

立法會
Legislative Council

LC Paper No. CB(3) 772/15-16

Ref : CB(3)/B/FH/4 (13-14)

Tel : 3919 3306

Date : 4 July 2016

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 6 July 2016

Private Columbaria Bill

Committee stage amendments

The Second Reading debate on the above Bill will be resumed at the Council meeting of 6 July 2016. Subject to the Bill receiving Second Reading, the President has given permission for the Secretary for Food and Health to move Committee stage amendments (“CSAs”) to the Bill.

2. As directed by the President, the CSAs are attached for Members’ consideration.

(Boris LAM)
for Clerk to the Legislative Council

Encl.

Private Columbaria Bill

Committee Stage

Amendments to be moved by the Secretary for Food and Health

| <u>Clause</u> | <u>Amendment Proposed</u> |
|---------------|--|
| 1(3) | By deleting “3 months” and substituting “6 months”. |
| 1(3) | By adding— “(ca) Divisions 1, 2 and 3 of Part 11;”. |
| 2(1) | In the definition of <i>ashes</i> — (a) in paragraph (a), by deleting “; and” and substituting “, and (except in section 4A) includes synthetic diamonds, jewellery, ornaments and any other materials transformed from human ashes; and”; (b) in paragraph (b), by deleting everything after “except in” and substituting “section 58(2)(a)(iii)(B), (C) and (D) and in the definition of <i>eligible claimant</i> in section 5(2) of, and in sections 9(7) and 11(4) of, Schedule 5) includes any related items interred together with such ashes in the same niche (if applicable);”; (c) by deleting paragraph (c). |
| 2(1) | In the definition of <i>authorized officer</i> , by deleting “48” and substituting “81(3)”. |

- 2(1) In the definition of ***authorized representative***, by adding “(other than the person who operates, keeps, manages or in any other way has control of the columbarium in which the ashes are, or are to be, interred or an agent of such a person)” after “interred under the agreement”.
- 2(1) In the definition of ***building***, by adding “(except in paragraph (b) of the definition of ***structures certifiable for a pre-Bill columbarium*** in section 4(1) of, and in section 4(2) of, Schedule 2)” before “has the meaning”.
- 2(1) In the definition of ***columbarium***, in paragraph (a), by deleting “intended” and substituting “claimed, represented or held out”.
- 2(1) In the definition of ***dedicated person***—
- (a) in paragraph (a), by deleting “place” and substituting “area”;
 - (b) in paragraph (b)—
 - (i) by deleting “otherwise” and substituting “any other area”;
 - (ii) by deleting “location” and substituting “area”.
- 2(1) In the definition of ***interment right***, in paragraph (a), by deleting everything after “in a” and substituting “specific niche or area; and”.
- 2(1) In the definition of ***licence***, by deleting everything after “(except in” and substituting “section 4(2) and in section 4(2)(a) of Schedule 2) means a licence issued or renewed under section 11;”.

- 2(1) In the definition of *niche*, by deleting “intended” and substituting “claimed, represented or held out”.
- 2(1) In the definition of *owner*—
- (a) in paragraph (a)(i), by deleting “direct from the Government, whether under a lease, licence” and substituting “directly from the Government, whether under a lease, short term tenancy”;
 - (b) in paragraph (c), by deleting “except in Part 7 and Schedule 5,”.
- 2(1) In the definition of *purchaser*, by deleting “means a” and substituting “(except in Division 1 of Part 5 and in Schedule 4) means the”.
- 2(1) In the definition of *sell*, by deleting “is to be construed in accordance with” and substituting “—see”.
- 2(1) In the definition of *specified form*, by deleting “(except in section 33(2)(f)(ii)) means in the form as” and substituting “means the form”.
- 2(1) In the English text, in the definition of *unleased land*, by deleting “28).” and substituting “28);”.
- 2(1) In the Chinese text, in the definition of 安放, in paragraphs (a) and (b), by adding “或其內或其上” after “在任何處所”.

2(1) By adding in alphabetical order—

“***Appeal Board*** (上訴委員會) means the body established under section 71(1);

commencement of ash disposal notice (展開骨灰處置通告)—see section 8 of Schedule 5;

deed of mutual covenant (公契) has the meaning given by section 2 of the Building Management Ordinance (Cap. 344);

lease (租契)—

(a) means a Government lease; and

(b) includes any undivided share in a Government lease;

seller (賣方), in relation to an interment right in respect of a columbarium, (except in Division 1 of Part 5 and in Schedule 4) means the person by whom the right is sold;

specified officer (指明人員) means the Director, an authorized officer or a public officer;

tenancy (租賃) (except in section 2(b)(ii)(B) of Schedule 4) means—

(a) a short term tenancy granted by the Government; or

(b) an agreement entered into between private parties for the letting or leasing of any premises;

validity period (有效期)—see section 11B.”.

2(4) By deleting “means” and substituting “is a reference to”.

2(5) By deleting “means” and substituting “is a reference to”.

2(5)(a) By deleting “and” and substituting “or”.

- 2(6) (a) By deleting “means” and substituting “is a reference to”.
 (b) In the Chinese text, by deleting “持續” and substituting “繼續”.
- 2(6)(a) By deleting “and” and substituting “or”.
- 2(7) By deleting “means” and substituting “is a reference to”.
- 2(8) By deleting “means” and substituting “is a reference to”.
- 3(3)(b)(i) By adding “or” after the semicolon.
- 3(3)(b)(ii) In the Chinese text, by deleting “於骨灰安置所中的現存龕位(或
 有待在骨灰安置所中” and substituting “該骨灰安置所內的現存
 龕位(或有待在該骨灰安置所內”.
- 4 In the heading, by deleting “**or undertakers**” and substituting “**,
 undertakers**”.
- 4(1)(c) In the Chinese text, by deleting “人” and substituting “人士”.
- New By adding—
- “4A. Ordinance not applicable to premises where ash
 transforming work is carried out**
- (1) This Ordinance does not apply to any premises
 that are used for carrying out the
 transformation work in respect of any ashes
 (*workplace*) if—
- (a) the workplace is not situated within any
 columbarium premises;

- (b) the keeping of ashes in the workplace is transient and incidental to the carrying out of the transformation work;
- (c) no interment right in respect of the workplace is sold;
- (d) no person may be allowed to pay worship, and no ritual offerings may be given, in the workplace to any deceased person; and
- (e) the person operating, keeping, managing or in any other way having control of the workplace—
 - (i) has kept a register of the delivery of ashes and synthetic materials to and from the workplace;
 - (ii) has entered the following particulars into the register—
 - (A) the name of each deceased person whose ashes are delivered to the workplace, and the date of the delivery of those ashes to the workplace; and
 - (B) the description of the synthetic material that the ashes of each deceased person are transformed into, and the date of the delivery of the synthetic material and the remaining ashes (if any) from the workplace; and
 - (iii) makes the register available for inspection, on request, by the Director or an authorized officer.

(2) In this section—

synthetic material (人造物料), in relation to any ashes, means the synthetic diamond, jewellery, ornament or other material transformed from the ashes or part of the ashes;

transformation work (轉化工序), in relation to any ashes—

- (a) means the manufacturing process by which the ashes, or part of the ashes, are transformed into synthetic material; and
 - (b) includes any activity that is ancillary to any such manufacturing process (such as the delivery and collection of the ashes or the synthetic material).
- (3) In this section, a reference to giving ritual offerings includes a reference to—
- (a) the laying of flowers or wreaths; or
 - (b) the burning of candle-sticks, joss paper, incense or sacrificial articles.

4B. Ordinance not applicable to premises where transient exhibition of ashes is held

This Ordinance does not apply to any premises during the time when an exhibition of ashes is held in, on or at them if—

- (a) the exhibition is held for a period of not more than 14 days;
- (b) ashes are kept in, on or at the premises only for the purpose of the exhibition;
- (c) no more than 10 containers of ashes are kept in, on or at the premises;
- (d) each container contains, or is claimed, represented or held out to be containing, the ashes of only 1 person; and
- (e) no interment right in respect of the premises is sold.”.

5(1)(a) By deleting “5” and substituting “10”.

5(1)(b) By adding “, or is claimed, represented or held out to be containing,” after “contains”.

- 7(1) By deleting “principal”.
- 7(1)(a) In the Chinese text, by deleting “的的營辦” and substituting “的營辦”.
- 7(1)(a)(iii) In the Chinese text, by deleting “營辦者” (wherever appearing) and substituting “營辦人”.
- 8(1) By deleting “in accordance with” and substituting “under”.
- 8(2) By deleting “in accordance with” and substituting “under”.
- 8 By adding—
- “(2A) If—
- (a) a specified instrument in respect of a columbarium; or
- (b) an authorization under a licence to sell interment rights in respect of a columbarium,
- is suspended, a person who operates, keeps, manages or in any other way has control of the columbarium under the specified instrument or licence does not contravene subsection (1) in respect of the columbarium if all the requirements, terms and conditions imposed by the Licensing Board upon suspending the specified instrument or authorization are complied with.”.
- 9(3)(b)(i) In the Chinese text, by deleting “按” and substituting “根據”.
- 9(3)(b)(ii) In the English text, by deleting “a”.

- 10 In the definition of *ash interment layout*—
- (a) in paragraph (b), by adding “and” after the semicolon;
 - (b) by adding—
 - “(c) (if an exemption is applied for or is issued in respect of the columbarium that is a columbarium of a Chinese temple as referred to in section 46C) the location of the religious ash pagoda as defined by section 46C(14);”.
- 10 In the definition of *ash interment quantity*—
- (a) in paragraph (a)—
 - (i) by deleting the comma and substituting “and”;
 - (ii) by deleting “and the names of the dedicated persons”;
 - (b) in paragraph (b), by deleting “and the names of the dedicated persons”.
- 11(1)(b) By deleting “and” and substituting “or”.
- 11(2) By adding “specified” before “instrument”.
- 11(3) By deleting paragraph (a) and substituting—
- “(a) where—
 - (i) the columbarium premises are held directly from the Government under a lease—the remainder of the term of the lease; or
 - (ii) the columbarium premises are occupied under a tenancy—the remainder of the term of the tenancy;”.
- 11(4) By deleting everything after “period of an” and substituting—
- “exemption must not exceed—

- (a) where the columbarium premises are held directly from the Government under a lease—the remainder of the term of the lease; or
- (b) where the columbarium premises are occupied under a tenancy—the remainder of the term of the tenancy.”.

11(5) By deleting everything after “exceed” and substituting “3 years.”.

11 By deleting subclause (6).

- 11(7)
- (a) By deleting “(5)(b)” and substituting “(5), where the columbarium premises are occupied under a short term tenancy granted by the Government”.
 - (b) By deleting “columbarium premises referred to in subsection (6)” and substituting “premises”.

11 By adding—

“(7A) A specified instrument in respect of which an application for renewal or extension is made in accordance with section 11A, and which expires prior to the determination by the Licensing Board of the application, remains in effect until the determination of the application unless—

- (a) the application is withdrawn;
- (b) the specified instrument is revoked under section 33;
- (c) for a licence—(despite subsection (3)(b)) the term referred to in subsection (3)(a)(i) or (ii) expires; or
- (d) for an exemption—the term referred to in subsection (4)(a) or (b) expires.”.

New

By adding before clause 11(2)—

“11A. Time limit for application for specified instrument

- (1) Subject to subsection (2), an application for the issue of a licence in respect of a columbarium may be made to the Licensing Board at any time after the expiry of 6 months beginning on the enactment date.
- (2) An application for the issue of a specified instrument in respect of a pre-Bill columbarium must be made to the Licensing Board at any time—
 - (a) after the expiry of 6 months beginning on the enactment date; but
 - (b) before the expiry of 9 months beginning on that date.
- (3) An application for the renewal of a licence or exemption must be made to the Licensing Board not later than 18 months before the expiry of the validity period of the licence or exemption (as the case requires).
- (4) Subject to subsection (5), an application for the extension of a temporary suspension of liability must be made to the Licensing Board not later than 12 months before the expiry of the validity period of the temporary suspension of liability.
- (5) If the validity period of a temporary suspension of liability does not exceed 12 months, an application for the extension of the temporary suspension of liability must be made to the Licensing Board not later than the date specified by it.
- (6) Despite subsections (2), (3), (4) and (5), the Licensing Board may consider an application for a specified instrument out of time if—
 - (a) the applicant has a reasonable excuse for failing to make the application within time; and
 - (b) in all the circumstances of the case, the Licensing Board considers that it is just

and equitable to consider the application.

11B. Validity period of specified instrument”.

- 12(3)(a) In the Chinese text, by deleting “之內或之上” and substituting “內或其上”.
- 13 In the heading, by deleting “**and management plan**” and substituting “, **etc.**”.
- 13(1)(b) By deleting everything after “Government” and substituting “under a lease.”.
- 13(2) By deleting “prepared by the applicant” and substituting “submitted by the applicant in respect of the columbarium”.
- 13 By adding—
- “(3) In relation to an application for the issue of a licence in respect of a columbarium, where a deed of mutual covenant is in force in respect of the columbarium premises, the Licensing Board may refuse the application if the applicant fails to produce the legal advice required under section 18(3).”.
- 14(3) By deleting “, whether under a lease, licence or otherwise” and substituting “under a lease”.
- 15(1) In the Chinese text, by adding “某” after “要求就”.
- 15(1)(c) In the Chinese text, by adding “該” before “骨灰”.

15(1)(h)(i) By deleting everything after “Government” and substituting “under a lease; or”.

15 By adding—

“(1A) The Licensing Board may decide not to refuse the application under subsection (1)(b)—

(a) if—

(i) ashes are interred in the pre-Bill columbarium after the Bill announcement time but before the enactment date; and

(ii) the interment right in respect of those ashes was sold before the Bill announcement time; or

(b) if—

(i) ashes are interred in a religious ash pagoda as defined by section 46C(14) in the pre-Bill columbarium after the Bill announcement time but before the enactment date; and

(ii) no fees, charges or other sums were paid, or are payable, for the interment of the ashes.”.

16(2)(a)(ii) By adding “and the ash interment quantity is limited to that as at the enactment date” after “time”.

