

**立法會**  
**Legislative Council**

LC Paper No. CB(2)2019/15-16

(These minutes have been  
seen by the Administration)

Ref : CB2/BC/9/13

**Bills Committee on Private Columbaria Bill**

**Minutes of the twenty-first meeting  
held on Monday, 7 December 2015, at 10:45 am  
in Conference Room 2A 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 Tommy CHEUNG Yu-yan, GBS, JP  
Hon WONG Kwok-hing, BBS, MH  
Hon Cyd HO Sau-lan, JP  
Hon CHAN Hak-kan, JP  
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP  
Hon CHEUNG Kwok-che  
Hon Paul TSE Wai-chun, JP  
Hon Alan LEONG Kah-kit, SC  
Hon LEUNG Kwok-hung  
Hon Albert CHAN Wai-yip  
Hon WU Chi-wai, MH  
Hon CHAN Han-pan, JP  
Hon CHAN Yuen-han, SBS, JP  
Hon LEUNG Che-cheung, BBS, MH, JP  
Dr Hon Elizabeth QUAT, JP  
Hon Christopher CHUNG Shu-kun, BBS, MH, JP  
Hon Tony TSE Wai-chuen, BBS

**Members absent** : Hon James TO Kun-sun  
Hon Steven HO Chun-yin, BBS  
Hon WONG Yuk-man  
Hon Alice MAK Mei-kuen, BBS, JP  
Dr Hon Helena WONG Pik-wan

**Public Officers : Item I**  
**attending**

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

Ms Phyllis KO  
Senior Assistant Law Draftsman (II)1  
Department of Justice

Miss Cindy CHEUK  
Government Counsel  
Department of Justice

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

Ms Viola YIM  
Senior Superintendent (Cemeteries & Crematoria)  
Special Duties  
Food and Environmental Hygiene Department

Mr Tommy TAM  
Chief Building Surveyor/Legal Services  
Buildings Department

Ms Doris CHOW  
Assistant Director (Estate Management)  
(Lands Administration Office/Headquarters)  
Lands Department

Ms Lily YAM  
Chief Town Planner/Town Planning Board 1  
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

---

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), CB(2)1535/14-15(01), CB(2)1813/14-15(01), CB(2)1905/14-15(01), CB(2)20/15-16(01), CB(2)220/15-16(01), CB(2)309/15-16(01) and CB(2)367/15-16(01) to (05)]

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

2. The Bills Committee requested the Administration to:

- (a) replace "section 8" by "section 9" in section 1(2) of Schedule 7;
- (b) consider moving Committee Stage Amendments to clause 1(3), to the effect that the provisions in Divisions 1, 2 and 3 of Part 11 would come into operation on the expiry of three months beginning on the day on which the Private Columbaria Ordinance was published in the Gazette, i.e. at the same time as Part 10;
- (c) provide information on the legal consequences of failing to comply with the proposed section 113A(2) and (5) of the Public Health and Municipal Services Ordinance ( Cap. 132);

Action

- (d) take account of members' views in drawing up the guidelines/codes of practice on keeping columbaria clean and in good repair by holders of specified instruments; and
- (e) provide information on the provisions of the Bedspace Apartments Ordinance (Cap. 447) which were relevant to the Bill.

**II. Date of next meeting**

- 3. Members noted that the next meeting would be held on Monday, 21 December 2015 at 10:45 am.

**III. Any other business**

- 4. There being no other business, the meeting ended at 12:43 pm.

