

**立法會**  
***Legislative Council***

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**Panel on Home Affairs**

**Information note prepared by the Legislative Council Secretariat  
for the meeting on 17 February 2014**

**The Chinese Permanent Cemeteries Ordinance  
and the Chinese Permanent Cemeteries Rules**

The Chinese Permanent Cemeteries Ordinance (Cap. 1112) ("the Ordinance") gives statutory recognition to the Board of Management of the Chinese Permanent Cemeteries ("BMCPC"), chaired by the Secretary for Home Affairs, to provide, maintain and administer cemeteries and burial grounds for persons of the Chinese race permanently resident in Hong Kong. Section 8 of the Ordinance stipulates that BMCPC has the power to make rules to govern the conduct of internal affairs of BMCPC, as well as the management and use of any Chinese Permanent Cemeteries. At present, BMCPC operates four private cemeteries cum columbaria, namely Aberdeen Chinese Permanent Cemetery, Cape Collinson Chinese Permanent Cemetery, Tsuen Wan Chinese Permanent Cemetery and Junk Bay Chinese Permanent Cemetery.

2. Rule 4 of the Chinese Permanent Cemeteries Rules (Cap. 1112 sub. leg. A) ("the Rules") stipulates that no person except a person of Chinese race permanently resident in Hong Kong and his wife and children may be buried or deposited in a cemetery, and BMCPC's decision on whether or not an applicant is qualified shall be final. Under rule 21A of the Rules, each family niches may be used for the deposit of up to four sets of cremated human ashes. The second (or subsequent) set of cremated human ashes deposited in a family niche shall be those of a close relative of the deceased first deposited in that niche having the same family surname and a married woman (unless divorced from her husband) shall be deemed to have her husband's family surname. The term "close relative" for the purpose of rule 21A is defined in the interpretation section of the Rules (i.e. rule 3) as the spouse, parent, brother, sister or direct descendant (including their wives), provided that a married woman shall be

deemed to be the same person as her husband and her close relatives shall be those of her husband.

3. The above interpretation of "close relative" has caused some members of the public to complain that BMCPC does not allow married daughters to use their family niches except for those divorced, and such a rule allegedly involves sex discrimination. These members of the public also point out that the eligibility requirements for the use of the family type niches provided by the Food and Environmental Hygiene Department ("FEHD") are more relaxed, allowing the ashes of four close kins to be deposited in the family type niche at the same time. Even the ashes of sons-in-law with different surnames can be deposited in the family type niches.

4. Issues relating to the Ordinance and the Rules have not been discussed by the Panel on Home Affairs ("the Panel"). Nevertheless, a written question was raised at the Council meeting of 5 January 2011 about whether the Administration would consider amending the requirement on surnames under Rule 21A so as to eliminate the possible sex discrimination involved in BMCPC's use of family niches and adjust the policy on family/family type niches (such as reducing their supply) in view of the current shortages of niches. The Administration advised that BMCPC had been conducting a review of the Ordinance and the Rules, including examining the possibility of relaxing the restrictions in relation to close relatives on the use of a family niche, with a view to meeting the actual needs of the community. According to the allocation mechanism of family niches adopted by FEHD and BMCPC, family niches were only allocated in respect of a deceased person. In applying for a family niche, an applicant was required to provide proof of cremation of the deceased. Cremated ashes of the deceased must be deposited in the allocated family niche within three months from the date of allocation. The Administration further advised that family niches accounted for about 9% of all niches managed by FEHD and the percentage had already been reduced to less than 1% in new columbarium developments. BMCPC would also review the supply of different types of niches from time to time and adjust the supply according to the actual needs of the public.

### **Latest development**

5. The Administration will brief the Panel on the proposed amendments to the Ordinance and the Rules at the meeting on 17 February 2014.

**Relevant papers**

6. A list of relevant papers at the Legislative Council's website is in the **Appendix**.

Council Business Division 2  
Legislative Council Secretariat  
13 February 2014

## Appendix

### Relevant papers on the Chinese Permanent Cemeteries Ordinance and the Chinese Permanent Cemeteries Rules

Committee	Date of meeting	Paper
Council meeting	5.1.2011	<a href="#">Official Record of Proceedings Pages 4188 to 4190 (Administration's reply to written question raised by Hon IP Kwok-him on "Family niches in the columbaria of Chinese Permanent Cemeteries")</a>

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