

香港特別行政區政府
保安局

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The Government of
Hong Kong Special Administrative Region
Security Bureau

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21 May 2021

Ms Wendy JAN
Clerk to Public Accounts Committee
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Ms JAN,

Public Accounts Committee
Consideration of Chapter 1 of the Director of Audit's Report No. 76

Management of birth, death and marriage registrations

I refer to your letter of 12 May 2021 asking for written response of the Security Bureau ("SB") on various issues relating to the registration of deaths as identified in the captioned Director of Audit's Report ("the Audit's Report"). Our written response is set out below to facilitate consideration of the matters by the members of the Public Accounts Committee.

According to section 14 of the Births and Deaths Registration Ordinance (Cap. 174) ("the Ordinance"), deaths from natural causes shall be registered by the nearest relatives or other relevant persons of the deceased within 24 hours¹ after such deaths. Sections 25 and 28 of the Ordinance state that any person charged with the duty of registering deaths who refuses or, without reasonable excuse, omits to register any death of which he/she has had due notice shall be deemed to have committed a breach of the provisions of the Ordinance, and shall be liable on summary conviction to a fine at level 1 (currently at \$2,000) or to imprisonment for 6 months.

¹ The calculation of the time is exclusive of the time necessary for the journey, and of any intervening hours of darkness and of general holidays as defined by the General Holidays Ordinance (Cap. 149).

With regard to the registration of deaths from natural causes beyond the prescribed period as mentioned in the Audit's Report, we were not aware of the relevant statistics before the recent Audit's review. According to the advice of the Immigration Department ("ImmD"), the common reasons that the prescribed time limit for registration of deaths from natural causes is not strictly adhered to might include –

- (i) the nearest relatives or other relevant persons of the deceased might not be able to secure the supporting documents required for death registration (e.g. Medical Certificate of the Cause of Death issued by the registered medical practitioner who attended the deceased person during his/her last illness) within the prescribed period for registration; and
- (ii) the nearest relatives or other relevant persons of the deceased might need to engage undertakers to make funeral arrangements and complete the relevant procedures (including registration of death, application/arrangement of cremation, obtaining the certificate for burial application, etc. at the Joint Office set up by the Food and Environmental Hygiene Department, Department of Health and ImmD). They might not be able to make all necessary arrangements within the prescribed period for registration.

SB concurs with ImmD that a humanistic and realistic approach should be adopted in administering the registration of deaths having regard to the bereaved's need to cope with the grief over the loss of their loved ones and handle the after-death arrangement of their lost loved ones. To this end, subject to the circumstances of individual cases, ImmD considers that being unable to register deaths from natural causes within the prescribed period owing to the abovementioned grounds as reasonable excuses, and therefore would not consider them as breaching the provisions of the Ordinance. In fact, statistics from ImmD show that the vast majority of the deaths from natural causes (around 99%), despite not being registered within the prescribed period, were registered within 14 days (inclusive of the time necessary for the journey, and of any intervening hours of darkness and of general holidays).

The current Births and Deaths Registration Ordinance was enacted back in 1934 and the provision prescribing the time limit for registration of deaths from natural causes has not been reviewed since. Whilst we are unable to ascertain the original legislative intention for the concerned provision given the long lapse of time and the absence of record, one possible reason for setting such a rather stringent requirement might have been to ensure the proper and

prompt handling of the remains of a deceased for better control of environmental hygiene and prevention of diseases at the time. With the substantial improvement in the public health infrastructure, medical care and environmental hygiene over the past decades, we agree that there is room for closer examination as to whether the prescribed time limit should be adjusted taking into account the present-day context and the need of the nearest relatives or other relevant persons of the deceased to handle the after-death arrangement of their lost loved ones while coping with the grief over the loss of their loved ones. SB and ImmD will proceed to conduct a review of the appropriateness of extending the 24-hour limit and subject to the outcome of the review, we will take forward the necessary legislative amendments as early as practicable.

In the meantime, we agree that efforts should be made to ensure better compliance with the existing legal requirement. As per the recommendation of the Audit Commission, ImmD will draw the attention of members of the public of the duty to register deaths from natural causes within the prescribed period through various channels (e.g. ImmD's website, publication of guidance note and pamphlets, etc.). ImmD will also consider taking enforcement actions on doubtful cases involving registration of deaths from natural causes with undue delay.

Yours sincerely,



(Parson LAM)
for Secretary for Security

c.c.
Director of Immigration
Secretary for Financial Services and the Treasury
Director of Audit