16(2)(a) In the Chinese text, by adding “事宜” after “多於一項”.

16(2)(a)(iv) In the Chinese text, by adding “該” before “骨灰”.

16(2)(b) (a) By deleting “the Director of Lands considers that”.

(b) By adding “(to the extent as shown in the plans required

under section 19)” before “includes”.

16(2)(b)(ii) In the Chinese text, by adding “、當日” before “或之後”.

16 By adding—

“(4) The Licensing Board may decide not to refuse the application (made together with a related application for the issue of an exemption) under subsection (2)(a)(iii)—

(a) if—

(i) ashes are interred in the pre-Bill columbarium after the Bill announcement time but before the enactment date; and

(ii) the interment right in respect of those ashes was sold before the Bill announcement time; or

(b) if—

(i) ashes are interred in a religious ash pagoda as defined by section 46C(14) in the pre-Bill columbarium after the Bill announcement time but before the enactment date; and

(ii) no fees, charges or other sums were paid, or are payable, for the interment of the ashes.”.

17(1) (a) By deleting “This section” and substituting “Subsection (2)”.

(b) In the Chinese text, by deleting “要求就某骨灰安置所發出指明文書的申請作出” and substituting “某骨灰安置所的指明文書申請作出的”.

17 By adding—

“(3) In relation to an application for the issue of a licence

or exemption or an application for the extension of a temporary suspension of liability, the other relevant considerations referred to in subsection (2)(b) include (but are not limited to)—

- (a) whether the applicant has or has not complied with, in respect of the columbarium, the applicable requirements in Schedule 2; and
 - (b) the record of the steps that the applicant has taken in respect of the columbarium towards meeting those requirements.
- (4) For the purposes of subsection (3), a reference to the applicant in that subsection is to be construed as including a reference to—
- (a) if the applicant is a partner in a partnership—any other partner in the partnership; or
 - (b) if the applicant is a body corporate—a director or other officer concerned in the management of the body corporate.”.

18 By renumbering the clause as clause 18(1).

18(1)(b) By adding—

- “(ia) for an application for the issue of an exemption in respect of a pre-Bill columbarium (if any interment right in respect of any niche in the columbarium was sold before the Bill announcement time, but has not been exercised or has only been exercised partially)—the registers required under section 18A;”.

18(1)(b)(iii) By deleting everything after “and other” and substituting—

“documents—

- (A) specified in the application form; or
- (B) otherwise reasonably required by the Licensing Board.”.

18

By adding—

- “(2) Without limiting subsection (1)(b)(iii), the Licensing Board may, in relation to an application for a specified instrument in respect of a columbarium, require the applicant to produce evidence to prove that the owner of the columbarium premises has, or all the joint owners or co-owners of the columbarium premises have, given authorization or consent for the premises to be used as a columbarium.
- (3) In addition to the information required under subsection (1)(b), an application for the issue of a licence in respect of a columbarium, where a deed of mutual covenant is in force in respect of the columbarium premises, must be accompanied by a written legal advice of a legal practitioner (who is qualified to practise as counsel or to act as a solicitor in Hong Kong) confirming that there is no express restrictive covenant in the deed to the effect that—
 - (a) any use of the premises as a columbarium is prohibited;
 - (b) any commercial use of the premises is prohibited; or
 - (c) only private residential use of the premises is permitted.”.

New

By adding—

“18A. Requirements about registers accompanying application

- (1) For the purposes of section 18(1)(b)(ia), the following registers of a pre-Bill columbarium are to accompany an application for the issue of an exemption in respect of the columbarium—
 - (a) a register on the niches in the columbarium in respect of which the interment rights were sold before the Bill announcement time but have not

been exercised; and

- (b) a register on the niches in the columbarium in respect of which the interment rights were sold before the Bill announcement time but have only been exercised partially.

(2) The registers—

- (a) must be in the specified form;
- (b) must contain the particulars specified by the Licensing Board; and
- (c) must be kept in the manner determined by the Licensing Board.”.

19(1) By deleting “18(b)(ii)” and substituting “18(1)(b)(ii)”.

19(3)(d) By adding “and” after the semicolon.

19 By deleting subclause (4) and substituting—

“(4) A qualified professional must—

- (a) certify that the current site situation of the columbarium premises conforms to the plans in all respects; or
- (b) if the current site situation of the columbarium premises does not conform to the plans in all respects—identify the difference, with annotations, on the plans.”.

20(1)(a) In the Chinese text, by deleting “該骨灰安置所以場內實況而論，在包括第(2)款指明的詳情的所有方面，” and substituting “有關骨灰安置所處所的場內實況，在各方面(包括第(2)款指明的詳情)”.

20(1)(b) By deleting “and 16” and substituting “, 16 and 17”.

- 20(3) By adding—
- “(ab) (if the Licensing Board endorses the registers required under section 18A that accompany an application for the issue of an exemption) must attach the endorsed registers to the plans;”.
- 21 In the heading, by deleting “**time limit, evidence of ash interment layout and ash interment quantity as at Bill announcement time**” and substituting “**evidence of ash interment layout and quantity, etc.**”.
- 21 By deleting subclauses (1) and (2).
- 21(3) By deleting “section 14, 15 or 16 or section 4 of Schedule 2 (each is called an *eligibility-related provision*)” and substituting “an eligibility-related provision”.
- 21(3)(e) By adding “and” after the semicolon.
- 21(4)(a) By adding “and” after the semicolon.
- 21(5)(a) By deleting “liability; and” and substituting “liability;”.
- 21(5) By adding—
- “(ab) for an exemption in respect of a pre-Bill columbarium that is a columbarium of a Chinese temple as referred to in section 46C—the location of the religious ash pagoda as defined by section 46C(14); and”.
- 21(5)(b) In the Chinese text, by deleting “之內或之上” and substituting “內

或其上”。

- 21 By adding—
- “(6) In subsection (3)—
- eligibility-related provision*** (資格相關條文) means section 14, 15 or 16 or section 4 of Schedule 2.”.
- 22(1)(a) By deleting “operator” and substituting “***operator*** (營辦人)”.
- 22(1) By deleting paragraph (b) and substituting—
- “(b) ***eligibility-related provision*** (資格相關條文) has the meaning given by section 21(6);”.
- 22(1)(c) By deleting “notifiable particulars mean” and substituting “***notifiable particulars*** (須通報詳情) means”.
- 22(1)(d) By deleting “batch 1 particulars mean” and substituting “***batch 1 particulars*** (第 1 組詳情) means”.
- 22(1)(e) (a) By deleting “batch 2 particulars mean” and substituting “***batch 2 particulars*** (第 2 組詳情) means”.
- (b) By deleting “and” and substituting “or”.
- 22(1)(f)(ii) By deleting “, (7) and (8)” and substituting “and (7)”.
- 22(2)(b)(i) By deleting “particulars,” and substituting “particulars—”.
- 22(2)(b)(ii) By deleting “particulars,” and substituting “particulars—”.

- 22(2) In the Chinese text, by deleting “有關” (wherever appearing).
- 22(2)(b) In the Chinese text, by deleting “該營辦人” and substituting “營辦人”.
- 22(3) In the Chinese text—
- (a) by deleting “有關” (wherever appearing);
 - (b) by adding “有關” before “骨灰安置所”.
- 22(4) (a) By deleting “the following in duplicate and might retain 1 set and provide the other set to the operator”.
- (b) In the Chinese text, by deleting “有關” (wherever appearing).
- 22(4)(a) By adding “and” after the semicolon.
- 22(5) By deleting “, (8)”.
- 22(6) In the Chinese text, by deleting “有關”.
- 22(7)(a) By adding “furnaces or” after “land by the”.
- 22(7)(b) By adding “furnaces or” after “whether the”.
- 22 By deleting subclause (8).
- 22(9) (a) By deleting “, in its sole and absolute discretion,”.
- (b) By deleting everything after “other than evidence referred to in subsection (4)” and substituting a full stop.

- 24 By deleting “The licence” and substituting “A licence in respect of a columbarium”.
- 24(a) By deleting “specified” and substituting “shown”.
- 24(b) By adding “and” after the semicolon.
- 25(a) In the English text, by deleting “it” and substituting “them”.
- 27(a) By adding “subject to sections 46A and 46C,” before “that the”.
- 29(2) In the English text, by deleting “A” and substituting “The”.
- 30 In the heading, by adding “**steps to be taken,**” after “**conditions about**”.
- 30(3) In the English text, by deleting “A” and substituting “The”.
- 30(3)(b) By deleting “the structures certifiable for a pre-Bill columbarium” and substituting “those as”.
- 31 By adding “pre-Bill” after “in respect of a”.
- 31(a) (a) In the English text, by deleting “fire safety and” and substituting “fire safety,”.
- (b) In the Chinese text, by deleting “作出” and substituting “發出”.

New

By adding after clause 31—

“Subdivision 4—Miscellaneous

31A. Conditions about additional fees, etc.

Without limiting Subdivisions 1, 2 and 3 and section 11, the Licensing Board may as it thinks fit impose conditions on a specified instrument in respect of a pre-Bill columbarium restricting the imposition of any additional fees, charges or other sums in respect of an interment right beyond the amounts, or not in accordance with any mechanism for their future revision, specified or otherwise contained in any agreement for the sale of the interment right entered into before the Bill announcement time.”.

32(1)(b)

In the English text, by adding “an” before “exemption”.

32(1)(c)(i)

By deleting “an application” and substituting “the related application”.

32(1)(c)(ii)

By deleting “an application” and substituting “the related application”.

32(2)

(a) By adding “(3A),” after “subsections (3),”.

(b) By adding “(*transferee*)” after “another person”.

32(3)(a)

In the Chinese text, by deleting “該” and substituting “發牌”.

32(3)(b)(ii)

By adding “reasonably” after “otherwise”.

32

By adding—

“(3A) The Licensing Board may refuse an application for the transfer of an instrument referred to in subsection (1)

if the transferee fails to prove to the satisfaction of the Licensing Board that the transferee—

- (a) holds the columbarium premises directly from the Government under a lease; or
- (b) has the right to continue to use the columbarium premises as required by section 14 or 15 (as the case requires).”.

32

By adding—

“(4A) On determining an application made under this section, the Licensing Board must notify the applicant in writing of—

- (a) the Licensing Board’s decision; and
- (b) (if the application is refused) the reasons for the refusal.

(4B) If the Licensing Board exercises its power under subsection (4) to vary the conditions to which an instrument referred to in subsection (1) is subject or impose new conditions, the Licensing Board must notify the transferee in writing of—

- (a) the Licensing Board’s decision;
- (b) the reasons for the decision; and
- (c) the date on which the decision is to take effect.”.

32

By deleting subclause (6) and substituting—

“(6) Despite the Transfer of Businesses (Protection of Creditors) Ordinance (Cap. 49) and any rules of common law, a transferee is liable for all debts and obligations (including all outstanding, subsisting and future liabilities) in relation to each agreement for sale of an interment right entered into before the transfer by the person from whom an instrument referred to in subsection (1) is transferred and, accordingly, any such agreement may, after the transfer, be enforced by the purchaser against the transferee.

(6A) A transferee may be indemnified by the person from

whom an instrument referred to in subsection (1) is transferred for all amounts for which the transferee is made liable under subsection (6) and for which the transferee would not otherwise be liable, and the amount of the indemnity may be recovered by civil proceedings as a debt or liquidated demand.

- (6B) In this section, a reference to transfer includes—
- (a) if the person from whom an instrument referred to in subsection (1) is transferred is a natural person and that person dies—a reference to succession; and
 - (b) if the person from whom an instrument referred to in subsection (1) is transferred is a partner in a partnership and there is a change of any partner in the partnership (whether that person or another partner)—a reference to a transfer from that person to a partner in the new partnership (whether to that person, if that person remains as a partner in the new partnership, or to another partner), and the reference to another person in subsection (2) is to be construed accordingly.”.

33(1)(d) By deleting “additional” and substituting “new”.

33(2) By adding—

- “(ea) if the instrument holder is a body corporate other than a company or (where the instrument holder is a partner in a partnership) if any partner in the partnership is a body corporate other than a company, and the body corporate is dissolved;”.

33(2)(f) By deleting “and—” and substituting “or (where the instrument holder is a partner in a partnership) if any partner in the partnership is a company, and—”.

- 33(2)(f)(i) By deleting “or resolved”.
- 33(2)(f) By deleting subparagraph (ii) and substituting—
- “(ii) a winding-up statement in respect of the company is delivered to the Registrar of Companies under section 228A of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32);”.
- 33(2)(f)(iv) By deleting “otherwise than in consequence of such an order” and substituting “under the Companies Ordinance (Cap. 622)”.
- 33(2)(f)(v) (a) By adding “(where the company is a registered non-Hong Kong company as defined by section 2(1) of the Companies Ordinance (Cap. 622))” before “the company’s”.
- (b) By deleting everything after “section 798 of” and substituting “that Ordinance; or”.
- 33(2)(g) By deleting “the partnership that is the instrument holder” and substituting “a partnership who is the instrument holder or is any other partner in that partnership”.
- 33(2)(g)(i) By deleting everything after “dies” and substituting a semicolon.
- 33(2)(g)(ii) By deleting “affairs; or” and substituting “affairs;”.
- 33(2)(g)(iii) By deleting “in full.” and substituting “in full; or”.
- 33(2)(g) By adding—
- “(iv) is serving a sentence of imprisonment, whether in

Hong Kong or elsewhere, at any time during the validity period of the specified instrument.”.

33(3) By deleting “of its decision, in writing, setting out” and substituting “in writing of”.

33(3)(a) By adding “Licensing Board’s” before “decision”.

34(1) By deleting “in writing to it”.

34(2)(b)(i) By deleting “plans that comply with the requirements in section 19 and, if applicable” and substituting “if applicable—plans that comply with the requirements in section 19 and, where appropriate”.

34(2)(b)(ii)(B) By adding “reasonably” after “otherwise”.

34 By deleting subclause (3) and substituting—

“(3) On determining an application made under this section, the Licensing Board must notify the applicant in writing of—

(a) the Licensing Board’s decision; and

(b) (if the application is refused) the reasons for the refusal.”.

