

**立法會**  
**Legislative Council**

LC Paper No. CB(2)2056/15-16

(These minutes have been  
seen by the Administration)

Ref : CB2/BC/9/13

**Bills Committee on Private Columbaria Bill**

**Minutes of the twenty-eighth meeting  
held on Wednesday, 4 May 2016, at 8:45 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, 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 Alan LEONG Kah-kit, SC  
Hon LEUNG Kwok-hung  
Hon WONG Yuk-man  
Hon Steven HO Chun-yin, BBS  
Hon WU Chi-wai, MH  
Hon CHAN Han-pan, JP  
Hon CHAN Yuen-han, SBS, JP  
Hon LEUNG Che-cheung, BBS, MH, JP  
Hon Alice MAK Mei-kuen, BBS, JP  
Dr Hon Helena WONG Pik-wan  
Hon Christopher CHUNG Shu-kun, BBS, MH, JP  
Hon Tony TSE Wai-chuen, BBS
- Members absent** : Hon CHEUNG Kwok-che  
Hon Albert CHAN Wai-yip  
Dr Hon Elizabeth QUAT, JP

**Public Officers attending** : Item I

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 Lily YAM  
Chief Town Planner/Town Planning Board 1  
Planning 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(08), CB(2)431/14-15(01), CB(2)630/14-15(01), CB(2)367/15-16(01) to (04), CB(2)486/15-16(02)(Revised), CB(2)548/15-16(02)(Revised), CB(2)548/15-16(03) to (05), CB(2)721/15-16(02) and CB(2)1399/15-16(01)]

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

2. The Bills Committee requested the Administration to:

- (a) provide information on the licensing requirements under the existing legislation in respect of transforming ashes into synthetic diamond, jewellery, ornament or any other material ("synthetic material") to which such operation was subject;
- (b) give a response to the suggestion of amending the definition of "ashes" to the effect that the Private Columbaria Ordinance did not apply to domestic keeping of synthetic material; and
- (c) consider revising the proposed clause 11A in relation to applications for the renewal or extension of specified instruments which were made out of time.

**II. Date of next meeting**

3. Members noted that the next meeting would be held on Wednesday, 11 May 2016 at 8:45 am.

Action

**III. Any other business**

4. There being no other business, the meeting ended at 10:42 am.

Council Business Division 2  
Legislative Council Secretariat  
20 September 2016

**Proceedings of the twenty-eighth meeting of the  
Bills Committee on Private Columbaria Bill  
on Wednesday, 4 May 2016, at 8:45 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>			
000914 - 001444	Chairman	Opening remarks	
001445 - 001750	Chairman Admin	<p>Discussion of the full set of draft Committee stage amendments ("CSAs") to the Bill proposed by the Administration (updated version) (LC Paper No. CB(2)1399/15-16(01)).</p> <p><u>Clause 1 (Annex 2 to LC Paper No. CB(2)1399/15-16(01))</u></p> <p>The Administration's briefing on its proposed CSAs.</p>	
001751 - 002012	Chairman Admin	<p><u>Clause 2 (Annex 2 to LC Paper No. CB(2)1399/15-16(01))</u></p> <p>The Chairman's enquiry and the Administration's response regarding the reason for the proposed amendments to the definition of "sell" in clause 2(1).</p>	
002013 - 003822	Chairman Admin	<p><u>Clauses 3 to 4 (Annex 2 to LC Paper No. CB(2)1399/15-16(01))</u></p> <p>The Administration's briefing on its proposed CSAs.</p>	
003923 - 004834	Chairman Deputy Chairman Admin	<p><u>The proposed clause 4A (Annex 2 to LC Paper No. CB(2)1399/15-16(01))</u></p> <p>The Deputy Chairman's enquiry and the Administration's response regarding the provision governing the premises that were used for carrying out the transformation work in respect of ashes ("workplace"). The Administration's advice that a workplace which did not comply with the requirements under the proposed clause 4A would be caught as a columbarium operating without a specified instrument (i.e. a licence, an exemption or a temporary suspension of liability) and subject to the sanctions under clause 9.</p> <p>At the Deputy Chairman's request, the Administration undertook to provide information on the licensing requirements under the existing legislation in respect of</p>	Admin (paragraph 2(a) of the minutes)

