

**立法會**  
**Legislative Council**

LC Paper No. CB(2)2106/14-15  
(These minutes have been  
seen by the Administration)

Ref : CB2/BC/9/13

**Bills Committee on Private Columbaria Bill**

**Minutes of the twelfth meeting**  
**held on Monday, 22 June 2015, at 10:45 am**  
**in Conference Room 2B of the Legislative Council Complex**

- Members present** : Hon IP Kwok-him, GBS, JP (Chairman)  
Dr Hon Kenneth CHAN Ka-lok (Deputy Chairman)  
Hon LEE Cheuk-yan  
Hon James TO Kun-sun  
Hon Tommy CHEUNG Yu-yan, SBS, JP  
Hon WONG Kwok-hing, BBS, MH  
Hon Cyd HO Sau-lan, JP  
Hon CHAN Hak-kan, JP  
Hon Paul TSE Wai-chun, JP  
Hon Alan LEONG Kah-kit, SC  
Hon LEUNG Kwok-hung  
Hon Albert CHAN Wai-yip  
Hon WONG Yuk-man  
Hon Steven HO Chun-yin  
Hon WU Chi-wai, MH  
Hon CHAN Yuen-han, SBS, JP  
Hon LEUNG Che-cheung, BBS, MH, JP  
Hon Alice MAK Mei-kuen, JP  
Dr Hon Helena WONG Pik-wan  
Dr Hon Elizabeth QUAT, JP  
Hon Christopher CHUNG Shu-kun, BBS, MH, JP  
Hon Tony TSE Wai-chuen, BBS
- Members absent** : Dr Hon Priscilla LEUNG Mei-fun, SBS, JP  
Hon CHEUNG Kwok-che  
Hon CHAN Han-pan, JP

**Public Officers attending** : Item I

Mr Christopher WONG, JP  
Deputy Secretary for Food and Health (Food)1  
Food and Health Bureau

Miss Diane WONG  
Principal Assistant Secretary for Food and Health  
(Food)2  
Food and Health Bureau

Miss Cindy CHEUK  
Government Counsel  
Department of Justice

Mr CHIU Yu-chow  
Assistant Director (Grade Management and  
Development)  
Food and Environmental Hygiene Department

Mr YU Tak-cheung  
Assistant Director/New Buildings 1  
Buildings Department

Ms Olga LAM, JP  
Assistant Director (Estate Management) (Lands  
Administration Office/Headquarters)  
Lands Department

Ms Christine TSE  
Assistant Director of Planning (Special Duties)  
Planning Department

**Clerk in attendance** : Mr Colin CHUI  
Chief Council Secretary (2) 4

**Staff in attendance** : Ms Wendy KAN  
Assistant Legal Adviser 6

Ms Catherina YU  
Senior Council Secretary (2) 4

Miss Maggie CHIU  
Legislative Assistant (2) 4

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Action

**I. Meeting with the Administration**

[File Ref.: FH CR 2/3751/07, LC Paper Nos. CB(3)740/13-14, CB(2)2141/13-14(01), CB(2)2338/13-14(07) to (08), CB(2)305/14-15(01), CB(2)431/14-15(01) to (03), CB(2)630/14-15(01), CB(2)825/14-15(01), CB(2)878/14-15(01), CB(2)1063/14-15(01), CB(2)1286/14-15(01) and CB(2)1535/14-15(01)]

The Bills Committee deliberated (index of proceedings attached at **Annex**).

2. The Bills Committee requested the Administration to –

(a) consider including provisions in the Bill to –

- (i) override the contracts which were signed between consumers and private columbarium operators before enactment of the Private Columbaria Ordinance ("the Ordinance") and bring the contracts into conformity with the provisions in the Bill;
- (ii) allow consumers who had entered into contracts with private columbarium operators before enactment of the Ordinance to have the right to inter ashes permanently in the columbaria concerned; and
- (iii) subject to certain conditions, provide for mandatory performance by licensees of the contractual obligations in terms of the interment rights (rather than returning the money to consumers), and allow consumers to use the niches permanently unless the period of interment right was clearly stated in the relevant contracts.

Action

- (b) remove the exclusion of synthetic diamonds, jewellery, ornaments or any other materials transformed from human ashes from the definition of ashes under clause 2(1);
- (c) provide information on the cap of the capacity of temporary storage of ashes at premises of licensed undertakers of burials and the number of sets of ashes being kept at these premises;
- (d) provide information on the capacity of the Administration's facilities for temporary storage of ashes;
- (e) provide information on the number of gazetted private crematoria which were specified in Part 6 of the Fifth Schedule to the Public Health and Municipal Services Ordinance (Cap. 132) and were keeping ashes incidental to their operations as crematoria on a transient basis;
- (f) provide updated information collected under the administrative notification scheme;
- (g) formulate policies to handle ashes being kept in premises where obtaining a licence for the columbarium operation was unsuccessful;
- (h) consider providing exemptions for keeping of more than five containers of ashes in the domestic premises concerned, provided that these were the ashes of relatives; and
- (i) consider elaborating the term of appointment and reappointment of members of the future Private Columbaria Licensing Board.