35(2)(a) By adding “after the date” after “7 days”.

35(3) By deleting “subsection (1)” and substituting “subsection (1)(a)”.

35 By adding—

“(4) On determining an application made under subsection

(1)(a), the Licensing Board must notify the person in writing of—

- (a) the Licensing Board’s decision; and
- (b) (if the application is refused) the reasons for the refusal.”.

36(1) By deleting “of the change.” and substituting “after the date on which the change occurs.”.

36(1)(a) In the Chinese text, by deleting “申請，要求發出指明文書” and substituting “指明文書申請”.

36(2) (a) By adding “referred to” after “A change”.

(b) By deleting “the proprietor, partner or director” and substituting “any director, manager, secretary or other similar officer”.

36 By adding—

“(2A) If—

- (a) a specified instrument has been issued, renewed or extended; and
- (b) a change occurs that materially affects the accuracy of the information that the holder of the specified instrument has provided in connection with the application on the basis of which the specified instrument has been issued, renewed or extended, the holder must—
 - (i) notify the Licensing Board of the change, in writing, within 14 days after the date on which the change occurs; and
 - (ii) provide the information required by the Licensing Board within the time specified by it.

- (2B) A change referred to in subsection (2A)(b) includes (but is not limited to) a change of any director, manager, secretary or other similar officer of the holder of the specified instrument.”.
- 36(3) By adding “after the date” after “14 days”.
- 36(4) By adding “, (2A)” after “subsection (1)”.
- 37 In the heading, in the Chinese text, by adding “的” before “申請”.
- 37 In the Chinese text, by deleting everything before “具有” and substituting “附表 3(載有關乎本部所指的指明文書的申請的進一步條文)”.
- 38(2)(a)(iii) In the Chinese text, by deleting “文書的” and substituting “文書”.
- 38(2)(b) By deleting everything after “specified officer” and substituting “to apply for an occupation order under section 65 apply to the columbarium.”.
- 38(3) In the Chinese text, by adding “合理地” before “切實可行”.
- 39(1) In the Chinese text, by deleting “在生” and substituting “有”.
- 40 By renumbering the clause as clause 40(1).
- 40(1) By deleting “this Part and Schedule 4” and substituting “this Division”.

- 40 By adding—
- “(2) This Division applies to an agreement for the sale of an interment right entered into on or after the enactment date.”.
- 41 In the heading, by deleting “**by seller**” and substituting “**against purchaser**”.
- 41(1) By deleting “columbarium” and substituting “columbarium, whether or not to the purchaser as dedicated person”.
- 41(2) By deleting “by the seller”.
- 41(2) By adding before paragraph (a)—
- “(aa) where the columbarium premises are held directly from the Government under a lease—by selling an interment right in respect of the premises for a term that extends beyond the term of the lease;”.
- 41(2) By deleting paragraph (a) and substituting—
- “(a) where the columbarium premises are occupied under a short term tenancy granted by the Government—by selling an interment right in respect of the premises otherwise than for payment payable on the same periodic basis as that for the payment of rent for the short term tenancy; or”.
- 41(2)(b) (a) By deleting “for columbarium premises occupied under a tenancy or lease” and substituting “where the columbarium premises are occupied under a tenancy by an agreement entered into between private parties for the letting or leasing of the premises”.

- (b) By deleting “or lease; or” and substituting a full stop.
- 41(2) By deleting paragraph (c).
- 41(3) By deleting “by the seller”.
- 41(3)(a) By deleting “still holds the licence” and substituting “the licence is still in force”.
- 41(3)(c)(i) By deleting “specified” and substituting “prescribed”.
- 41(3)(c)(ii) By deleting “a comprehensive description of the rights and obligations of the seller and the purchaser under the agreement including (but not limited to) the matters specified” and substituting “the essential terms prescribed”.
- 41(3)(f) By deleting “, rights and obligations,” and substituting “and essential terms”.
- 41(3) By deleting paragraph (h).
- 41(3)(i)(iii) By deleting everything after “in” and substituting “any other manner if receipt of the copy by the purchaser can be proved; and”.
- 41(3)(j) By deleting “prescribed” and substituting “specified”.
- 41(4) By deleting “does not meet the requirements of subsection (3)(b), (c), (d), (e) or (j), or in respect of which the seller has not complied

with the requirements of subsection (3)(a), (f), (g), (h) or (i),” and substituting “is not enforceable under subsection (2) or (3)”.

- 41(4)(a) (a) By deleting “the seller” and substituting “a”.
- (b) By adding “or (1A)” after “42(1)”.
- 41(4) By deleting paragraph (b) and substituting—
- “(b) the amount has not been refunded to the purchaser under section 42(2).”.
- 41 By adding—
- “(5) Subsection (4) does not affect, limit or diminish any rights of a purchaser to claim under an agreement for the sale of an interment right under the common law rules or equitable principles or any other Ordinance.”.
- 42(1) By deleting “by the seller under section 41(2) or (3) may cancel the agreement at any time after it is made” and substituting “under section 41(2) or (3)(a), (b) or (c) may cancel the agreement at any time after it is entered into”.
- 42 By adding—
- “(1A) A purchaser under an agreement that is not enforceable under section 41(3)(d), (e), (f), (g), (i) or (j) may cancel the agreement within 6 months after the date of the agreement by giving the seller a written notice of cancellation.”.
- 42(2) By deleting “must, within 30 days” and substituting “or (1A) must, within 30 days after the date”.

- 42(3) By adding “, (1A)” after “subsections (1)”.
- 42 By adding—
- “(4) This section applies in the case of a transfer approved under section 32 as if a reference to seller in subsections (1), (1A) and (2) were a reference to the transferee within the meaning of section 32(2).”.
- 43(2)(b) (a) By deleting “prescribed” (wherever appearing) and substituting “specified”.
- (b) In the English text, by deleting “agreement” and substituting “agreements”.
- 43(3) By deleting “, and the register, kept in respect of the columbarium under this section” and substituting “kept under subsection (1), and the register kept under subsection (2), in respect of the columbarium”.
- 43(4)(b) By deleting everything after “contact details” and substituting—
- “of—
- (i) authorized representatives; and
- (ii) purchasers of the interment rights,
- in respect of ashes interred in the columbarium.”.
- 43 By adding—
- “(4A) A person holding a specified instrument in respect of a columbarium must make the record kept under subsection (4) in respect of the columbarium available for inspection, on request, by the Director or an

authorized officer.”.

43(5) By deleting “or (4)” and substituting “, (4) or (4A)”.

43 By adding—

“(6) In subsection (2)(b)—

specified (指明) means specified by the Licensing Board.”.

Part 5,
Division 2 In the heading, by adding “**Specified**” before “**Instruments**”.

44 In the heading, by deleting “**Instruments**” and substituting
“**Specified instruments**”.

44(2) (a) By adding “pre-Bill” after “in respect of a”.
(b) By deleting “, in both English and Chinese,”.
(c) By deleting “8” and substituting “9”.

44 By deleting subclause (3).

44(5) By adding “(1), (2) or” after “subsection”.

45(3) By deleting “if applicable” and substituting “where appropriate”.

45 By adding—

“(4) On determining an application for permission for the purposes of subsection (1), the Licensing Board must notify the applicant in writing of—

(a) the Licensing Board’s decision; and

- (b) (if the application is refused) the reasons for the refusal.”.

46 In the heading, in the Chinese text, by deleting “數量” and substituting “份數”.

46(1) By deleting “specified” and substituting “shown”.

46(2) (a) By deleting “The” and substituting “Subject to sections 46A and 46C, the”.

(b) By adding “pre-Bill” after “in respect of a”.

(c) By deleting “specified” and substituting “shown”.

New By adding—

“46A. Interment of ashes by exercising interment right sold before Bill announcement time

The ashes of a dedicated person may be interred after the Bill announcement time in a niche in a pre-Bill columbarium in respect of which an exemption has been issued if—

(a) the interment right in respect of the niche was sold before the Bill announcement time, but has not been exercised or (if more than one set of ashes may be interred in that niche) has only been exercised partially; and

(b) the name of the dedicated person has been entered into—

(i) an endorsed register referred to in section 20(3)(ab); or

(ii) the register updated under section 46B(2).

46B. Records on unused or partially used niches, etc.

(1) The holder of an exemption in respect of a

pre-Bill columbarium must not replace the name of a dedicated person contained in an endorsed register referred to in section 20(3)(ab) or the register updated under subsection (2), or cause such a name to be replaced, by the name of another person unless—

- (a) the purchaser so requests;
 - (b) that other person is a relative (as defined by section 5(2) of Schedule 5) of the dedicated person, whether or not living, and the purchaser has made a statutory declaration to confirm that fact; and
 - (c) the arrangements for effecting changes of the dedicated person set out in the agreement for the sale of the interment right (if applicable) have been followed.
- (2) The holder of an exemption in respect of a pre-Bill columbarium must—
- (a) update the endorsed register as soon as practicable after effecting the changes of a dedicated person;
 - (b) notify the Director of the change, in writing, within 10 working days after the date on which the change is effected; and
 - (c) make the updated register available for inspection, on request, by the Director or an authorized officer.
- (3) If—
- (a) the name of a dedicated person contained in an endorsed register referred to in section 20(3)(ab), or the register updated under subsection (2), is replaced by the name of another person otherwise than in accordance with subsection (1); or
 - (b) the name of the dedicated person shown on the niche in the pre-Bill columbarium is different from that entered into such a register,

the holder of an exemption in respect of the columbarium commits an offence and is liable on conviction to a fine of \$500,000 and to imprisonment for 2 years.

- (4) A person who contravenes subsection (2) commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 6 months.

46C. Interment of ashes in religious ash pagodas

- (1) If a pre-Bill columbarium in respect of which an exemption has been issued is a columbarium of a Chinese temple specified under subsection (2), the ashes of the religious practitioners of that temple may be interred in a religious ash pagoda specified under that subsection after the publication of the notice under that subsection.
- (2) The Secretary for Home Affairs must, by notice published in the Gazette, specify for the purposes of subsection (1)—
 - (a) the columbaria of Chinese temples to which that subsection applies;
 - (b) the religious ash pagodas in each of those columbaria in which ashes may be interred under that subsection;
 - (c) the number of sets of ashes that may be interred under that subsection;
 - (d) the location of those religious ash pagodas (as shown in the approved plans) in which ashes may be interred under that subsection; and
 - (e) the location and serial numbering of the niches (according to the ash interment layout as shown in the approved plans) in which ashes may be interred under that subsection.
- (3) The number of sets of ashes specified under subsection (2) in respect of a pre-Bill columbarium must not exceed 1 000.
- (4) The holder of an exemption in respect of a

pre-Bill columbarium must ensure that the number of sets of ashes that may be interred in the columbarium under subsection (1) is limited to the number of sets of ashes specified by the Secretary for Home Affairs under subsection (2)(c).

- (5) No fees, charges or other sums may be payable for interment of ashes under subsection (1).
- (6) Without limiting sections 26, 27 and 28, a pre-Bill columbarium must comply with any requirement or condition that the Secretary for Home Affairs may impose for the purpose of determining whether the columbarium is, or continues to be, eligible or not to be specified under subsection (2).
- (7) If a pre-Bill columbarium has failed to comply with any requirement or condition imposed under subsection (6) or the Secretary for Home Affairs is satisfied that a pre-Bill columbarium is no longer eligible to be specified under subsection (2), he or she—
 - (a) may decide that the columbarium is to cease to be specified under subsection (2); and
 - (b) must notify his or her decision in the Gazette.
- (8) A notice published in the Gazette under subsection (2) or (7) is not subsidiary legislation.
- (9) The holder of an exemption in respect of a pre-Bill columbarium that is a columbarium of a Chinese temple specified under subsection (2) must—
 - (a) keep a register of all the religious practitioners of that temple, whose ashes are interred in the religious ash pagoda, in compliance with any requirement or condition imposed under subsection (6); and
 - (b) make the register available for inspection, on request, by the Secretary

for Home Affairs.

- (10) For the purposes of this section, the Secretary for Home Affairs or a public officer authorized by him or her in writing has power to do all or any of the following things—
- (a) to enter and inspect at all reasonable times a columbarium of a Chinese temple specified under subsection (2);
 - (b) to require the holder of the exemption—
 - (i) to produce a book, document or any other article; or
 - (ii) to furnish any information, in that holder's possession that relates to any matter referred to in subsection (4), (6) or (9);
 - (c) to conduct any examination and inquiry that may be necessary for ascertaining whether subsection (4), (6) or (9) is being, or has been, complied with.
- (11) A person commits an offence if the person—
- (a) wilfully obstructs the exercise of a power under subsection (10); or
 - (b) without reasonable excuse, fails to produce a book, document or article required to be produced, or furnish information required to be furnished, under subsection (10)(b).
- (12) A person who commits an offence under subsection (11) is liable on conviction to a fine at level 4 and to imprisonment for 6 months.
- (13) A person who contravenes subsection (4) or (9) commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 6 months.
- (14) In this section—

Chinese temple (華人廟宇) has the meaning given by section 2 of the Chinese Temples Ordinance (Cap. 153);

religious ash pagoda (宗教骨灰塔), in relation to a

pre-Bill columbarium that is a columbarium of a Chinese temple, means any part of that columbarium (whether a structure or otherwise) that is used for the interment of the ashes of the religious practitioners of that temple;

religious practitioners (修行者), in relation to a Chinese temple, includes the Buddhist monks and nuns and Taoist priests and priestesses (as the case requires) residing and serving in that temple immediately before death (but excludes their family members and any other persons related to that temple, whether as followers, donors or otherwise of that temple).”.

48 By deleting the clause.

49 By adding before subclause (1)—

“(1A) The Director or an authorized officer has power to do all or any of the things set out in subsection (1) for the purposes of ascertaining whether all or any of the following is being, or has been, complied with—

- (a) this Ordinance;
- (b) the conditions of a specified instrument;
- (c) the management plan approved for the purposes of section 13(2) in respect of a columbarium.”.

49(1) By deleting everything before paragraph (a) and substituting—

“(1) The things referred to in subsection (1A) are—”.