Council Business Division 2  
Legislative Council Secretariat  
2 September 2016

**Proceedings of the twenty-first meeting of the  
Bills Committee on Private Columbaria Bill  
on Monday, 7 December 2015, at 10:45 am  
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker(s)	Subject(s)	Action required
<i>Agenda item I – Meeting with the Administration</i>			
000426 - 000749	Chairman	Opening remarks	
Clause-by-clause examination			
000750 - 002045	Chairman Admin Mr WU Chi-wai ALA6 Admin	<p>Examination of Schedule 7 – Section 1</p> <p>The Administration's advice that it would replace "section 8" by "section 9" in section 1(2) of Schedule 7.</p> <p>The Administration's response to the concerns of the Chairman and Mr WU Chi-wai regarding whether the operation of a private columbarium might be prolonged if the application for a temporary suspension of liability ("TSOL") was submitted near the end of the grace period as defined in section 1(3) of Schedule 7. The Administration's advice that once an application for TSOL was made, the grace period would end at the time when that application was finally disposed of or withdrawn, and the processing time of such applications by the future Private Columbaria Licensing Board ("Licensing Board") would depend on the circumstances of individual cases. As operators of pre-Bill private columbaria applying for a licence or a TSOL would no longer be allowed to sell or let out any more niches, they would have an incentive to submit applications as early as possible.</p> <p>ALA6's enquiry and the Administration's response regarding the reasons for excluding the act of "continuing to keep, manage or in any other way have control of the columbarium" from section 1(2) of Schedule 7. The Administration advised that in section 1(1), reference was made to "a person who immediately before the enactment date was operating, keeping, managing or in any other way having control of a columbarium". Therefore, in section 1(2), reference to "the person" would suffice, and there was no need to repeat the same.</p>	Admin (paragraph 2(a) of the minutes)
002046 - 002145	Chairman Admin	Examination of Schedule 7 – Section 2	

Time marker	Speaker(s)	Subject(s)	Action required
002146 - 002526	Chairman Admin Mr CHAN Han-pan ALA6 Admin	<p>Examination of Schedule 7 – Section 3</p> <p>Mr CHAN Han-pan's enquiry and the Administration's response that the record keeping requirements under clause 43(1) to (3) applied to a licensee, and that the agreements for the sale of interment rights mentioned therein referred to those made after the enactment date.</p> <p>At ALA6's request, the Administration clarified that under clause 43(4), a person holding a specified instrument must keep a record after the enactment date on interment and disinterment of ashes in and from a columbarium and contact details of authorized representatives in respect of ashes interred in the columbarium in the post-enactment stage.</p> <p>Mr CHAN Han-pan's enquiry and the Administration's response regarding the record keeping requirements for ashes interred before the enactment date and removed after the enactment date. The Administration advised that clauses 56 and 58(2)(a)(iii) were relevant.</p>	
002527 - 002625	Chairman ALA6 Admin	ALA6's enquiry and the Administration's response regarding the reasons for empowering the Secretary for Food and Health to, by notice published in the Gazette, amend Schedule 7 under clause 91(2). The Administration's advice that amendments to Schedule 7 should be made by way of subsidiary legislation which was subject to the scrutiny of the Legislative Council ("LegCo") through negative vetting.	
002626 - 003655	Chairman Admin	<p>Examination of Part 11 Divisions 1 to 3 (Clauses 101 to 109)</p> <p>The Chairman invited members to refer to the marked-up copy of the relevant legislation prepared by the Legal Service Division of the LegCo Secretariat (LC Paper No. CB(2)2141/13-14(01)).</p> <p>The Administration's advice that it would consider moving Committee stage amendments ("CSAs") to clause 1(3), to the effect that the provisions in Divisions 1, 2 and 3 of Part 11 would come into operation on the expiry of three months beginning on the day on which the Private Columbaria Ordinance ("the Ordinance") was published in the Gazette, as commencement of these provisions relating to the Land (Miscellaneous Provisions) Ordinance (Cap. 28), the Town Planning Ordinance</p>	Admin (paragraph 2(b) of the minutes)

Time marker	Speaker(s)	Subject(s)	Action required
		(Cap. 131) and the Buildings Ordinance (Cap. 123) should synchronise with those in Part 10.	
003656 - 003717	Chairman Admin	Examination of Part 11 – Division 4 Clause 110  The Administration's briefing on the rationale of proposing to regulate private columbaria managed and controlled by the Board of Management of the Chinese Permanent Cemeteries under the Public Health and Municipal Services Ordinance (Cap. 132) instead of under the Ordinance.	
003718 - 004310	Chairman Admin	Examination of Part 11 – Division 4 Clause 111	
004311 - 004812	Chairman Admin Chairman ALA6 Mr CHAN Han-pan	Examination of Part 11 – Division 4 Clause 112  Enquiries of ALA6 and Mr CHAN Han-pan regarding the legal consequences of failing to comply with the proposed section 113A(2) and (5) of Cap. 132. The Administration undertook to provide a written response in this regard.	Admin (paragraph 2(c) of the minutes)
004813 - 005048	Chairman Admin	Examination of Part 11 – Division 4 Clauses 113 to 114	
005049 - 005208	Admin	Examination of Part 11 – Division 5 Clauses 115 to 116	
005209 - 005321	Chairman Admin	Examination of Part 11 – Division 6 Clauses 117 to 118	
005322 - 005709	Chairman Admin	Completion of clause-by-clause examination of the Chinese text of the Bill. ALA6 was requested to examine the English text of the Bill from the drafting point of view.  Approach to discussion of CSAs and the Administration's responses to questions/concerns raised by members and ALA6.	ALA6
005710 - 010254	Chairman ALA6 Admin	Discussion of the Administration's written response dated 27 November 2015 (LC Paper No. CB(2)367/15-16(01)) to issues raised by ALA6 in her letter dated 17 April 2015 (LC Paper No. CB(2)1286/14-15(01)).  Items 1 and 2 of the Annex to LC Paper No. CB(2)367/15-16(01)	
010255 - 011500	Chairman Mr CHAN Han-pan	Item 3 of the Annex to LC Paper No. CB(2)367/15-16(01)	

