(2) whether those steps necessary for carrying out the prescribed ash disposal procedures should be taken pursuant to a court order.</p>	Admin (paragraph 2(i) of the minutes)
014900 - 014924	Chairman Mr James TO Admin	The Administration's response to Mr James TO's enquiry that an instrument holder would be held accountable for improper disposal of ashes interred in a columbarium. The Administration's advice that a person who was required to carry out the prescribed ash disposal procedures (be they instrument holder or otherwise) but failed to do so committed an offence. On conviction, he or she would be liable to a fine or imprisonment.	
014925 - 014937	Chairman Mr James TO Admin	The Administration's response to the enquiries of Mr James TO and the Chairman regarding whether the Bill had provided the Administration with sufficient power to carry out steps for ash disposal in columbarium premises. The Administration's explanation of Part 1 of Schedule 5 (occupation order and ash disposal procedures) which provided for such power.	
014938 - 015733	Chairman Mr James TO Mr LEUNG Kwok-hung Admin	<p>The Administration's response to Mr James TO's enquiry that the Administration would provide temporary storage facilities for abandoned or unclaimed ashes which were taken possession by DFEH.</p> <p>Mr LEUNG Kwok-hung's enquiry and the Administration's response regarding whether relatives of a deceased person would be able to locate the ashes interred in the temporary storage facilities provided by the Administration.</p> <p>The Administration's response to the enquiries of the Chairman and Mr James TO regarding the time limit for keeping ashes in the temporary storage facilities of the Administration. The Administration's advice that the Bill had provided sufficient time for eligible claimants to claim for return of ashes.</p>	

<b>Time marker</b>	<b>Speaker(s)</b>	<b>Subject(s)</b>	<b>Action required</b>
		Mr James TO' s view that a time limit should be stipulated in the Bill for keeping ashes in the temporary storage facilities of the Administration as the duration of storage of ashes would have an impact on the amount of money a person in possession of a columbarium was required to pay to DFEH.	Admin (paragraph 2(j) of the minutes)
015734 - 015756	Chairman	Closing remarks	

Council Business Division 2  
Legislative Council Secretariat  
13 June 2016