49(1)(c) By deleting “remove and impound for the purpose of examination for so long as the Director or authorized officer may consider necessary, and to examine and copy,” and substituting “examine and copy”.

- 49(1)(d) By deleting everything after “inquiry that” and substituting “the Director or authorized officer considers necessary;”.
- 50 By deleting “anything” (wherever appearing) and substituting “any thing”.
- 50(2)(d) By deleting “in” and substituting “on”.
- 50(4) By deleting everything after “subsection (2)(b)” and substituting “(or by the exercise under subsection (3) of the powers referred to in subsection (2)(b)), the Director or authorized officer must post at a conspicuous place outside the premises a notice declaring the seizure, removal or impoundment.”.
- 51(2)(a) In the Chinese text, by deleting “拘補” and substituting “拘捕”.
- 52(1)(a) By deleting “49, 50 or 51;” and substituting “49(1)(a), (c) or (d), 50 or 51; or”.
- 52(1)(b) By deleting “; or” and substituting a full stop.
- 52(1) By deleting paragraph (c).
- 53 In the heading, in the Chinese text, by deleting “物品” and substituting “物件”.
- 53(1) (a) By adding “(or by the exercise under section 50(3) of the powers referred to in section 50(2)(b))” after “section

50(2)(b)".

- (b) In the Chinese text, by deleting “該物品” and substituting “該物件”.

53

By deleting subclause (2) and substituting—

“(2) The Director must, after the proceedings are abandoned or determined—

(a) return the thing as ordered by the court; or

(b) (if no court order is made) give a notice in writing to the owner of the thing, stating that—

(i) the owner may collect the thing from the Director within 60 days after the date of the notice; and

(ii) unless the owner collects the thing within 60 days after the date of the notice, it—

(A) is to become the property of the Government, free from all liens, claims or encumbrances; and

(B) may be sold or otherwise disposed of in a manner that the Director thinks fit.”.

53(3)

By deleting “acted as provided under subsection (2)” and substituting “collected the thing within the 60 days stated in the notice”.

53(3)(b)

In the Chinese text, by deleting “售賣或以署長認為合適的” and substituting “出售，亦可按署長認為合適的其他”.

54(1)

(a) By deleting “, require” and substituting “served on”.

(b) By adding “, require the recipient” before “to do”.

- 54(1)(b) By deleting “the contravention” and substituting “such a contravention”.
- 54(1)(c) By deleting “the contravention” and substituting “such a contravention”.
- 54(2)(a) By adding “(if applicable)” before “the time”.
- 54(2)(b) By deleting “applicable,” and substituting “applicable—”.
- 54(2)(c) By deleting “any” and substituting “if applicable—the”.
- 54(2)(e)(i) By deleting “for action” and substituting “for any action that the Director considers necessary or desirable”.
- 54(4)
- (a) By adding “within the stated time” after “action stated in the notice”.
 - (b) By deleting “preventing the recurrence of the” and substituting “for preventing the recurrence of such a”.
 - (c) In the English text, by deleting everything after “any action” and substituting “that the Director considers necessary or desirable to be taken to remedy the consequences of the contravention or to prevent the recurrence of the contravention.”.
- 54 By adding—

- “(6) An appeal under section 72 against a decision to serve an enforcement notice does not suspend the operation of the decision, pending the determination of the appeal, unless the Director decides otherwise.”.

55 By deleting everything after “this Part” and substituting “, a reference to carrying out the prescribed ash disposal procedures is to be construed in accordance with section 6 of Schedule 5.”.

58(1) In the Chinese text, by adding “曾” before “營辦”.

58(2)(a) By deleting subparagraph (iii) and substituting—

“(iii) the following particulars of disposal are entered into the record on interment and disinterment of ashes kept under section 43(4)—

- (A) the name of the dedicated person;
- (B) if the ashes are interred in a niche—
 - (I) the location and serial numbering of the niche;
 - (II) photos showing the exterior and interior of the niche before disposal; and
 - (III) the number of containers of ashes, and any related items interred together with the ashes, in the same niche;
- (C) the name, the Hong Kong identity card number (if applicable) and the contact details of the person who has collected the ashes and the related items (if any) interred together with the ashes in the same niche (if applicable);
- (D) the date of return of the ashes and the related items (if any) to the person referred to in sub-subparagraph (C); and
- (E) any—
 - (I) breach of the agreement for the sale of the interment right on the part of the

purchaser or authorized representative;
or

(II) other reason for the disposal; or”.

58(2) In the Chinese text, by adding “內” before “的骨灰”.

58 By adding—

“(3) Without affecting sections 8 and 9, if a columbarium in respect of which no specified instrument is in force is still in operation after the grace period, the person who operates, keeps, manages or in any other way has control of the columbarium is regarded, for the purposes of subsection (1), as having improperly disposed of ashes interred in the columbarium, unless the person carries out the prescribed ash disposal procedures.

(4) In this section—

grace period (寬限期) means the period beginning on the enactment date and ending—

(a) on the expiry of 9 months beginning on the enactment date; or

(b) if an application is made for a temporary suspension of liability by the expiry of those 9 months—at the time when the application is finally disposed of or withdrawn.

(5) If an application referred to in paragraph (b) of the definition of ***grace period*** in subsection (4) is refused, it is finally disposed of at the later of the following—

(a) at the time the period within which an appeal may be lodged under section 72 against the refusal expires without an appeal having been lodged; or

(b) if an appeal has been lodged within time, at the time the appeal is determined or withdrawn.

(6) The Secretary may, by notice published in the Gazette, amend subsection (4) by substituting another period for any period specified in that subsection.”.

- 59 By adding before subclause (1)—
- “(1A) A person who has operated, kept, managed or in any other way had control of a columbarium, in respect of which no specified instrument has been issued, must not abandon the columbarium.
- (1B) If the Director or an authorized officer suspects that a columbarium in respect of which no specified instrument is issued is not in operation, the Director or authorized officer may give a notice about the suspected abandonment (*notice about suspected abandonment*).”.
- 59 By deleting subclause (1).
- 59 By deleting subclause (2) and substituting—
- “(2) For the purposes of subsection (1B), the notice about suspected abandonment must be—
- (a) published in the Gazette once in each of 2 consecutive months; and
- (b) posted at a conspicuous place outside the columbarium.”.
- 59(3) (a) By adding “about suspected abandonment” after “The notice”.
- (b) By deleting “and any other persons having an interest in the columbarium”.
- (c) By deleting “1 month after the date of the notice” and substituting “2 months after the date of the notice,”.
- 59(3)(b) By deleting everything after “a specified officer” and substituting “may apply for an occupation order under section 65 to enable the officer to carry out the steps that the officer considers necessary for

disposal of ashes in respect of the columbarium.”.

59 By adding—

“(3A) A person referred to in subsection (1A) abandons the columbarium if—

- (a) the notice about suspected abandonment has been given; but
- (b) the person fails to give a specified response within 2 months after the date of the notice about suspected abandonment.”.

59(4) By deleting “a notice” and substituting “the notice about suspected abandonment”.

60(1) By deleting everything after “extended” and substituting “, or is revoked, must not abandon the columbarium.”.

60 By adding—

“(1A) If the Director or an authorized officer suspects that a columbarium in respect of which a specified instrument is in force, has expired without being renewed or extended, or is revoked, is not in operation, the Director or authorized officer may give a notice about the suspected abandonment (*notice about suspected abandonment*).”.

60 By deleting subclause (2) and substituting—

- “(2) For the purposes of subsection (1A), the notice about suspected abandonment must be given to the instrument holder.
- (2A) The notice about suspected abandonment must warn that, unless within 2 months after the date of the notice, the instrument holder gives a specified response—

- (a) the instrument holder is liable to be prosecuted for an offence under section 63; and
- (b) a specified officer may apply for an occupation order under section 65 to enable the officer to carry out the steps that the officer considers necessary for disposal of ashes in respect of the columbarium.

(2B) If the instrument holder fails to give a specified response within 1 month after the date of the notice about suspected abandonment, the Director or an authorized officer may give a reminder notice.”.

60(3) By deleting everything before paragraph (a) and substituting—

“(3) The reminder notice must warn again that, unless within 2 months after the date of the notice about suspected abandonment, the instrument holder gives a specified response—”.

60(3)(b) By deleting everything after “a specified officer” and substituting
 “may apply for an occupation order under section 65 to enable the officer to carry out the steps that the officer considers necessary for disposal of ashes in respect of the columbarium.”.

60 By deleting subclause (4) and substituting—

“(4) The reminder notice under subsection (2B) must be—

- (a) given to the instrument holder;
- (b) published in the Gazette; and
- (c) posted at a conspicuous place outside the columbarium.”.

60 By adding—

“(4A) An instrument holder abandons the columbarium if—

- (a) the notice about suspected abandonment has been given; but

- (b) the instrument holder fails to give a specified response within 2 months after the date of the notice about suspected abandonment.”.

60(5) By deleting “a notice” and substituting “the reminder notice”.

61(a) In the Chinese text, by deleting “已提出” and substituting “提出”.

61(c) In the Chinese text, by deleting “該骨灰” and substituting “有關骨灰”.

New By adding—

“61A. Columbarium to continue operation if specified response given

If—

- (a) a notice about suspected abandonment has been given under section 60; and
- (b) a person has given a specified response within the meaning of section 61 by informing the Director or authorized officer that the person continues to operate the columbarium,

the person must continue to operate the columbarium in respect of which a specified instrument is in force.”.

62(1)(a) By deleting “a”.

62(2)(a) By deleting “giving the undertaking” and substituting “the date on which the undertaking is given”.

62(2)(b) By deleting “the notice at the time specified in the” and substituting “a commencement of ash disposal notice at the time specified in

that”.

63 In the heading, by deleting “**59, 60**” and substituting “**59(1A), 60(1), 61A**”.

63 By deleting “59, 60” and substituting “59(1A), 60(1), 61A”.

64 In the heading, by deleting “**landlord**” and substituting “**owner**”.

- 64(1)
- (a) By deleting “landlord, mortgagee or based on any other interest in any premises that are a columbarium,” and substituting “owner or mortgagee or based on any other interest in any premises that are a columbarium (but excluding the Government),”.
 - (b) By deleting “8” and substituting “9”.
 - (c) By adding “the date of” after “7 days after”.

64(2) By deleting everything after “taking possession” and substituting “of the premises.”.

64 By deleting subclause (3).

64(4) By deleting everything after “subsection (2)” and substituting—

“if—

- (a) the person is an owner or mortgagee who acquired an interest in the premises subject to the obligation to carry out the prescribed ash disposal procedures; and
- (b) the person fails to—
 - (i) give a commencement of ash disposal notice in

accordance with section 8 of Schedule 5 within 30 days after the date of the notification under subsection (1); or

- (ii) take a step specified in the commencement of ash disposal notice—
 - (A) at the time specified in that notice for taking that step; and
 - (B) in accordance with Part 2 of that Schedule.”.

64

By adding—

“(4A) Despite subsection (2), a person in possession who is not a person referred to in subsection (4)(a) may—

- (a) invite, in writing, the Director to carry out the steps that the Director considers necessary for disposal of ashes in respect of the columbarium on-site; and
- (b) allow a specified officer to enter the columbarium premises for the purposes of carrying out those steps,

for at least 12 months.

(4B) A person in possession who is not a person referred to in subsection (4)(a) is regarded as having contravened subsection (2) if the person—

- (a) fails to—
 - (i) give a commencement of ash disposal notice in accordance with section 8 of Schedule 5 within 30 days after the date of the notification under subsection (1); or
 - (ii) take a step specified in the commencement of ash disposal notice—
 - (A) at the time specified in that notice for taking that step; and
 - (B) in accordance with Part 2 of that Schedule; and

(b) fails to act in accordance with subsection (4A).

- (4C) If a person in possession who is a person referred to in subsection (4)(a) contravenes subsection (2), that person commits an offence and is liable on conviction to a fine of \$500,000.
- (4D) If a person in possession who is not a person referred to in subsection (4)(a) contravenes subsection (2), that person commits an offence and is liable on conviction to a fine of \$250,000.
- (4E) Despite subsection (2), if an application for transfer under section 32 is received by the Licensing Board, a person in possession is not required, with the written permission of the Director, to—
 - (a) act in accordance with that subsection; or
 - (b) so act until after the period specified by the Director.”.

64(5) By deleting “subsection (2), a person acquired” and substituting “subsection (4)(a), a person in possession acquired an interest in the”.

64(5) By deleting paragraph (a) and substituting—

- “(a) at the time of acquisition—
 - (i) a certificate of columbarium use was registered under section 38 against the premises; and
 - (ii) no certificate was registered under section 68 against the premises; or”.

64(5)(b) By adding “the interest in” after “who acquired”.

64 By adding—

“(5A) For the purposes of subsection (5)(a), the time of acquisition of an interest in the premises is—

- (a) if the person in possession is an owner—the

time of acquiring the ownership of the premises by the person; or

- (b) if the person in possession is a mortgagee—the time of executing the mortgage deed by the person.

- (5B) A person in possession may request a person who has operated, kept, managed or in any other way had control of the columbarium to produce any information (including any book, document, article, thing, record and register) that the person in possession reasonably considers necessary to facilitate the carrying out of the prescribed ash disposal procedures by the person in possession, and that person is required to produce the information to the person in possession.”.

64(6) By deleting “landlord,” and substituting “owner or”.

64(6)(a) By deleting everything after “the terms” and substituting—
“of the instrument—

- (i) entered into by the person in possession in the capacity as owner or mortgagee in respect of the premises with that other person; or
- (ii) by virtue of which the interest of the person in possession in the premises arises; or”.

65 In the heading, by deleting “**prescribed ash disposal procedures**” and substituting “**steps necessary for disposal of ashes**”.

65 By deleting subclause (1).

65(2) By deleting “take any steps that may be necessary for carrying out the prescribed ash disposal procedures in respect of a columbarium if the procedures or any step in them are or is not” and substituting

“carry out any steps that the officer considers necessary for disposal of ashes in respect of a columbarium if the prescribed ash disposal procedures have, or any step in them has, not been”.