Time marker	Speaker(s)	Subject(s)	Action required
		transforming ashes into synthetic diamond, jewellery, ornament or any other material ("synthetic material"), to which such operation was subject.	
004835 - 005106	Chairman Admin	<u>The proposed clause 4B (Annex 2 to LC Paper No. CB(2)1399/15-16(01))</u>  The Administration's briefing on its proposed CSAs.	
005107 - 005606	Chairman ALA6 Deputy Chairman Admin	<u>Clause 5 (Annex 2 to LC Paper No. CB(2)1399/15-16(01))</u>  ALA6's enquiry and the Administration's response regarding the rules on keeping of synthetic material in domestic premises.  In response to the Chairman's enquiry, the Administration advised that it would give a response to the suggestion of amending the definition of "ashes" to the effect that the Private Columbaria Ordinance ("the Ordinance") did not apply to domestic keeping of synthetic material.  The Administration's response to the Deputy Chairman's enquiry that it was not stipulated in the Bill that only the ashes of relatives could be kept in domestic premises.	Admin (paragraph 2(b) of the minutes)
005607 - 005932	Chairman Admin	<u>Clauses 7 to 9 (Annex 2 to LC Paper No. CB(2)1399/15-16(01))</u>  The Administration's briefing on its proposed CSAs.	
005933 - 010355	Chairman Miss CHAN Yuen-han Admin	<u>Clauses 10 to 11 (Annex 2 to LC Paper No. CB(2)1399/15-16(01))</u>  Miss CHAN Yuen-han's enquiry and the Administration's response in relation to seeking the views of relevant Chinese temples on the proposed addition to the definition of "ash interment layout" in clause 10.	
010356 - 010914	Chairman ALA6 Admin	<u>The proposed clause 11A (Annex 2 to LC Paper No. CB(2)1399/15-16(01))</u>  In response to ALA6's enquiry, the Administration advised that it would consider revising the proposed CSAs to clause 11A in relation to applications for the renewal or extension of specified instruments which were made out of time.	Admin (paragraph 2(c) of the minutes)

Time marker	Speaker(s)	Subject(s)	Action required
010915 - 011630	Chairman Admin	<p><u>The proposed clause 11B (Annex 2 to LC Paper No. CB(2)1399/15-16(01))</u></p> <p>The Chairman's enquiry and the Administration's response regarding the numbering of the clauses in the Ordinance after incorporation of the proposed CSAs into the Ordinance.</p>	
011631 - 012330	Chairman ALA6 Admin	<p><u>Clauses 12 to 13 (Annex 2 to LC Paper No. CB(2)1399/15-16(01))</u></p> <p>ALA6's enquiry and the Administration's response regarding whether amendments should be made to clause 13(1) to deal with columbarium premises which were acquired through adverse possession as confirmed by the court. The Administration's advice that it would depend on the details of the court ruling on an individual case. The Bill as currently drafted did not debar the operator of the columbarium concerned from applying for specified instruments. To be eligible for specified instruments, the columbarium concerned should comply with all the land-related, planning-related and building-related requirements as well as other requirements stipulated in the Bill. The future Private Columbaria Licensing Board ("the Licensing Board") would consider applications for specified instruments on a case-by-case basis.</p>	
012331 - 013400	Chairman Admin	<p><u>Clauses 14 to 17 (Annex 2 to LC Paper No. CB(2)1399/15-16(01))</u></p> <p>The Administration's briefing on its proposed CSAs.</p>	
013401 - 014655	Chairman Dr Helena WONG Admin	<p><u>Clause 18 (Annex 2 to LC Paper No. CB(2)1399/15-16(01))</u></p> <p>Dr Helena WONG's enquiry and the Administration's response regarding whether operation of private columbaria was allowed in a composite building with a partly domestic portion and a partly non-domestic portion. The Administration's advice that subject to the exact wording of the deed of mutual covenant ("DMC"), commercial use might be a permitted use in the non-domestic portion (i.e. where there was no explicit restrictive covenant).</p> <p>The Chairman agreed that use of premises should be governed by DMC of the building</p>	

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		<p>concerned, and under the CSA, the intention was for the licensing regime to give due recognition to the substance of the DMC. In other words, it was not the intention for the legislation to override DMC.</p> <p>Dr WONG's enquiry and the Administration's response regarding whether objections from owners or tenants of composite buildings would be a factor in considering applications for specified instruments. The Administration referred to clause 17 which set out the considerations that the Licensing Board would take into account when determining the merits of applications for specified instruments; and section 4 of Schedule 3 related to the publication of licence applications.</p> <p>The Administration advised that the Licensing Board would draw up guidelines on posting of notices of applications for specified instruments ("the notices"). Dr WONG's view that the notices should be posted at conspicuous places. The Chairman's view that the Licensing Board should specify such a requirement in the relevant guidelines.</p>	
014656 - 014841	Chairman ALA6 Admin	<p><u>The proposed clause 18A (Annex 2 to LC Paper No. CB(2)1399/15-16(01))</u></p> <p>ALA6's advice that members had to consider whether it was acceptable to empower the Licensing Board to specify the particulars to be contained in the register on the niches in the columbarium ("the register") under the proposed clause 18A(2)(b). The Chairman's view that the Licensing Board should have the authority to decide the particulars to be contained in the register.</p> <p>The Administration's advice that the Licensing Board should be allowed the flexibility to determine the particulars to be contained in the register in the light of actual circumstances. In other regimes (such as in the case of undertakers), the Authority was also allowed similar flexibility.</p>	
014842 - 015739	Chairman Admin	<p><u>Clauses 19 to 22; clause 24, clause 27, clauses 29 to 31 (Annex 2 to LC Paper No. CB(2)1399/15-16(01))</u></p> <p>The Administration's briefing on its proposed CSAs.</p>	



<b>Time marker</b>	<b>Speaker(s)</b>	<b>Subject(s)</b>	<b>Action required</b>
015740 - 015837	Chairman	Date of next meeting	

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Legislative Council Secretariat  
20 September 2016