

立法會
Legislative Council

LC Paper No. CB(2)2026/15-16

(These minutes have been
seen by the Administration)

Ref : CB2/BC/9/13

Bills Committee on Private Columbaria Bill

**Minutes of the twenty-third meeting
held on Tuesday, 5 January 2016, at 5:00 pm
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 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 Paul TSE Wai-chun, JP
Hon LEUNG Kwok-hung
Hon Albert CHAN Wai-yip
Hon WU Chi-wai, MH
Hon CHAN Han-pan, JP
Hon CHAN Yuen-han, SBS, JP
Dr Hon Helena WONG Pik-wan
Dr Hon Elizabeth QUAT, JP

Members absent : Hon James TO Kun-sun
Hon CHEUNG Kwok-che
Hon Alan LEONG Kah-kit, SC
Hon WONG Yuk-man
Hon Steven HO Chun-yin, BBS
Hon LEUNG Che-cheung, BBS, MH, JP
Hon Alice MAK Mei-kuen, BBS, JP
Hon Christopher CHUNG Shu-kun, BBS, MH, JP
Hon Tony TSE Wai-chuen, BBS

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

Miss Cindy CHEUK
Government Counsel
Department of Justice

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

Mr HUI Fai-wing
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

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)431/14-15(01), CB(2)630/14-15(01), CB(2)1286/14-15(01), CB(2)1535/14-15(01), CB(2)1813/14-15(01), CB(2)20/15-16(01), CB(2)220/15-16(01), CB(2)309/15-16(01), CB(2)367/15-16(01) to (05), CB(2)486/15-16(01) to (02) and CB(2)548/15-16(01) to (05)]

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

2. The Bills Committee requested the Administration to:

- (a) consider proposing amendments to Schedule 7 and other relevant provisions in the Bill such that the provisions on grace period would apply to a columbarium which, though operated by an unincorporated association before the enactment date, became a legal entity and applied in that capacity for a specified instrument in the post-enactment stage;
- (b) revert on whether the suggestion of the Privacy Commissioner for Personal Data ("PCPD") (i.e. adding the element of reasonableness in relation to the information to be required by the future Private Columbaria Licensing Board for applications) should also apply to clause 32(3)(b), after checking previous correspondence from PCPD; and
- (c) consider issuing a specified instrument to all partners, instead of to one or more partners, in a partnership.

Action

II. Date of next meeting

3. Members noted that the next meeting would be held on Friday, 22 January 2016 at 8:30 am.

III. Any other business

4. There being no other business, the meeting ended at 7:01 pm.

Council Business Division 2
Legislative Council Secretariat
7 September 2016

**Proceedings of the twenty-third meeting of the
Bills Committee on Private Columbaria Bill
on Tuesday, 5 January 2016, at 5:00 pm
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>			
001154 - 001331	Chairman	Opening remarks	
001332 - 002133	Chairman Admin ALA6	<p>Matters arising from the meeting of the Bills Committee on 21 December 2015.</p> <p>In response to issues raised by members at the captioned meeting, the Administration provided information on the types of legal entities of private columbaria under the Notification Scheme. The Administration advised that partners entering into partnership would be required to specify, through due authorization procedures of the partnership, the partner who would be the instrument holder.</p> <p>The Chairman and ALA6 sought clarification of how the Administration would deal with applications for specified instruments (i.e. a licence, an exemption or a temporary suspension of liability ("TSOL")) made by unincorporated associations. The Administration advised that (a) the majority of the respondents to the Notification Scheme were operating as a limited company or body corporate, or as natural persons; and (b) most religious groups which had sold or let out niches had set up a company limited by guarantee; and (c) it would not be difficult for one to apply in the capacity of a natural person, partner or company. In brief, the Administration believed that the historical legacy surrounding existing private columbaria could be catered for. To the extent that the regulatory regime was also meant to be forward-looking (i.e. how the Administration could best handle those which were not pre-Bill columbaria), the Administration maintained its view that only a natural person, a partnership or a body corporate (including a company) would be allowed to make an application to which Schedule 3 applied.</p> <p>Having regard to ALA6's view, the Administration would consider proposing Committee stage amendments ("CSAs") to section 1(1) and (2) of Schedule 7, such that the provisions on grace period would apply to a columbarium which, though operated by an</p>	Admin (Paragraph 2(a) of the minutes.)

Time marker	Speaker(s)	Subject(s)	Action required
		unincorporated association before the enactment date, became a legal entity and applied in that capacity for a specified instrument in the post-enactment stage.	
002134 - 002524	Chairman Ms Cyd HO Admin	<p><u>Discussion of the first batch of CSAs to be proposed by the Administration (LC Paper No. CB(2)486/15-16(01))</u></p> <p><u>Clause 22 (Annex 2 to LC Paper No. CB(2)486/15-16(01))</u></p> <p>Ms Cyd HO's enquiry and the Administration's response regarding the CSA to be proposed by the Administration to clause 22(9).</p>	
002525 - 003357	Chairman Admin	<p><u>Clauses 24, 29, 30 and 31 (Annex 2 to LC Paper No. CB(2)486/15-16(01))</u></p> <p>The Administration's briefing on its proposed CSAs.</p>	
003358 - 003458	Chairman Admin ALA6	<p><u>Clause 32 (Annex 2 to LC Paper No. CB(2)486/15-16(01))</u></p> <p>ALA6 enquired whether the suggestion of the Privacy Commissioner for Personal Data ("PCPD") (i.e. adding the element of reasonableness in relation to the information to be required by the future Private Columbaria Licensing Board ("Licensing Board") for applications) should also apply to clause 32(3)(b)(i). The Administration undertook to check PCPD's previous correspondence and revert to the Bills Committee. (<i>Post-meeting note:</i> PCPD's previous correspondence did not touch on clause 32(3)(b)(i).)</p>	Admin (Paragraph 2(b) of the minutes.)
003459 - 003915	Chairman Admin	<p><u>Clauses 34 to 38 and Schedule 3 (Annex 2 to LC Paper No. CB(2)486/15-16(01))</u></p> <p>The Administration's briefing on its proposed CSAs.</p>	
003916 - 003933	Chairman ALA6	ALA6's advice that she would discuss with the Administration the drafting of the first batch of CSAs to be proposed by the Administration.	
003934 - 004347	Chairman Admin ALA6	<p><u>Discussion of the second batch of draft CSAs to be proposed by the Administration (LC Paper No. CB(2)548/15-16(01))</u></p> <p>ALA6 advised that she would discuss with the Administration the drafting of the second batch</p>	