- 65(3) (a) By deleting “On” and substituting “Without limiting subsection (2), a magistrate may, on”.
- (b) By deleting “59, 60, 62 or 64(2) or (3)” and substituting “59(1A), 60(1), 61A, 62 or 64(2)”.
- (c) In the English text, by deleting “the court may”.

65(3)(a) By deleting everything after “columbarium premises” and substituting a semicolon.

65(3) By adding—

“(ab) to occupy the columbarium premises, or any part of them, for a period specified in the order; and”.

65(3)(b) By deleting “prescribed ash disposal procedures” and substituting “steps that the officer considers necessary for disposal of ashes”.

65(4) By deleting “order may be made under subsection (3)” and substituting “occupation order may be made”.

65(4)(a) By deleting “59, 60, 62 or 64(2) or (3)” and substituting “59(1A), 60(1), 61A, 62 or 64(2)”.

65(4)(b) By adding “or 64(4C) or (4D)” after “section 63”.

65(5) By deleting “or the on-site portion of the procedures as required by section 58, 62 or 64(2) or (3)” and substituting “as required by section 58, 62 or 64(2)”.

65 By adding—

“(5A) If a specified officer reasonably believes that a person has any information that the officer considers necessary to facilitate disposal of ashes by the officer under this Ordinance—

- (a) the officer may request that person to produce the information to him or her; and
- (b) that person is required to produce the information to the officer.

(5B) A specified officer may, for the purpose of disposal of ashes under this Ordinance, consider and use any information—

- (a) produced under subsection (5A);
- (b) obtained during an inspection or search under this Ordinance; or
- (c) obtained by the exercise of the powers under an occupation order.

(5C) In subsections (5A) and (5B)—

information (資料) includes any book, document, article, thing, record and register.”.

New By adding—

“65A. Power of court to order return of ashes

- (1) The court may, on application, make an order for the return of ashes as provided in section 9 of Schedule 5.
- (2) In this section—

court (法院) means the District Court.”.

- 67 In the heading, by deleting “**obligation in respect of**” and substituting “**obligations in respect of disposal of**”.
- 67(2) In the definition of *ash disposal requirement*, by deleting everything after “means” and substituting “the requirement under section 58, 62 or 64(2) to carry out the prescribed ash disposal procedures.”.
- 67 By deleting subclause (3).
- 68(1) By deleting everything after “and if” and substituting—
 “satisfied that—
 (a) the prescribed ash disposal procedures have been carried out in respect of a columbarium against the premises of which a certificate of columbarium use is registered under section 38; or
 (b) the steps that a specified officer considers necessary for disposal of ashes in respect of such a columbarium under this Ordinance have been carried out by the officer,
 issue a certificate that the premises cease to be a columbarium.”.
- 68(2)(b) By deleting “or”.
- 68(2) By adding—
 “(ba) the person in possession within the meaning of section 64; or”.
- 68(2)(c) By deleting “, as defined by section 65(1)”.

- 68 By adding—
- “(4) On determining an application for the purposes of subsection (1), the Licensing Board must notify the applicant in writing of—
- (a) the Licensing Board’s decision; and
- (b) (if the application is refused) the reasons for the refusal.”.
- 70 By deleting the definition of *Appeal Board*.
- 71 By deleting subclause (4) and substituting—
- “(4) A panel member—
- (a) is to hold and vacate office in accordance with the panel member’s terms of appointment; and
- (b) on ceasing to be a panel member, is eligible for reappointment.”.
- 71(5) By deleting “subsection (2) or (3)” and substituting “this section”.
- 71(6) In the English text, by deleting “of the” and substituting “to the”.
- 72(1) By deleting “A person” and substituting “An applicant or a holder of a specified instrument who is”.
- 72(1)(a) By deleting “of an application for” and substituting “under section 13 (whether or not as modified under section 14) or section 15 or 16 of an application for the issue of”.
- 72(1) By adding—
- “(ab) a refusal under section 33(1)(c)—

- (i) to renew a licence or exemption; or
- (ii) to extend a temporary suspension of liability;”.

72(1)(b) By adding “under section 32(3A)” after “refusal”.

72(1)(c) By adding “under section 33(1)(a)(i) or (b)” after “decision”.

72(1) By adding—

- “(ca) a decision under section 33(1)(a)(ii) to revoke or suspend an authorization under a licence;
- (cb) a refusal of an application for permission for the purposes of section 45(1);”.

72(1) By deleting paragraph (d) and substituting—

- “(d) a decision under section 32(4) or 33(1)(d)—
 - (i) to vary the conditions to which a specified instrument is subject; or
 - (ii) to impose new conditions;”.

72(1)(e) By adding “of an application made under section 34” after “refusal”.

72(1) By adding—

- “(ea) a refusal of an application made under section 35(1)(a) for the suspension of the operation of a decision under section 33(1) pending the determination of an appeal;”.

72(1)(f) By deleting everything after “a decision” and substituting “under section 54 to serve an enforcement notice;”.

- 72(1) By adding—
- “(g) a refusal of an application for the issue of a certificate under section 68;
 - (h) a refusal of an application made under section 17(2) of Schedule 5 for the approval of an ash disposal plan.”.
- 72(2) By adding “the date on which” after “21 days after”.
- 72(4)(a) By deleting “(b), (c), (d) or (e)” and substituting “(ab), (b), (c), (ca), (cb), (d), (e), (ea) or (g)”.
- 72(4)(b) By adding “or (h)” after “(1)(f)”.
- 73(2) By deleting “, if the Chairperson is absent or is otherwise unable to act, a Deputy Chairperson (according to the order of appointment) is to” and substituting “a Deputy Chairperson may”.
- 73(5) In the English text, by deleting “has” and substituting “have”.
- 73(7) By adding “, or a panel member selected under subsection (5),” before “who is the presiding officer at an appeal”.
- 74(4)(a) In the Chinese text, by deleting “着手” and substituting “逕行”.
- 74(11)(b) By adding “or” after the semicolon.
- 74(13) By deleting “of its decision, in writing, setting out” and substituting “in writing of”.

- 74(13)(a) By adding “Appeal Board’s” before “decision”.
- 74(14) By deleting “Appeal Board’s decision and reasons” and substituting “written notification under subsection (13)”.
- 75(1)(a)(i) In the Chinese text—
 (a) by adding “以” after “是”;
 (b) by deleting “的材料” and substituting “提供的”.
- 75(1)(b) By deleting “signed by the presiding officer”.
- 75(1)(d) By deleting “and” and substituting “or”.
- 76 By deleting “For the purposes of” and substituting “In relation to”.
- 78(1)(a)(iv) In the Chinese text, by deleting “遵從任何” and substituting “遵從”.
- 78(2) In the Chinese text, by deleting “資料” and substituting “材料”.
- 78(3) By deleting “summary”.
- 79(1) By deleting “of the Appeal Board may” and substituting “may”.
- 80(1) (a) In the English text, by deleting “Deputy Chairpersons” and substituting “a Deputy Chairperson”.
 (b) By deleting “of the Appeal Board”.

- 80(2) In the English text, by deleting “or” and substituting “and”.
- 81 In the heading, by adding “**and authorization**” after “**Delegation**”.
- 81 By renumbering the clause as clause 81(1).
- 81(1) (a) By deleting “The” and substituting “Subject to subsection (2), the”.
- (b) By deleting “, other than this power of delegation”.
- 81 By adding—
- “ (2) The power to delegate conferred by subsection (1) may not be delegated by the Director.
- (3) The Director may appoint in writing a public officer as an authorized officer for the purposes of this Ordinance.
- (4) When exercising a power or performing a function under this Ordinance, an officer delegated under subsection (1) or an authorized officer—
- (a) may be assisted by such persons as the officer reasonably requires; and
- (b) must produce the officer’s written delegation or appointment for inspection by any person who reasonably requires to see it.”.
- 82(2) In the English text—
- (a) by deleting “**enforcement**”;
- (b) by deleting “enforcement authority” (wherever appearing) and substituting “authority”.

- 82(3) By deleting “enforcement”.
- 82(3) In the Chinese text, by deleting “該等職能，則該” and substituting “該職能，則”.
- 84(1) By deleting “and” and substituting “or”.
- 87(1) By deleting everything after “offence” and substituting—
 “if the person—
 (a) provides information that is false or misleading in a material particular in, or in connection with, an application the person makes under this Ordinance in respect of a columbarium; or
 (b) furnishes the Director, an authorized officer or a public officer with information under this Ordinance knowing that it is false or misleading in a material particular.”.
- 87(2) By deleting everything after “liable on” and substituting “conviction to a fine of \$500,000 and to imprisonment for 2 years.”.
- 88 By adding—
 “(4) If—
 (a) a member of an unincorporated body commits an offence under this Ordinance; and
 (b) it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any other member or any manager, secretary or other similar officer of the unincorporated body,
 the other member or the manager, secretary or other similar officer commits the like offence.”.

- 91(2) By adding “1,” before “6”.
- 92(2)(b) In the English text, by deleting “it” and substituting “them”.
- 92(2) By adding—
- “(ca) restricting the imposition of any additional fees, charges or other sums in respect of an interment right beyond the amounts, or not in accordance with any mechanism for their future revision, specified or otherwise contained in any agreement for the sale of the interment right entered into before the Bill announcement time;”.
- 92(2)(d) In the Chinese text, by adding “發出” after “人士”.
- 92(2)(e) By deleting “and” and substituting “or”.
- 92(3)(a) By adding “or” after the semicolon.
- 94(2)(c) In the English text, by deleting “an officer” and substituting “a member of the staff”.
- 94(3) By deleting “An” and substituting “In relation to a person referred to in subsection (2)(d), an”.
- New By adding—
- “94A. Service of documents, etc.**
- (1) A notice, decision or other document required to be given, issued, notified or served on a person (other than the Appeal Board, the

Licensing Board or a public officer) under this Ordinance may be given, issued, notified or served—

- (a) in the case of a natural person—
 - (i) by delivering it by hand to the person;
 - (ii) by sending it by post in a letter—
 - (A) addressed to the person at the person's usual place of residence or business or (if that place is unknown) at the person's last known place of residence or business; or
 - (B) if the person dies—addressed to the person's last known place of residence or business;
 - (iii) by sending it by fax transmission to the fax number of the person or (if that number is unknown) to the last known fax number of the person; or
 - (iv) by sending it by electronic mail transmission to the electronic mail address of the person or (if that address is unknown) to the last known electronic mail address of the person;
- (b) in the case of a partner in a partnership—
 - (i) by delivering it by hand to the partner authorized in writing to act for and on behalf of the partnership;
 - (ii) by sending it by post in a letter—
 - (A) addressed to the partner

authorized in writing to act for and on behalf of the partnership at that partner's usual place of residence or business or (if that place is unknown) at that partner's last known place of residence or business; or

(B) if that partner dies—addressed to that partner's last known place of residence or business, and to the usual places of residence or business of the other partners in the partnership or (if those places are unknown) to the last known places of residence or business of those other partners;

(iii) by sending it by fax transmission to the fax number of the partner authorized in writing to act for and on behalf of the partnership or (if that number is unknown) to the last known fax number of that partner; or

(iv) by sending it by electronic mail transmission to the electronic mail address of the partner authorized in writing to act for and on behalf of the partnership or (if that address is unknown) to the last known electronic mail address of that partner; or

(c) in the case of a body corporate—

(i) by delivering it by hand to any place in Hong Kong at which the body corporate carries on

business and giving it to any person in the place who appears to be concerned in the management of, or employed by, the body corporate;

(ii) by sending it by post in a letter addressed to the body corporate at its registered office in Hong Kong or at any place in Hong Kong at which the body corporate carries on business or (if that office or place is unknown) at the body corporate's last known place of business;

(iii) by sending it by fax transmission to the fax number of the body corporate or (if that number is unknown) to the last known fax number of the body corporate; or

(iv) by sending it by electronic mail transmission to the electronic mail address of the body corporate or (if that address is unknown) to the last known electronic mail address of the body corporate.

(2) A notice, decision or other document given, issued, notified or served in accordance with subsection (1) is to be taken, in the absence of evidence to the contrary, to have been given, issued, notified or served—

(a) if delivered by hand—on the day after the day on which it was so delivered;

(b) if sent by post—on the second working day after the day on which it was posted;

(c) if sent by fax transmission—on the day after the day on which it was transmitted; or

(d) if sent by electronic mail

transmission—on the day after the day on which it was transmitted.

- (3) A notice or other document required to be given to, lodged with or served on the Appeal Board, the Licensing Board or a public officer under this Ordinance may be given, lodged or served—
 - (a) by delivering it by hand to the office of the Appeal Board, the Licensing Board or the officer (as the case requires) during office hours;
 - (b) by sending it by post to the office of the Appeal Board, the Licensing Board or the officer (as the case requires);
 - (c) by sending it by fax transmission to the fax number of the Appeal Board, the Licensing Board or the officer (as the case requires); or
 - (d) by sending it by electronic mail transmission to the electronic mail address of the Appeal Board, the Licensing Board or the officer (as the case requires).
- (4) A notice or other document given, lodged or served in accordance with subsection (3) is to be taken, in the absence of evidence to the contrary, to have been given, lodged or served—
 - (a) if delivered by hand—on the day after the day on which it was so delivered;
 - (b) if sent by post—on the second working day after the day on which it was posted;
 - (c) if sent by fax transmission—on the day after the day on which it was transmitted; or
 - (d) if sent by electronic mail transmission—on the day after the day on which it was transmitted.
- (5) This section is subject to section 2 of, and item 73 of Schedule 1 to, the Electronic

Transactions (Exclusion) Order (Cap. 553 sub. leg. B).”.

97(3) By deleting paragraphs (a) and (b) and substituting—

- “(a) has been made but has not been determined;
- (b) has been refused, and the period within which a notice of appeal may be lodged against the refusal has not yet expired; or
- (c) has been refused, which refusal has been appealed against but the appeal has not yet been determined.”.

97 By deleting subclause (4) and substituting—

- “(4) Subsection (3) does not apply if, in respect of an application referred to in that subsection, the occupation of land as is necessary for, or ancillary to, the operation of the pre-Bill columbarium (to the extent as shown in the plans required under section 19) includes unlawful occupation of unleased land but the applicant—
 - (a) does not apply to the Director of Lands for lawful authority to occupy the unleased land; or
 - (b) does not provide a written declaration to the Director of Lands that the applicant has no claim to the unleased land, whether based on possession of the unleased land before, on or after the date of application or on any other ground.”.