**II. Date of next meeting**

3. Members noted that the next meeting would be held on Monday, 29 June 2015 at 8:30 am.

**III. Any other business**

4. There being no other business, the meeting ended at 12:42 pm.

Action

Council Business Division 2  
Legislative Council Secretariat  
11 September 2015

**Proceedings of the twelfth meeting of the  
Bills Committee on Private Columbaria Bill  
on Monday, 22 June 2015, at 10:45 am  
in Conference Room 2B of the Legislative Council Complex**

Time marker	Speaker(s)	Subject(s)	Action required
<i>Agenda item I – Meeting with the Administration</i>			
000419 - 000552	Chairman	Opening remarks	
Clause-by-clause examination			
000553 - 001141	Chairman Admin	Examination of Part 1 - clauses 2(1) and 3	
001142 - 001821	Chairman Mr Albert CHAN Admin	<p>Mr Albert CHAN's enquiry and the Administration's response regarding the protection provided for under the Bill for consumers who had signed contracts with private columbarium operators before enactment of the Private Columbaria Ordinance ("the Ordinance").</p> <p>The Administration's explanation of Part 2 of Schedule 4 (i.e. essential terms to be set out in an agreement for the sale of an interment right). The Administration's referral to its response to members' concerns raised at the meeting of the Bills Committee on 15 December 2014 about measures for protecting the interests of consumers (LC Paper No. CB(2)630/14-15(01)).</p> <p>Mr CHAN's suggestion of including a provision in the Bill which had an overriding effect on the aforesaid contracts and bringing the contracts into conformity with the provisions in the Bill to protect consumers.</p>	Admin
001822 - 002707	Chairman Mr James TO Admin	<p>Mr James TO's enquiry and the Administration's response regarding the consequences of non-compliance with Part 2 of Schedule 4. The Administration's explanation of the conditions under which an agreement for the sale of an interment right would be unenforceable as stipulated in clauses 41 and 42.</p> <p>The Administration's response to Mr TO's concern about the legal nature of an interment right and consumers' right to use the niches provided for in agreements for the sale of interment rights. The Administration's explanation of the definition of "interment right" under clause 2 (i.e. interpretation) and Part 2 of Schedule 4.</p>	

Time marker	Speaker(s)	Subject(s)	Action required
		<p>Mr TO's suggestion that subject to certain conditions, the Bill should provide for mandatory performance by licensees of the contractual obligations in terms of the interment rights (i.e. consumers could continue to use the niches), rather than returning the money to consumers. A provision should be included in the Bill to allow consumers to use the niches permanently unless the period of interment right was clearly stated in the relevant contracts.</p>	Admin
002708 - 003429	<p>Chairman Mr WONG Kwok-hing Admin</p>	<p>Mr WONG Kwok-hing's enquiry about the term " 要約 " in clause 3(1)(a) and the Administration's response that it was a settled legal term used in the statute book.</p> <p>Mr WONG's concern that a large number of niches might be displaced and need to be handled, arising from changes of ownership of private columbaria or cessation of columbarium operation after enactment of the Ordinance. His suggestion that there should be a provision in the Bill to allow consumers who had entered into contracts with private columbarium operators before enactment of the Ordinance to have the right to inter ashes permanently in the columbaria concerned.</p> <p>The Administration explained that the term of leasehold land was not perpetual and this applied to land on which columbaria were situated. In other words, columbarium operators did not hold the land perpetually, and this would carry implications on the duration of the interment rights under the contracts between them and the consumers. Part 7 had set out ash disposal arrangements in the event of cessation of private columbaria.</p>	Admin
003430 - 005430	<p>Chairman Admin</p>	<p>Examination of Part 1 – clause 2(1)</p> <p>The Administration's advice that it would propose to remove the exclusion of synthetic diamonds, jewellery, ornaments or any other materials transformed from human ashes from the definition of ashes under clause 2(1) to deter private columbarium operators from circumventing the proposed licensing regime.</p> <p>The Chairman's enquiry and the Administration's response regarding the way forward for facilitating operators whose premises were used solely for manufacturing and transformation of human ashes into synthetic diamonds, jewellery, ornaments or any other materials.</p>	Admin

