

For Discussion on
17 February 2014

Legislative Council Panel on Home Affairs
Amendments to the Chinese Permanent Cemeteries Ordinance and
Chinese Permanent Cemeteries Rules

Purpose

In order to better utilise the land of the Chinese Permanent Cemeteries (CPC) to meet the community needs for burial facilities, the Board of Management of the Chinese Permanent Cemeteries (the Board) needs to relax the restrictions in relation to the use of grave spaces and family niches and therefore recommends to the Administration amendments to the relevant provisions of the Chinese Permanent Cemeteries Ordinance (the Ordinance) (Cap. 1112) and the Chinese Permanent Cemeteries Rules (the Rules) (Cap. 1112A). This paper seeks Members' views on the proposed amendments.

Recommendations

2. Having regard to the necessary improvements in the utilisation of the burial facilities of the CPC (as set out in paragraphs 3 to 8 below), we recommend the following amendments to the Ordinance and the Rules –

- (a) expanding the eligibility for use of grave space/a family niche with one's family to include married women, grandparents/great grandparents/grandparents-in-law/great grandparents-in-law of the first buried so that more people are eligible to use the grave spaces/family niches in the CPC;
- (b) allowing subsequent burials of cremated ashes of relatives into exhumable lots (i.e. burial lots with a term of expiry);
- (c) allowing cremation of unclaimed human remains by the Board; and
- (d) improving clarity and consistency in the provisions by introducing clearer definitions and wordings.

Justifications

3. The Board, chaired by the Secretary for Home Affairs, is a statutory non-profit-making organisation established under the Ordinance. Its purposes are to provide burial grounds, niches and other facilities of the cemeteries for persons of Chinese race permanently resident in Hong Kong and it is responsible for the operation, administration and development of the cemeteries under its ambit. For this purpose, the Board may make rules in accordance

with section 8(1) and (2) of the Ordinance to, inter alia, govern management and use of any CPC. Having reviewed its operation to meet the increasing community needs for cemetery facilities, the Board has proposed a set of amendments as set out in paragraph 2(a) - (d) above.

(a) Expanding the definition of “close relative”

4. The Rules was first enacted in the 1970s when the mainstream thinking was that women were members of their husbands’ families. Hence, married women are not eligible to be deposited in grave spaces or family niches with members of their original families. In addition, the remains of the first buried’s grandparents and great grandparents/ grandparents-in-law/ great grandparents-in-law currently are not allowed to be deposited in the same grave space/family niche. We consider such limitations are now outdated and not necessary. By removing such restrictions, more persons will be eligible for CPC’s services and grave spaces and family niches of the CPC will be better utilised.

5. We propose to remove from the existing Rules all references to the term ‘close relative’. Instead the eligibility for subsequent burial will be governed by a new definition of the term ‘relative’, in which we would replace any reference to ‘his spouse’ with ‘the spouse’ and widen its coverage to include ‘grandparents, great-grandparents, grandparents-in-law and great grandparents-in-law.’

(b) Allowing burial of cremated human ashes into exhumable lots

6. Grave spaces of the CPC are divided into two types, non-exhumable lots and exhumable lots. Non-exhumable lots are of a permanent nature whereas exhumable lots have a term of expiry. Under the existing provision, only non-exhumable lots are allowed for subsequent burial of relatives’ cremated human ashes. As cremation is more common now than the time when the Ordinance was drafted, it is proposed that subsequent burial of relatives’ ashes should also be allowed in exhumable lots, so as to provide the community with greater flexibility and better utilisation of land.

(c) Allowing cremation of unclaimed human remains

7. At present, the Board may, upon the expiry of the term of use of the grave space, disinter the human remains after a period of six months from the date of publication of such intention. However, under the existing Ordinance, the Board is only empowered to disinter and remove skeletal human remains. Even if the Board fails to reach the relatives of the deceased for years, it can only place the disinterred remains in the free ossuary niches pending reclaim by the relatives. It is estimated that the Board will have no more ossuary niches available for such use in ten years. In this connection, we propose to draw

reference from the practice of the Food and Environmental Hygiene Department for its communal graves under the Public Health and Municipal Services Ordinance (Cap. 132). The Board should be allowed to cremate the disinterred human remains six years after the expiry of the service term, provided that such intention has already been published in the gazette and newspapers but the remains are still not claimed by the relatives. The cremated human ashes will be stored with proper records made to allow for any future reclaim. The aforesaid arrangements are only applicable to future users and will be included in the terms of service to be signed with the Board.

(d) Other proposed improvements

8. We also agree with the Board's other proposals to improve the Rules, so as to reflect more clearly and accurately the actual operation of the CPC. These include standardising the use of terms, adding the definition of urn lots, and amending the dimensions of grave spaces and urn lots (to be in line with the dimension requirements as adopted in the Private Cemeteries Regulation (Cap. 132BF)) in the Rules.

Background

9. The first Chinese permanent cemetery was established in 1913 in Aberdeen for the burial of persons of Chinese race permanently resident in Hong Kong based on the donation of some leading members of the Chinese community. Its Board of Management became a statutory non-profit making body in accordance with the CPC Ordinance in 1964. The Board now manages four CPC, namely Aberdeen Cemetery, Tsuen Wan Cemetery, Cape Collinson Cemetery and Junk Bay Cemetery, providing a total of more than 300,000 burial lots and niches.

10. To tie in with Government's efforts to encourage environmentally friendly interment, the Board also established a Garden of Remembrance in 2011 at Junk Bay Cemetery for the scattering of cremated human ashes. The proposed amendments as set out in this paper can provide more flexibility in using the existing grave spaces and family niches, thus contributing to the overall objective of better utilisation of the valuable land resources of the CPC.

Advice Sought

11. Members are invited to comment on the above proposed amendments.

**Home Affairs Bureau
February 2014**