97(5) By deleting paragraphs (a) and (b) and substituting—

- “(a) has been made but has not been determined;
- (b) has been refused, and the period within which a notice of appeal may be lodged against the refusal has not yet expired; or
- (c) has been refused, which refusal has been appealed against and is suspended from operation under section 35 pending the determination of the appeal.”.

- 97(5) In the Chinese text, by deleting “延期” and substituting “延展”.
- 97(6)(a) By adding “or extended” after “issued”.
- 97(6)(b) In the Chinese text, by deleting “為準的，對營運” and substituting “狀況為準的，對營辦”.
- 97 By adding—
- “(9) In subsection (1), a reference to section 6(3) of the Land (Miscellaneous Provisions) Ordinance (Cap. 28) is to be construed as a reference to section 6(3) of that Ordinance to the extent that it relates to section 6(2)(b) (but not section 6(2A)(iii)) of that Ordinance.”.
- 98(1)(a) In the Chinese text, by deleting “作出” and substituting “進行”.
- 98(3) By deleting paragraphs (a) and (b) and substituting—
- “(a) has been made but has not been determined;
 (b) has been refused, and the period within which a notice of appeal may be lodged against the refusal has not yet expired; or
 (c) has been refused, which refusal has been appealed against but the appeal has not yet been determined.”.
- 98(4) In the Chinese text, by deleting “作出” and substituting “進行”.
- 98(4)(b) In the Chinese text, by adding “書” after “通知”.

- 98(5) By deleting paragraphs (a) and (b) and substituting—
- “(a) has been made but has not been determined;
 - (b) has been refused, and the period within which a notice of appeal may be lodged against the refusal has not yet expired; or
 - (c) has been refused, which refusal has been appealed against and is suspended from operation under section 35 pending the determination of the appeal.”.
- 99(3) By deleting paragraphs (a) and (b) and substituting—
- “(a) has been made but has not been determined;
 - (b) has been refused, and the period within which a notice of appeal may be lodged against the refusal has not yet expired; or
 - (c) has been refused, which refusal has been appealed against but the appeal has not yet been determined.”.
- 99(4)(a) By deleting “24C(1)” and substituting “issued under section 24C(1) (as the case requires)”.
- 99(5) (a) By deleting paragraphs (a) and (b) and substituting—
- “(a) has been made but has not been determined;
 - (b) has been refused, and the period within which a notice of appeal may be lodged against the refusal has not yet expired; or
 - (c) has been refused, which refusal has been appealed against and is suspended from operation under section 35 pending the determination of the appeal.”.
- (b) In the Chinese text—
- (i) by adding “如” before “有人”;
 - (ii) by deleting “文書相關申請” and substituting “文書相關條件”.

- 99(6) By deleting paragraphs (a) and (b) and substituting—
- “(a) if a temporary suspension of liability is issued or extended in respect of the columbarium—the non-compliant structures necessary for, or ancillary to, the operation of the columbarium, as shown in the approved plans annexed to the temporary suspension of liability;
 - (b) if a licence or exemption is issued or renewed in respect of the columbarium—the structures certifiable for a pre-Bill columbarium in, on or at the columbarium, as shown in the approved plans annexed to the licence or exemption (as the case requires); or
 - (c) in any other case—the non-compliant structures necessary for, or ancillary to, the operation of the columbarium as at the Bill announcement time.”.
- 100(2) By deleting “subsection (1), a specified period” and substituting—
- “subsection (1)—
specified period (指明期間)”.
- 102 (a) By deleting “6(5)” and substituting “6(7)”.
- (b) By deleting “(6)” and substituting “(8)”.
- 111(1) In the proposed section 113(2AA), by adding “, as defined by section 113A(1),” after “columbarium”.
- 111(3) In the proposed section 113(4), in the Chinese text, by deleting “人” and substituting “人士”.
- 112 In the proposed section 113A(1), in the Chinese text, in the definition of 指明人士, by deleting “人。” and substituting “人士；”.

- 112 In the proposed section 113A(1), by adding in alphabetical order—
- “ashes** (骨灰) has the same meaning as it has in section 2(1) of the Private Columbaria Ordinance (of 2016);
- columbarium** (骨灰安置所), subject to subsection (6), has the same meaning as it has in section 2(1) of the Private Columbaria Ordinance (of 2016);
- inter** (安放) has the same meaning as it has in section 2(1) of the Private Columbaria Ordinance (of 2016);
- interment right** (安放權) has the same meaning as it has in section 2(1) of the Private Columbaria Ordinance (of 2016);”.
- 112 In the proposed section 113A(2)(a), in the Chinese text, by deleting everything after “控制” and substituting “骨灰安置所的指明人士，已向主管當局提供關於該骨灰安置所的名稱及位置的資料；及”.
- 112 In the proposed section 113A(5), in the Chinese text, by deleting “該人管理和控制的私營” and substituting “該人士管理和控制的”.
- 112 In the proposed section 113A(6), in the Chinese text, by deleting “骨灰” and substituting “靈灰”.
- 116 In the Chinese text, in the proposed definition of **私營墳場**, by deleting “所。” and substituting “所；”.
- 118 By renumbering the proposed items 128 and 129 as items 132 and 133 respectively.

New

By adding—

**“Division 7—Amendment to Electronic
Transactions (Exclusion) Order**

**119. Electronic Transactions (Exclusion) Order
amended**

The Electronic Transactions (Exclusion) Order (Cap. 553 sub. leg. B) is amended as set out in this Division.

**120. Schedule 1 amended (provisions excluded from
application of section 5 of Ordinance)**

Schedule 1—

Add

| | |
|---|---|
| <p>“73. Private Columbaria Ordinance (of 2016)</p> | <p>Sections 16(2)(b)(ii), 18(1)(a) and (3), 32(3)(a), (4A) and (4B), 33(3), 34(2)(a) and (3), 35(2)(a) and (4), 36(1), (2A)(b)(i) and (3), 41(3)(b) and (g), 42(1) and (1A), 45(1) and (4), 46B(2)(b), 46C(10), 53(2)(b), 61(b) and (c), 64(1), (4A)(a) and (4E), 68(4), 72(2), 74(3)(b) and (13), 75(1)(b), 81(1), (3) and (4)(b), 86(1), 94A(1)(b)(i), (ii)(A), (iii) and (iv) and 97(4)(b), sections 2(2)(b) and (c) and 5 of Schedule 3 and</p> |
|---|---|

- Schedule 1,
section 4 By adding—
- ““(3A) If the Chairperson of a committee is absent or is otherwise unable to act, a member of the committee named by the Director is to act as Chairperson of the committee.”.
- Schedule 1,
section 4 By adding—
- ““(8) To avoid doubt—
- (a) in subsections (2) and (4), a reference to the Chairperson of the Licensing Board includes a reference to a person who acts as Chairperson of the Licensing Board under subsection (2A); and
- (b) in subsections (3) and (4), a reference to the Chairperson of a committee includes a reference to a person who acts as Chairperson of the committee under subsection (3A).”.
- Schedule 1,
section 5 By deleting “pecuniary interest, whether direct or indirect,” and substituting “direct or indirect interest”.
- Schedule 1,
section 5 By deleting paragraph (a) and substituting—
- “(a) must disclose to the Licensing Board or committee (as the case requires) the nature of the interest—
- (i) before the meeting begins; or
- (ii) if it comes to the notice of the member after the meeting begins that he or she has such an interest—as soon as practicable after the meeting begins;”.
- Schedule 2 In the heading, by deleting “, **or Conditions Imposed on,**”.
- Schedule 2 By deleting “21 & 22]” and substituting “17, 21 & 22]”.

- Schedule 2,
section 1(b) By deleting “lease, licence or other instrument under which the land on which the columbarium is situated is held from the Government, is” and substituting “requirements in respect of the columbarium under the lease, short term tenancy or other instrument, under which the columbarium premises are held directly from the Government, are”.
- Schedule 2,
section
3(1)(b)(ii) By adding “and” after the semicolon.
- Schedule 2,
section 3(1)(b) In the Chinese text, by deleting “之內或之上” and substituting “內或其上”.
- Schedule 2,
section 3(3) In the definition of *certifiable building*—
- (a) by deleting everything before paragraph (a) and substituting—
“*certifiable building* (可核證建築物) means—”;
 - (b) in paragraph (b)(ii), by deleting “; or” and substituting a semicolon;
 - (c) in paragraph (c), by deleting the full stop and substituting “; or”;
 - (d) by adding—
“(d) a building situated on land—
 - (i) that was unleased land at the time the building was erected on that land; and
 - (ii) in respect of which—
 - (A) a lease under which the columbarium premises are held directly from the Government; or
 - (B) a short term tenancy under which the

columbarium premises are occupied,
is subsequently granted by the Government
before the enactment date.”.

- | | |
|---------------------------------------|---|
| Schedule 2, section 4(1) | In the definition of <i>non-compliant structures</i> , by deleting “the conditions” and substituting “any of the requirements referred to”. |
| Schedule 2, section 4(1) | In the English text, in the definition of <i>structures certifiable for a pre-Bill columbarium</i> , in paragraph (b)(iv), by deleting “part of,” and substituting “part, of”. |
| Schedule 2, section 4(2) | <p>By deleting everything after “subsection (1),” and substituting—</p> <p>“a reference to a building—</p> <p style="margin-left: 40px;">(a) is a reference to any building (having the meaning given by section 2(1) of the Buildings Ordinance (Cap. 123)), including such a building situated on land that was unleased land at the time the building was erected on that land—</p> <p style="margin-left: 80px;">(i) without a licence issued under section 5 of the Land (Miscellaneous Provisions) Ordinance (Cap. 28); or</p> <p style="margin-left: 80px;">(ii) in breach of such a licence; but</p> <p style="margin-left: 40px;">(b) does not include a reference to a building situated in or on another building that complies with the requirements for approval and consent to the commencement of building works under section 14 of the Buildings Ordinance (Cap. 123).”.</p> |
| Schedule 2, section 4(3)(a)(ii) | By adding “and” after the semicolon. |
| Schedule 2, section 6(4) | In the Chinese text, by deleting “主要結構牆” and substituting “外牆”. |

- Schedule 2,
section 6(5)(a) By deleting “7.62 m,” and substituting “7.62 m—”.
- Schedule 2,
section 7 By adding “or section 2(1) of this Ordinance” after “in this Part”.
- Schedule 3 In the heading, in the Chinese text, by deleting “規定” and substituting “條文”.
- Schedule 3,
section 2(2)(b) By deleting “partnership—by a partner” and substituting “partner in a partnership—by the partner authorized in writing to act for and on behalf of the partnership”.
- Schedule 3,
section 2(2)(c) By deleting the full stop and substituting “authorized in writing to act for and on behalf of the body corporate.”.
- Schedule 3,
section 4 In the heading, by deleting “**of licence applications and consideration of public views**” and substituting “**etc. of notices of licence applications**”.
- Schedule 3,
section 4(1)(a) In the Chinese text, by adding “任何” before “其他方式”.
- Schedule 3,
section 4(1) In the Chinese text, by deleting paragraph (c) and substituting—
“(c) 將該申請的通告，張貼於該骨灰安置所外的顯眼位置。”.
- Schedule 3,
section 4(2) By adding “or posted” after “published”.

| | |
|---------------------------------|---|
| Schedule 3, section 5 | By deleting “for a specified instrument, the Licensing Board must notify the applicant of its decision, in writing, setting out” and substituting “referred to in section 1(a) of this Schedule, the Licensing Board must notify the applicant in writing of”. |
| Schedule 3, section 5(a) | By adding “Licensing Board’s” before “decision”. |
| Schedule 4 | By deleting “[ss. 2, 40” and substituting “[ss. 2”. |
| Schedule 4, section 1 | By adding “all of” before “the following”. |
| Schedule 4, section 1(a) | By adding “name of licensee, address of the licensed premises,” before “licence number”. |
| Schedule 4, section 1(b)(i) | <p>By deleting everything after “seller is the” and substituting—</p> <p>“owner of the columbarium premises held directly from the Government under a lease and, if so—</p> <p>(A) whether the seller is the sole owner, the joint owners or the co-owners;</p> <p>(B) the name of the sole owner, or the names of the joint owners or the co-owners;</p> <p>(C) (in the case of co-ownership) each co-owner’s respective share or interest in the premises; and</p> <p>(D) the following particulars of the lease—</p> <p>(I) the lot number of the premises; and</p> <p>(II) the date on which the term of the lease is to end;”.</p> |
| Schedule 4, section 1(b)(ii) | <p>By deleting everything after “under a tenancy” and substituting—</p> <p>“and, if so—</p> |

- (A) the name of the landlord;
- (B) the periodic basis for the payment of rent for the tenancy;
- (C) the terms in the tenancy agreement—
 - (I) on the arrangements for the termination of the tenancy; and
 - (II) on the arrangements for the renewal of the tenancy; and
- (D) the following particulars of the tenancy—
 - (I) the lot number of the premises;
 - (II) if applicable—the memorial number (where available) of the tenancy agreement;
 - (III) for a short term tenancy—the short term tenancy number assigned by the Lands Department; and
 - (IV) the date on which the term of the tenancy is to end;”.

Schedule 4,
section 1(b)(iii)

By deleting “interest;” and substituting—

“interest and, if so—

- (A) the name of the mortgagee or the person entitled to the benefit of, or to require payment or discharge of, the encumbrance (as the case requires); and
- (B) if applicable—the memorial number (where available) of the mortgage or encumbrance;”.

Schedule 4,
section 1(b)(iv)

By deleting “particulars” and substituting “the memorial number”.

Schedule 4,
section 1(b)

In the Chinese text, by deleting “業權” and substituting “擁有權”.