Time marker	Speaker(s)	Subject(s)	Action required
		<p>Consideration would be given to how to accommodate such environmentally sustainable means, provided that the ashes were kept on a transient basis and there were no paying of respect activities during the gravesweeping seasons. The Administration would discuss this with the Bills Committee in due course.</p>	
005431 - 005819	<p>Chairman Mr Albert CHAN Admin</p>	<p>Mr Albert CHAN's enquiry and the Administration's response regarding whether domestic premises in which ashes were kept would be regarded as columbarium premises under the Bill and the definition of "domestic premises" therein. The Administration's explanation of clause 5 (the Ordinance would not be applicable to domestic keeping of ashes).</p> <p>The Administration's response to Mr CHAN's enquiries that the Ordinance would be applicable to ancestral halls which kept ashes, while undertakers of burials were separately regulated under the Undertakers of Burials Regulation (Cap. 132 CB).</p> <p>At the Chairman's request, the Administration undertook to provide information on the cap of the capacity of temporary storage of ashes at premises of licensed undertakers of burials and the number of sets of ashes being kept at these premises.</p>	Admin
005820 - 005932	<p>Chairman Mr LEUNG Che-cheung Admin</p>	<p>Mr LEUNG Che-cheung's view that the Administration should adopt measures to address the inadequate supply of niches to avoid keeping of ashes at premises which did not comply with the requirements of the Ordinance.</p> <p>The Administration's advice that it would provide information on the capacity of its temporary storage facilities at a later stage.</p>	Admin
005933 - 010120	<p>Chairman Admin</p>	Examination of Part 1 - clause 2(1)	
010121 - 011352	<p>Admin Chairman</p>	<p>Examination of Part 1 - clause 2(2) to 2(9)</p> <p>The Chairman's enquiry and the Administration's response regarding occupation of land as was necessary for, or ancillary to, the operation of a columbarium.</p>	
011353- 012252	<p>Admin Chairman</p>	<p>Examination of Part 1 - clause 4(1)</p> <p>The Administration's explanation of the reasons</p>	





Time marker	Speaker(s)	Subject(s)	Action required
012804 - 013120	Chairman Deputy Chairman Admin	The Administration's response to the Deputy Chairman's enquiry that the Ordinance would regulate any premises which kept ashes, irrespective of whether or not these were Chinese temples.	
013121 - 013156	Chairman Mr LEUNG Kwok-hung	Mr LEUNG Kwok-hung's reiteration of the need for the Administration to formulate policies for handling displaced ashes.	
013157 - 013244	Chairman Admin	Examination of Part 1 - clause 5	
013245 - 013818	Chairman Deputy Chairman Mr LEUNG Kwok-hung Admin	<p>The Deputy Chairman's enquiry and the Administration's response regarding the enforcement of clause 5 and verification of the relationship of the deceased persons whose ashes were kept in domestic premises.</p> <p>Views of the Chairman, the Deputy Chairman and Mr LEUNG Kwok-hung on the number of containers of ashes that were allowed to be kept in domestic premises.</p> <p>The Administration explained the reasons for setting the limit of keeping of ashes in domestic premises at five containers and advised that a licence would be required for keeping of ashes at domestic premises exceeding the limit.</p> <p>Mr LEUNG's suggestion that keeping of more than five containers of ashes of relatives in the domestic premises concerned should be allowed subject to proof of relationship.</p>	
013819 - 014644	Chairman Admin	Examination of Part 3 - clauses 8 and 9	
014645 - 015141	Chairman Deputy Chairman Admin	<p>The Deputy Chairman's view that the Ordinance should provide for exemptions for keeping of ashes of relatives in the domestic premises concerned. The Administration explained the definition of "relative" under section 5 of Part 2 of Schedule 5 and undertook to give a response to members' views and suggestions on keeping of ashes in domestic premises.</p> <p>The Deputy Chairman's enquiry and the Administration's response regarding how to address the use of intermediaries for holding licences for evading legal responsibilities. The Administration's advice that the requirement of self-ownership of columbarium premises would, to a certain extent, make the use of intermediaries for holding licences a costly</p>	Admin

<b>Time marker</b>	<b>Speaker(s)</b>	<b>Subject(s)</b>	<b>Action required</b>
		option.	
015142 - 015530	Chairman Admin	Examination of Part 2 - clause 6 and Schedule 1  The Administration's advice that it would consider elaborating the term of appointment and reappointment of members of the future Private Columbaria Licensing Board ("Licensing Board") in section 1 of Schedule 1.	Admin
015531 - 015710	Chairman Deputy Chairman Admin	The Deputy Chairman's enquiry and the Administration's response regarding staff of the Licensing Board.	
015711 - 015728	Chairman	Date of next meeting	

Council Business Division 2  
Legislative Council Secretariat  
11 September 2015