

# 立法會 *Legislative Council*

LC Paper No. CB(2)1346/14-15(02)

Ref : CB2/PL/HA

## **Panel on Home Affairs**

### **Background brief prepared by the Legislative Council Secretariat for the special meeting on 5 May 2015**

#### **Proposed amendments to the Chinese Temples Ordinance**

#### **Purpose**

This paper provides background information on the review on the Chinese Temples Ordinance (Cap. 153) ("the Ordinance") and the proposed amendments to the Ordinance by the Home Affairs Bureau ("HAB") and the Chinese Temples Committee ("CTC"), and summarizes the views and concerns of Legislative Council ("LegCo") Members on the subject expressed at the meeting of the Panel on Home Affairs ("the Panel").

#### **Background**

2. The Ordinance was enacted in 1928 with an aim to suppress and prevent any mismanagement of Chinese temples and abuses of their funds. The Ordinance stipulates that no Chinese temple<sup>1</sup> should be established or maintained unless registered in accordance with the provisions of the Ordinance, and the revenues, funds, investments and properties of all Chinese temples should be under the "absolute control" of CTC, a statutory body established under the Ordinance. The main responsibilities of CTC include the registration, management and inspection of Chinese temples, as well as the management

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<sup>1</sup> "Chinese temple" (華人廟宇) includes - (a) all Miu (廟, temples), Tsz (寺, Buddhist monasteries), Kun and To Yuen (觀及道院, Taoist monasteries) and Om (庵, nunneries); and (b) every place where - (i) in accordance with the religious principles governing Miu, Tsz, Kun, To Yuen or Om, worship of gods or communication with spirits or fortune-telling is practiced or is intended to be practiced; and where (ii) fees, payments or rewards of any kind whatsoever are charged to or are accepted from any member of the public for the purpose of worship or communication with spirits or fortune-telling or any similar purpose, or in return for joss candles or incense sticks, or on any other account whatsoever.

control and audit of the Chinese Temples Fund ("CTF")<sup>2</sup> and the General Chinese Charities Fund ("GCCF")<sup>3</sup>. CTC is chaired by the Secretary for Home Affairs ("SHA"), and the administrative support for the two Funds is provided by the Trust Funds and Temples Joint Secretariat under HAB.

### **Review on and proposed amendments to the Ordinance**

3. At the Panel meeting on 13 January 2012, concern was raised about media reports on columbarium facilities being found in premises that claimed to be Chinese temples but not registered under the Ordinance. In response to members' concern, the Administration issued a letter dated 16 February 2012 [LC Paper No. CB(2)1108/11-12(01)] to the Panel, informing members that due to changes in social circumstances since the enactment of the Ordinance, some of the provisions in the Ordinance appeared to be outdated and inapplicable in present-day context. HAB was therefore conducting a comprehensive review on the Ordinance, which focused on the power and responsibilities of CTC and the religious matters of Chinese temples. The review also involved temple registration. The Administration estimated that the review would be concluded by the end of 2012. As regards the issue of enhancing regulation of private columbaria, the Food and Health Bureau had been formulating a licensing scheme for such establishments<sup>4</sup>.

4. After the comprehensive review on the Ordinance, HAB and CTC now propose a number of amendments to the Ordinance with a view to better serving prevailing social needs having regard to present circumstances, which include -

- (a) removing the outdated restrictions imposed on Chinese temples, including the provisions requiring all Chinese temples to be registered,

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<sup>2</sup> Keepership fees and worshippers' donations are paid to the Chinese Temples Fund. The income of the Fund is used to finance customary ceremonies and the maintenance of temple properties. Surpluses are transferred to the General Chinese Charities Fund. According to CTC's "Report on the administration of the Chinese Temples Fund for the year ended 31 March 2014" tabled at the LegCo meeting of 17 December 2014, surplus from CTC's self-administered and delegated temples amounted to \$34.21 million in 2013-2014.

<sup>3</sup> The General Chinese Charities Fund can make grants to any Chinese charity in Hong Kong as CTC deems fit. In addition, grants are allocated annually to each District Office for emergency relief grants. According to CTC's "Report on the administration of the General Chinese Charities Fund for the year ended 31 March 2014" tabled at the LegCo meeting of 17 December 2014, the investment income and total expenditure of the Fund was \$5.19 million and \$22.04 million (of which \$6.4 million was deployed for charity use) respectively in 2013-2014.

<sup>4</sup> The Private Columbaria Bill ("the Bill") was introduced into LegCo on 25 June 2014 to provide a licensing scheme for regulating the operation of private columbaria. The Bills Committee on the Private Columbaria Bill is scrutinizing the Bill.

the revenues and properties of all Chinese temples to be under the "absolute control" of CTC, and any person who possesses or controls the property of any Chinese temple to transfer such property to the Secretary for Home Affairs Incorporated;

- (b) establishing a more reasonable regulatory regime for Chinese temples by -
  - (i) replacing the mandatory registration requirement with a voluntary registration scheme; and
  - (ii) providing SHA with power to participate in legal proceedings involving any mismanagement of Chinese temples and/or abuses of temples' funds so as to safeguard public interest;
- (c) establishing CTC as a body corporate, stipulating in the law its powers and functions, and optimizing its operational procedures; and
- (d) merging the existing CTF and GCCF into a single Chinese Temples Charities Fund to be continued to be managed by CTC with a broader scope to provide grants to meet the needs of the relevant services of the community.