Time marker	Speaker(s)	Subject(s)	Action required
		<p>of CSAs to be proposed by the Administration.</p> <p><u>Clauses 21, 22 and 33 (Annex 2 to LC Paper No. CB(2)548/15-16(01))</u></p> <p>The Administration's briefing on its proposed CSAs.</p>	
004348 - 005658	<p>Chairman Admin Dr Priscilla LEUNG ALA6</p>	<p><u>Clause 41 (Annex 2 to LC Paper No. CB(2)548/15-16(01))</u></p> <p>In response to Dr Priscilla LEUNG's enquiry, the Administration advised that it would propose to add in the Chinese text of clause 41(2)(b) "處所" after "骨灰安置所".</p> <p>ALA6's advice that members should consider whether the Administration's proposal of removing clause 41(3)(h) from the Bill was acceptable from the policy perspective.</p> <p>In response to Dr LEUNG's enquiry, the Administration explained the reasons for including clause 41(3)(h) in the Bill in the first place and the justifications for the proposed deletion of the clause.</p> <p>Views of the Chairman and Dr LEUNG that the proposed deletion of clause 41(3)(h) was acceptable.</p>	
005659 - 005930	<p>Chairman Admin</p>	<p><u>Clauses 43, 44 and 46 (Annex 2 to LC Paper No. CB(2)548/15-16(01))</u></p> <p>The Administration's briefing on its proposed CSAs.</p>	
005931 - 010024	<p>Chairman ALA6</p>	<p>Members noted that the Administration's responses (LC Paper Nos. CB(2)548/15-16(03) to (05)) to ALA6's letters dated 5 November, 20 November and 1 December 2015 would be discussed later, if necessary.</p>	
010025 - 011830	<p>Chairman Admin</p>	<p>The Administration's briefing on its responses to issues raised at the meetings of the Bills Committee on 29 July 2014, 23 January, 16 February, 23 March and 17 April 2015 (LC Paper No. CB(2)486/15-16(02)(Revised)).</p>	
011831 - 014106	<p>Chairman Admin</p>	<p>Discussion of the Administration's responses to issues raised at the meetings of the Bills Committee on 23 January, 17 April, 27 April and 12 May 2015 (LC Paper No. CB(2)548/15-16(02)).</p>	

Time marker	Speaker(s)	Subject(s)	Action required
		The Administration's briefing on items 1 to 3 of LC Paper No. CB(2)548/15-16(02).	
014107 - 014641	Chairman Deputy Chairman Admin	<p><u>Item 4 of LC Paper No. CB(2)548/15-16(02)</u></p> <p>The Administration reiterated the rationale and justifications for keeping clause 11(9) as it was, i.e. "a TSOL may not be extended more than once, unless exceptional circumstances exist". The Deputy Chairman expressed reservation about the Administration's intention to keep clause 11(9) as it was. He reiterated his support for restricting such extension to not more than once. The Administration's stance on making no change to clause 11(9) was noted.</p>	
014642 - 020129	Chairman Admin ALA6 Deputy Chairman	<p><u>Items 5 and 6 of LC Paper No. CB(2)548/15-16(02)</u></p> <p>ALA6's enquiry and the Administration's response regarding the justifications for issuing a specified instrument to one or more partners instead of issuing it to all partners.</p> <p>Views of ALA6 and the Deputy Chairman that a specified instrument should be issued to and held by all partners in a partnership. The Administration undertook to revert with a response.</p> <p>In response to ALA6's enquiry, the Administration advised that an application for a transfer of a specified instrument would need to be processed under clause 32. A transfer application would be required if the instrument holder changed. Hence, a transfer application would be required if a sole proprietor or a partner changed. However, for a body corporate (which was the instrument holder), a transfer application might not be required if the director/officer of a body corporate changed. A transfer application would only be required where the body corporate sold the columbarium to another legal entity. The Administration's advice that it would consider including an express provision in the Bill to require the holder of a specified instrument to notify the Licensing Board of the change of the proprietor, partner or officer/director in writing within 14 days after the change had taken place.</p> <p>ALA6's view that as the Licencing Board's approval was not required for a change of a shareholder of a company which held a specified instrument (as the holder of the specified</p>	Admin (Paragraph 2(c) of the minutes.)

Time marker	Speaker(s)	Subject(s)	Action required
		instrument would remain unchanged), a columbarium might, in substance, be operated by a different party (parties) through the purchase of the shares of the company concerned. Her advice that members might wish to consider whether operators should be required to obtain the Licencing Board's approval under such circumstances.	
020130 - 020150	Chairman	Date of next meeting	

Council Business Division 2
Legislative Council Secretariat
7 September 2016