Schedule 4,
section 1

By deleting paragraph (c).

| | |
|---------------------------------|--|
| Schedule 4, section 1 | By deleting paragraph (d). |
| Schedule 4, section 1(e) | By adding “involved with lump sum prepayment for an interment right for a long period” after “financial risks”. |
| Schedule 4, section 2(b) | By deleting “sold—” and substituting “sold, specifying—”. |
| Schedule 4 section 2(b)(i) | By deleting everything after “relates to a” and substituting— “niche— (A) the location, serial numbering and dimensions of the niche; and (B) the maximum number (if applicable) of containers of ashes that are permitted to be interred in the niche;”. |
| Schedule 4, section 2(b) | By deleting subparagraph (iii). |
| Schedule 4, section 2(b)(iv) | (a) By deleting “particulars of”. (b) By deleting “or” and substituting “and”. |
| Schedule 4, section 2 | By adding— “(ba) any other services to be provided under the agreement;”. |
| Schedule 4, section 2(c) | By deleting “or other sums” and substituting “and other sums”. |
| Schedule 4, section 2(d) | By deleting “, licence or other instrument under which the land on which the columbarium is situated is held” and substituting “under which the columbarium premises are held directly from the |

Government”.

Schedule 4,
section 2(e)

By adding—

- “(iia) arrangements for authorizing a person to enforce the agreement; and”.

Schedule 4

By adding—

“Part 3

Interpretative Provisions

3. In this Schedule—

memorial number (註冊摘要編號) has the meaning given by regulation 2 of the Land Registration Regulations (Cap. 128 sub. leg. A);

purchaser (買方)—see section 41(1) of this Ordinance;

seller (賣方)—see section 41(1) of this Ordinance.

4. This Schedule applies to an agreement for the sale of an interment right entered into on or after the enactment date.”.

Schedule 5

By deleting “55, 62, 64, 65, 66, 69 & 91” and substituting “46B, 55, 62, 64, 65, 65A, 66, 69, 72 & 91”.

Schedule 5,
section 1

In the definition of **instrument holder**—

- (a) by deleting the semicolon and substituting a full stop;
- (b) in the Chinese text, by deleting “是否正有效、已屆滿(而不獲續期或延展)” and substituting “是仍然有效、已期滿失效並且未獲續期或延展”.

| | |
|---|--|
| Schedule 5, section 1 | By deleting the definition of <i>specified officer</i> . |
| Schedule 5 | By adding— <p style="margin-left: 40px;">“1A. Procedures for application for occupation order</p> <p style="margin-left: 80px;">(1) The Chief Justice may, by practice directions, provide for the procedures for making an application for, or otherwise in relation to, an occupation order under section 65 of this Ordinance.</p> <p style="margin-left: 80px;">(2) Practice directions referred to in subsection (1) are not subsidiary legislation.”.</p> |
| Schedule 5, section 2(1) | <p>(a) By deleting “The court” and substituting “A magistrate”.</p> <p>(b) By deleting “any premises that are”.</p> <p>(c) In the Chinese text, by deleting “不得” and substituting “不可”.</p> |
| Schedule 5, section 2(1)(a) | By deleting “the Director or an authorized officer” and substituting “a specified officer”. |
| Schedule 5, section 2(1)(a)(i)(A) | By adding “columbarium” before “premises”. |
| Schedule 5, section 2(1)(a)(i)(B) | In the Chinese text, by deleting “關乎該骨灰安置所的指明文書的” and substituting “有關骨灰安置所的文書”. |
| Schedule 5, section 2(1)(a)(ii) | In the Chinese text, by deleting everything after “已” and substituting “將該通知張貼於有關骨灰安置所外的顯眼位置；及”. |

| | |
|--------------------------------|---|
| Schedule 5, section 2(1)(b) | By deleting everything after “venue of the hearing” and substituting a full stop. |
| Schedule 5, section 2(2) | By deleting “Director or an authorized officer” and substituting “specified officer”. |
| Schedule 5, section 2(2)(a) | By deleting everything after “notice of” and substituting— “the order— (i) to the owner of the columbarium premises; and (ii) to the instrument holder (if any) in respect of the columbarium;”. |
| Schedule 5, section 2 | By deleting subsection (3) and substituting— “(3) An occupation order takes effect on the date set out in the order.”. |
| Schedule 5, section 2 | By adding— “(3A) Proceedings before a magistrate for the purposes of this section are deemed to be proceedings which a magistrate has power to determine in a summary way within the meaning of sections 105 and 113(3) of the Magistrates Ordinance (Cap. 227) and, accordingly, Part VII of that Ordinance (which relates to appeals) applies, with necessary modifications, to appeals against an occupation order.”. |
| Schedule 5, section 2(4) | By adding “a notice posted under subsection (1)(a)(ii) or” after “defaces”. |
| Schedule 5, section 3 | In the heading, by deleting “ premises ” and substituting “ columbarium ”. |

- Schedule 5,
section 3(1)
- (a) By deleting “Subject to subsection (3), when” and substituting “When”.
 - (b) By adding “premises, or any part of them” after “the columbarium”.
- Schedule 5,
section 3(2)
- By deleting “may not enter or remain on any columbarium subject to an occupation order” and substituting “must not enter or remain on the premises of any columbarium subject to an occupation order, or any part of them,”.
- Schedule 5,
section 3
- By deleting subsection (3).
- Schedule 5,
section 3(4)(a)
- By adding “premises, or any part of them,” after “columbarium”.
- Schedule 5,
section 3(4)(c)
- (a) By adding “or” after the semicolon.
 - (b) In the Chinese text, by adding “該項” before “准許” (wherever appearing).
- Schedule 5,
section 3(4)(d)
- By deleting “to leave, and, if the person refuses to leave, remove the person from the columbarium” and substituting “premises, or any part of them, to leave and, if the person refuses to leave, remove the person from the premises or part”.
- Schedule 5,
section 4
- In the heading, by adding “**or cancellation**” after “**Variation**”.
- Schedule 5,
section 4(1)
- By deleting “subject to an occupation order may apply to the court” and substituting “that are a columbarium subject to an occupation

order, or the instrument holder (if any) in respect of the columbarium, may apply to a magistrate”.

Schedule 5,
section 5

By deleting subsection (1) and substituting—

- “(1) In this Part, a reference to arranging for the return of the ashes interred in a columbarium on-site is a reference to making available the ashes for return at the columbarium at reasonable hours during a period (which period is referred to as an *on-site claim period* and is to be construed as including the 2 months referred to in section 9(2) of this Schedule).”.

Schedule 5,
section 5(2)

In the definition of *eligible claimant*—

- (a) by deleting “, any plaque or any other” and substituting “or any”;
- (b) in paragraph (a), by adding “or” after the semicolon;
- (c) in paragraph (b), by deleting everything after “of the item or” and substituting “the person to whom the ashes are to be returned (as the case requires) as determined in accordance with any law applicable to the item or ashes (as the case requires);”.

Schedule 5,
section 5(2)

In the definition of *personal representative*—

- (a) by adding “, in relation to a deceased person,” before “means”;
- (b) in paragraph (b), in the Chinese text, by deleting “收集，並根據該條例第 15 條以簡易方式管理遺產” and substituting “根據該條例第 15 條收集遺產，並以簡易方式管理之”.

Schedule 5,
section 5(2)

In the definition of *prescribed claimant*, by adding “or the purchaser

of the interment right” after “relative”.

- | | |
|--------------------------------------|--|
| Schedule 5, section 5(2) | In the Chinese text, in the definition of 文書持有人, by deleting “正有效、已屆滿(而不獲續期或延展)” and substituting “是仍然有效、已期滿失效並且未獲續期或延展”. |
| Schedule 5, section 5(2) | By deleting the definition of <i>overall claim period</i> . |
| Schedule 5, section 6(1) | <p>(a) By deleting “A person” and substituting “Subject to section 17 of this Schedule, a person”.</p> <p>(b) By deleting “or (3)”.</p> |
| Schedule 5, section 6(1)(a)(i) | By deleting “, (3) or (4)” and substituting “or (3)”. |
| Schedule 5, section 6(1) | <p>By adding—</p> <p>“(ba) takes the steps required by the Director under section 12 of this Schedule; and”.</p> |
| Schedule 5, section 6(1)(c) | By deleting “disinterment” and substituting “the procedures”. |
| Schedule 5, section 6(2) | <p>By deleting paragraph (b) and substituting—</p> <p>“(b) after the expiry of the on-site claim period, delivers to the Director, in a manner specified by the Director, the ashes that are not returned to an eligible claimant.”.</p> |
| Schedule 5, section 6(3)(a) | By deleting “2” and substituting “8”. |

| | |
|--|---|
| Schedule 5, section 6(3)(b) | In the English text, by deleting “on the” and substituting “after the”. |
| Schedule 5, section 6(3)(b)(ii) | By deleting “(whether or not after arranging also for the return of ashes off-site, allowing for an off-site claim period)”. |
| Schedule 5, section 6(3)(b)(ii)(A) | In the Chinese text, by deleting “所：” and substituting “所內：”. |
| Schedule 5, section 6 | By deleting subsection (4). |
| Schedule 5, section 6(5) | By deleting “Subsections (2)(b) and (4)(c) have” and substituting “Subsection (2)(b) has”. |
| Schedule 5 | By deleting section 7. |
| Schedule 5, section 8(1) | By deleting “sections 6(1)(a) and 7(1)(a) of this Schedule, a person who is required to carry out the prescribed ash disposal procedures or the on-site portion of the procedures must” and substituting “section 6(1)(a) of this Schedule, a person who is required to carry out the prescribed ash disposal procedures must give a commencement of ash disposal notice, stating the person’s intention regarding disposal of the ashes,”. |
| Schedule 5, section 8(1) | By deleting everything after “starting to handle the ashes in the columbarium” and substituting a full stop. |
| Schedule 5, section 8 | By adding— |

- “(1A) A commencement of ash disposal notice must be—
- (a) published in 3 newspapers (of which 1 must be in English and 1 must be in Chinese) in general circulation in Hong Kong at least once in each of 2 consecutive weeks;
 - (b) posted at a conspicuous place outside the columbarium;
 - (c) served on the Licensing Board; and
 - (d) served on each specified addressee (if any).”.

Schedule 5,
section 8

By deleting subsections (2) and (3) and substituting—

“(2) In subsection (1A)—

specified addressee (指明收訊者), in relation to ashes interred under an agreement for the sale of an interment right, means—

- (a) an authorized representative (where available);
- (b) the purchaser; or
- (c) any other person available whose contact details are entered into any register or record kept under this Ordinance.”.

Schedule 5,
section 8(4)

By deleting “notice required to be published and served under subsection (1)” and substituting “commencement of ash disposal notice”.

Schedule 5,
section 8(4)(a)

By deleting “or the on-site portion of the procedures”.

Schedule 5,
section 8(4)(b)

In the English text, by deleting “intentions” and substituting “intention”.

Schedule 5,
section 8(4)(b)

By deleting subparagraph (i) and substituting—

- “(i) that the prescribed ash disposal procedures are to be

carried out;”.

| | |
|---|---|
| Schedule 5, section 8(4)(b) | By deleting subparagraph (ii) and substituting— “(ii) which of section 6(2) or (3) of this Schedule are the ashes to be handled in accordance with or (if applicable) that the ashes are to be handled in accordance with section 6(2) and (3) of this Schedule; and”. |
| Schedule 5, section 8(4)(b)(iii)(A) | By deleting “dates on which the on-site claim period begins and ends” and substituting “date on which the on-site claim period begins (which must be no earlier than the expiry of 14 days, and no later than the expiry of 30 days, immediately after the date of the commencement of ash disposal notice) and the date on which the on-site claim period ends”. |
| Schedule 5, section 8(4)(b)(iii) | By deleting sub-subparagraph (B). |
| Schedule 5, section 8(4)(b)(iii)(C) | By adding “and” after the semicolon. |
| Schedule 5, section 8(4)(b)(iii)(D) | By adding “and” after the semicolon. |
| Schedule 5, section 8(4) | By deleting paragraph (c). |
| Schedule 5, section 8(4)(d) | By deleting “or the on-site portion of the procedures”. |

- Schedule 5,
section 8(5) By deleting “notice must conform to the requirements of section 6(2), (3) or (4)” and substituting “commencement of ash disposal notice must conform to the requirements of section 6(2) or (3), or section 6(2) and (3),”.
- Schedule 5,
section 9(1) In the definition of *ash handler*, by deleting everything after “disposal procedures” and substituting “are being carried out, means the person carrying out the procedures;”.
- Schedule 5,
section 9(1) By adding in alphabetical order—
“*court* (法院) means the District Court.”.
- Schedule 5,
section 9(2) By deleting “overall” and substituting “on-site”.
- Schedule 5,
section 9(3) In the English text, by deleting “On” and substituting “After”.
- Schedule 5,
section 9(4)(a) By deleting “overall” and substituting “on-site”.
- Schedule 5,
section 9(5)(b) By adding “or of the purchaser” after “relative”.
- Schedule 5,
section 9(5) By adding—
“(ba) a claim of a personal representative or relative has priority over that of the purchaser; and”.
- Schedule 5,
section 9(6)(a) By deleting “a prescribed claimant” and substituting “a person”.

- Schedule 5,
section 9(6)(b) By deleting “order is made by the expiry of 12 months after the overall” and substituting “proceedings have been instituted by the expiry of 12 months after the on-site”.
- Schedule 5,
section 9(7)(a) By deleting “an item as one related to the ashes of a deceased person” and substituting “a related item interred together with the ashes of a deceased person in the same niche (if applicable)”.
- Schedule 5,
section 9(7)(b) (a) By deleting “a prescribed claimant” and substituting “any person”.
(b) By deleting “, if the person also claims for the return of the ashes”.
- Schedule 5,
section 9(8) By deleting paragraph (a).
- Schedule 5,
section 9(8) By adding—
“(ab) the ash handler must return the specified item—
(i) where the person who claims to be the owner of the item as referred to in subsection (7)(b) is a prescribed claimant—
(A) if the ash handler receives only the claim for the return of the item or the specified item from that person within the first 2 months—to that person after the expiry of the first 2 months; or
(B) if, by the expiry of the first 2 months, the ash handler does not receive any claim for the return of the item or the specified item and that person is the first one who makes a claim in the remainder of the on-site claim period—to that person; or

- (ii) where the person who claims to be the owner of the item as referred to in subsection (7)(b) is not a prescribed claimant and if, throughout the on-site claim period, the ash handler does not receive any other claim for the return of the item or the specified item—to that person after the expiry of the on-site claim period;”.