### **Members' concerns**

5. Members were briefed by the Administration on the proposed amendments to the Ordinance at the Panel meeting on 24 March 2015 and their major views are summarized below.

#### Proposed voluntary registration scheme

6. Some Members had reservations about the proposal to replace the mandatory registration requirement with a voluntary registration scheme. They queried the propriety of such arrangements which, in their view, might affect or lessen the protection afforded to members of the public against unlawful activities of deceitful pseudo-religious establishments. They also questioned whether the Administration was shirking its regulatory responsibilities over Chinese temples in implementing the voluntary registration scheme, and asked about the rationale behind the proposal.

7. According to the Administration, the Ordinance was enacted in 1928 against the rampant activities of deceitful pseudo-religious establishments. Comparing with the societal developments in the 1920s, members of the public

were now much more aware of the risks associated with pseudo-religious establishments. Besides, different pieces of legislation were readily in place to provide protection and remedies against frauds, malpractices and misuses of funds, as well as environmental and safety problems that were associated with organizations. These legal provisions were also applicable to the operation of Chinese temples as well as other religious bodies.

8. The Administration further advised that there were a number of cases of disputes over the ownership and revenues of Chinese temples, in which the affected parties opted to resolve the disputes through legal proceedings and follow the rulings of the Court. If CTC handled or followed up on the disputes with the powers conferred by the Ordinance, it might arouse public concern over the protection of property rights. As there were already other legislation and legal proceedings in place to protect the public, any attempts to enforce the provisions in the Ordinance that the "absolute control" over the properties of Chinese temples must rest with a committee appointed by the Government would become unjustified and render the provisions outdated.

#### Operation of the proposed voluntary registration scheme

9. Some Members were of the view that if Chinese temples were allowed to register voluntarily with CTC, the scheme should provide adequate incentive for the approximately 600 Chinese temples in Hong Kong to proceed with the registration.

10. According to the Administration, one of the major advantages of the voluntary registration scheme was that it helped enhance the transparency of the management of Chinese temples, including their use of public donations, while not affecting religious freedom. In view of public concerns over the transparency of charity donations in recent years, Chinese temples could gain public confidence through participating in the voluntary registration scheme. Furthermore, CTC had been providing and would continue to provide grants for Chinese temples to carry out maintenance for the buildings/heritage or customary ceremonies. In processing such applications, CTC would take into full consideration the historical merits of the temple, its experience in organizing relevant events, and whether it had a proven track record in managing public donations, etc. The information provided by those Chinese temples taking part in the proposed voluntary registration scheme would allow CTC to better understand the temple's situation in the aforementioned areas.

11. In response to Members' enquiry on measures to assist members of the public to differentiate registered temples from unregistered ones, the Administration advised that a Chinese temple that wished to take part in the voluntary registration scheme should submit to CTC relevant information,

including the purpose of establishing the temple, the god(s) to be worshipped, major events involved, its owner(s) and administrator(s), its assets donated by the public and how it used/managed public donations. The full list of temples registered with CTC would be published on CTC's website, and the major information of the registered temples would also be published for public access and inspection. In case there were major changes to the information submitted, the registered temples should report the changes to CTC. These apart, CTC would conduct random checks on the information submitted by the registered temples, and in case of any false claims or concealment, CTC might consider cancelling the registration.

### **Latest development**

12. The Administration has issued a consultation paper on 13 March 2015 to kick start a two-month consultation exercise, ending on 12 May 2015. The Panel will hold a special meeting on 5 May 2015 to receive deputations' views on the consultation paper.

### **Relevant papers**

13. A list of relevant papers on the LegCo website is in the **Appendix**.

**Relevant papers on  
Proposed amendments to the Chinese Temples Ordinance**

<b>Committee</b>	<b>Date of meeting</b>	<b>Paper</b>
Panel on Home Affairs	13.1.2012 (Item III)	<a href="#">Agenda</a> <a href="#">Minutes</a> <a href="#">Administration's reply letter dated 16 February 2012 on the Review of Chinese Temples Ordinance [LC Paper No. CB(2)1108/11-12(01)]</a>
Legislative Council	18.1.2012	<a href="#">Official Records of Proceedings Pages 4761 to 4763 (written question raised by Hon Tanya CHAN on "Chinese Temples Ordinance")</a>
	27.11.2013	<a href="#">Official Records of Proceedings Pages 3333 to 3340 (written question raised by Dr Hon Kenneth CHAN on "Chinese Temples Ordinance")</a>
Financial Committee (Special meeting to examine the Estimates of Expenditure 2014-2015)	--	<a href="#">Administration's replies to Members' initial written questions (Reply Serial No. HAB302)</a>
Legislative Council	17.12.2014	<a href="#">Report on the Administration of the Chinese Temples Fund for the year ended 31 March 2014</a>  <a href="#">Report on the Administration of the General Chinese Charities Fund for the year ended 31 March 2014</a>
Panel on Home Affairs	24.3.2015 (Item VI)	<a href="#">Agenda</a>