Schedule 5,
section 9(8)(b)

- (a) By deleting “the court may determine competing claims for the specified item” and substituting “if, before the specified item is returned in accordance with paragraph (ab), the ash handler receives another claim for the return of the item or the specified item, the court may determine the competing claims”.
- (b) By deleting “apart from subsections (3), (4), (5) and (6)”.

Schedule 5,
section
9(8)(c)(i)

In the English text, by deleting “the item” (wherever appearing) and substituting “it”.

Schedule 5,
section
9(8)(c)(ii)

By deleting “order is made by the expiry of 12 months after the overall” and substituting “proceedings have been instituted by the expiry of 12 months after the on-site”.

Schedule 5,
section 9

By adding—

- “(9) For the purposes of subsections (7) and (8), the ash handler is not under any obligation to open any container containing ashes in order to—
 - (a) ascertain if there is any related item interred together with the ashes inside the container; or
 - (b) return any related item interred together with the ashes inside the container, without returning the ashes together with it.

- (10) An application for a court order referred to in subsection (6)(a) or (8)(c)(i) may be made by originating summons.
- (11) Order 17 of the Rules of the District Court (Cap. 336 sub. leg. H) applies, with necessary modifications, in relation to an application for a court order referred to in subsection (6)(a) or (8)(c)(i) made by an ash handler as if it were an application for relief by way of interpleader; and the court has the powers under that Order accordingly despite section 32(3) of the District Court Ordinance (Cap. 336).
- (12) Despite subsections (10) and (11), the District Court Rules Committee established under section 17 of the District Court Ordinance (Cap. 336) may make rules to provide for the procedures for making an application for a court order referred to in subsection (6)(a) or (8)(c)(i).
- (13) On making a court order referred to in subsection (6)(a) or (8)(c)(i), the court may impose the conditions that it considers appropriate.”.

Schedule 5 By deleting section 10.

Schedule 5,
section 11(1) By deleting “or the on-site portion of the procedures”.

Schedule 5,
section 11(2) (a) By deleting “, not being the Director,”.
 (b) By deleting “overall” and substituting “on-site”.

Schedule 5,
section
11(3)(b) By deleting “overall” and substituting “on-site”.

Schedule 5,
section
11(4)(b) By deleting “overall” and substituting “on-site”.

| | |
|------------------------------|--|
| Schedule 5, section 12 | <p>(a) By deleting “or (3)”.</p> <p>(b) By deleting everything after “disposal procedures” and substituting—</p> <p>“to take any steps that the Director considers necessary to facilitate—</p> <p>(a) the return of ashes to their eligible claimants;</p> <p>(b) the delivery of ashes to the Director; or</p> <p>(c) the reinterment of ashes.”.</p> |
| Schedule 5, section 13 | <p>In the heading, by deleting “completing prescribed ash disposal procedure” and substituting “carrying out steps necessary for disposal of ashes”.</p> |
| Schedule 5, section 13(1) | <p>By deleting everything after “Subsections (2)” and substituting “, (2A) and (3) apply if the Director has in his or her possession ashes in respect of which the prescribed ash disposal procedures have, or any step in them has, not been carried out, whether or not after a contravention of section 58, 59, 60, 61A, 62 or 64 of this Ordinance.”.</p> |
| Schedule 5, section 13(2) | <p>By deleting everything after “Director” and substituting “may, under section 65(2) of this Ordinance, carry out the steps that the Director considers necessary for disposal of ashes (to the extent that there are steps in the prescribed ash disposal procedures that have not been carried out).”.</p> |
| Schedule 5, section 13 | <p>By adding—</p> |

“(2A) The Director must keep a record of the process of the steps carried out under section 65(2) of this Ordinance.”.

Schedule 5,
section 13(3) By deleting everything after “Sections 6, 8” and substituting “and 9 of this Schedule apply, with any necessary modifications, to the Director for the purposes of disposal of ashes to the extent to which those sections provide for the steps that the Director considers necessary for the disposal.”.

Schedule 5,
section 14 In the heading, by deleting “**abandoned**”.

Schedule 5,
section 14(1) By deleting “have been carried out (whether or not by the Director)” and substituting “, or the steps that a specified officer considers necessary for disposal of ashes, have been carried out”.

Schedule 5,
section 15 In the heading, by deleting “**prescribed ash disposal procedures**” and substituting “**steps carried out for disposal of ashes**”.

Schedule 5,
section 15(1) By deleting everything after “in carrying out the” and substituting—
 “steps that the Director considers necessary for disposal of ashes in respect of a columbarium if the person—
 (a) is required under section 58, 62 or 64(2) of this Ordinance to carry out the prescribed ash disposal procedures; but
 (b) has not done so.”.

Schedule 5,
section 15 By adding—
 “(1A) To avoid doubt, for the purposes of subsection (1)(a), a person is regarded as being required under section 58

of this Ordinance to carry out the prescribed ash disposal procedures if the person—

- (a) has abandoned the columbarium as referred to in section 59 or 60 of this Ordinance; or
- (b) does not continue to operate the columbarium as required by section 61A of this Ordinance.”.

Schedule 5,
section 15(2)

By adding “issue a certificate to” after “Director may”.

Schedule 5,
section 15(3)

By adding “and legal costs” after “charges”.

Schedule 5,
section 15

By adding—

- “(3A) The certificate must state that upon registration of it in the Land Registry under subsection (10) in the case referred to in that subsection, the expenses (including any interest recoverable under subsection (5)) constitute a legal charge on the columbarium premises.”.

Schedule 5,
section 15(4)

In the Chinese text, by deleting “可” and substituting “須”.

Schedule 5,
section 15

In the Chinese text, by deleting subsection (5) and substituting—

- “(5) 凡署長於某日向根據第(1)款有法律責任繳付開支的人送達證明書，自該日後的 1 個月起以年利率 10%計算的利息，可作為開支的一部分，向該人追討。”.

Schedule 5,
section 15

By adding—

- “(10) Where any person liable to pay the expenses is the owner of the columbarium premises, then at any time before the expenses (including the interest accrued) have been recovered in full, the certificate under subsection (2) may be registered in the Land Registry

against the title of the premises.

- (11) Upon the recovery of the expenses (including the interest accrued) in full, the Director is to lodge, or cause to be lodged, in the Land Registry a memorial of satisfaction against the certificate.”.

| | |
|--|--|
| Schedule 5, section 16 | In the heading, in the Chinese text, by deleting “在骨灰安置所處置骨灰後提供” and substituting “提供關於骨灰安置所處置骨灰的”. |
| Schedule 5, section 16(1) | By deleting “may keep—” and substituting “must keep—”. |
| Schedule 5, section 16(1)(a)(i) | By deleting “and”. |
| Schedule 5, section 16(1)(a)(ii) | In the Chinese text, by deleting “已進行的” and substituting “已進行”. |
| Schedule 5, section 16(1)(a) | By adding— <div style="margin-left: 40px;"> “(iii) each columbarium in respect of which the steps that a specified officer considers necessary for disposal of ashes are being carried out; and “(iv) each columbarium in respect of which the steps that a specified officer considers necessary for disposal of ashes have been carried out; and”.</div> |
| Schedule 5, section 16(1)(b) | By deleting everything after “paragraph” and substituting “(a)(i) or (ii), a copy of the commencement of ash disposal notice given in accordance with section 8 of this Schedule.”. |

- Schedule 5,
section 16(1) By deleting paragraph (c).
- Schedule 5,
section 16(2) By deleting everything after “The Director” and substituting “must make available the information kept under subsection (1) for inspection by the general public during normal office hours free of charge.”.
- Schedule 5,
section 17(2) (a) In the English text, by deleting “it” and substituting “the Director”.
- (b) By deleting “to an eligible claimant” and substituting “, or the reinterment of those ashes, under this Schedule”.
- Schedule 5,
section 17 By adding—
- “(2A) An application under subsection (2) must be made, in writing, within the 30 days referred to in section 62(2)(a) or 64(4)(b)(i) or (4B)(a)(i) (as the case requires) of this Ordinance as if a reference to a commencement of ash disposal notice in that section were a reference to the application.
- (2B) On determining an application under subsection (2), the Director must notify the applicant in writing of—
- (a) the Director’s decision; and
- (b) (if the application is refused) the reasons for the refusal.
- (2C) If the application is refused, the applicant must—
- (a) carry out the prescribed ash disposal procedures in accordance with section 6 of this Schedule; and
- (b) for the purposes of paragraph (a), give a commencement of ash disposal notice in accordance with section 8 of this Schedule within 30 days after the date on which the Director notifies the applicant of the

Director's decision.”.

Schedule 5,
section 17

By adding—

- “(4) An appeal under section 72 of this Ordinance against a decision to refuse an application made under subsection (2) does not suspend the operation of the decision, pending the determination of the appeal, unless the Director decides otherwise.”.

Schedule 6

By deleting everything after “**Fees**” and substituting—

| “Column 1 | Column 2 | Column 3 | Column 4 |
|--------------|--|-----------------|---|
| Item | Particular | When Payable | Fee |
| 1. | Issue of temporary suspension of liability (<i>TSOL</i>) (regardless of the duration of the validity period) | Upon issue | For a columbarium in which the following total number of sets of ashes (according to the ash interment quantity as shown in the approved plans) may be interred— (a) not exceeding 1 000 \$24,000 (b) exceeding 1 000 but not exceeding 5 000 \$48,000 (c) exceeding 5 000 but not exceeding 10 000 \$72,000 |

| Column 1 | Column 2 | Column 3 | Column 4 |
|-------------|--|-----------------|---|
| Item | Particular | When Payable | Fee |
| | | | (d) exceeding 10 000 but not exceeding 50 000 \$96,000 |
| | | | (e) exceeding 50 000 \$120,000 |
| 2. | Issue of exemption (regardless of the duration of the validity period) | Upon issue | For a columbarium in which the following total number of sets of ashes (according to the ash interment quantity as shown in the approved plans) may be interred— (a) not exceeding 1 000 \$50,000 (b) exceeding 1 000 but not exceeding 5 000 \$90,000 (c) exceeding 5 000 but not exceeding 10 000 \$130,000 (d) exceeding 10 000 but not exceeding 50 000 \$170,000 (e) exceeding 50 000 \$210,000 |
| 3. | Issue of licence | Upon issue | For a columbarium in which the following total maximum |

| Column 1 | Column 2 | Column 3 | Column 4 |
|-------------|---|---|---|
| Item | Particular | When Payable | Fee |
| | (regardless of the duration of the validity period) | | number of sets of ashes (according to the ash interment capacity as shown in the approved plans) may be interred— |
| | | (a) not exceeding 1 000 | \$90,000 |
| | | (b) exceeding 1 000 but not exceeding 5 000 | \$165,000 |
| | | (c) exceeding 5 000 but not exceeding 10 000 | \$240,000 |
| | | (d) exceeding 10 000 but not exceeding 50 000 | \$315,000 |
| | | (e) exceeding 50 000 | \$390,000 |
| 4. | Extension of TSOL | Upon extension | \$29,600 |
| 5. | Renewal of exemption | Upon renewal | \$26,450 |
| 6. | Renewal of licence | Upon renewal | \$28,100 |
| 7. | Transfer of TSOL | Upon approval for transfer | \$23,150 |
| 8. | Transfer of | Upon | \$25,000 |

| Column 1 | Column 2 | Column 3 | Column 4 |
|-------------|--|--|-------------|
| Item | Particular | When Payable | Fee |
| | exemption | approval for transfer | |
| 9. | Transfer of licence | Upon approval for transfer | \$26,250 |
| 10. | Variation of condition(s) to which a TSOL is subject | Upon approval for variation of condition(s) | \$7,350 |
| 11. | Variation of condition(s) to which an exemption is subject | Upon approval for variation of condition(s) | \$9,860 |
| 12. | Variation of condition(s) to which a licence is subject | Upon approval for variation of condition(s) | \$9,860 |
| 13. | Permission for alteration or addition to the premises of a columbarium in respect of which a TSOL is issued | Upon permission for alteration or addition | \$30,550 |
| 14. | Permission for alteration or addition to | Upon permission for alteration or | \$46,800 |

| Column 1 | Column 2 | Column 3 | Column 4 |
|-------------|---|--|-------------|
| Item | Particular | When Payable | Fee |
| | the premises of a columbarium in respect of which an exemption is issued | addition | |
| 15. | Permission for alteration or addition to the premises of a columbarium in respect of which a licence is issued | Upon permission for alteration or addition | \$59,550 |
| 16. | Duplicate of a TSOL | Upon issue of a duplicate | \$435 |
| 17. | Duplicate of an exemption | Upon issue of a duplicate | \$435 |
| 18. | Duplicate of a licence | Upon issue of a duplicate | \$435”. |

Schedule 7,
section 1(1)

By deleting everything after “applies to” and substituting “a columbarium that was in operation immediately before the enactment date.”.

- Schedule 7,
section 1(2)
- (a) By deleting “The person” and substituting “A person who operates, keeps, manages or in any other way has control of a columbarium to which this section applies in the grace period”.
 - (b) By deleting “section 8 of this Ordinance by continuing to operate the columbarium in the grace period” and substituting “section 9 of this Ordinance”.
- Schedule 7,
section 1(3)(a)
- By deleting “at the expiry of 6 months” and substituting “on the expiry of 9 months”.
- Schedule 7,
section 1(3)(b)
- By deleting “6” and substituting “9”.
- Schedule 7,
section 1(3)
- By deleting everything before “means” and substituting—
- “(3) In this section—
grace period (寬限期)”.
- Schedule 7,
section 1(4)
- By deleting “subsection (3)(b)” and substituting “paragraph (b) of the definition of *grace period* in subsection (3)”.
- Schedule 7,
section 1(4)(a)
- By deleting “expiry of” and substituting “time”.
- Schedule 7,
section 1(4)(b)
- By deleting “finally disposed of” and substituting “determined”.
- Schedule 7
- By deleting sections 2 and 3.