Time marker	Speaker(s)	Subject(s)	Action required
	Deputy Chairman Admin	<p>Mr CHAN Han-pan's view regarding the inclusion of specific measures for minimizing the environmental nuisance caused to the neighbourhood by the operation of private columbaria and examples of such nuisance in the Bill. The Administration responded to Mr CHAN's view by referring to clauses 25(d), 28(b) and 31(b) of the Bill, and cited examples to illustrate the points.</p> <p>Mr CHAN's enquiry and the Administration's response regarding the timeframe of introducing the guidelines/codes of practice on keeping columbaria clean and in good repair by holders of specified instruments and the direction of formulating these guidelines/codes of practice.</p> <p>Views of the Chairman and the Deputy Chairman that clear guidelines/codes of practice should be drawn up. The Deputy Chairman's view that information (e.g. enforcement authorities, penalties, etc.) on issues relating to environmental nuisance caused by the operation of private columbaria should be provided in the guidelines/codes of practice and made available to members of the public. The Administration's response that the Licensing Board would formulate and publish the guidelines/codes of practice.</p> <p>The Administration was requested to take account of members' views when drawing up the aforesaid guidelines/codes of practice.</p>	Admin (paragraph 2(d) of the minutes)
011501 - 011811	Chairman Admin	Item 4 of the Annex to LC Paper No. CB(2)367/15-16(01)	
011812 - 014756	Chairman Admin Chairman Mr CHAN Han-pan Deputy Chairman Mr Tony TSE	<p>Item 5 of the Annex to LC Paper No. CB(2)367/15-16(01)</p> <p>Mr CHAN Han-pan's view that it was very difficult to obtain the Lands Department ("LandsD")'s approval of applications for regularization of unlawful occupation of unleased government land ("regularization applications"). The Administration's response that approval of regularization applications had been granted before. LandsD would take into account technical requirements of the relevant government bureaux/departments on the land concerned and consider regularization applications on a case-by-case basis. In some cases, policy support from the relevant policy bureaux was required before LandsD could process the applications.</p>	



Time marker	Speaker(s)	Subject(s)	Action required
		<p>In response to the Chairman's enquiry, the Administration advised that LandsD would handle regularization applications from operators of pre-Bill columbaria after obtaining policy support from the Food and Health Bureau.</p> <p>Mr CHAN Han-pan's view and the Administration's response on the steps involved for operators of pre-Bill columbaria to seek approval of regularization applications.</p> <p>Views of the Chairman, the Deputy Chairman and Mr Tony TSE that the Administration should avoid giving the public an impression that it would adopt a lax approach towards unlawful occupation of government land.</p> <p>Mr CHAN Han-pan's view that the Administration should avoid being overly stringent in considering regularization applications so as to facilitate the continuous operation of pre-Bill columbaria which had satisfied the technical requirements.</p> <p>In response to the points made by the Chairman, the Deputy Chairman, Mr Tony TSE and Mr CHAN Han-pan, the Administration referred members to the LegCo Brief on the Bill. The Administration advised that each case would be considered on a case-by-case basis, having regard to its own circumstances and merits. The Administration would have regard to all relevant factors, including whether the operators had complied with the eligibility requirements in all other respects. These included compliance with the requirements for seeking a licence and/or an exemption, technical requirements and safety-related requirements, etc.</p> <p>Mr Tony TSE's view that the Administration should consider regularization applications on a case-by-case basis in a professional and pragmatic manner.</p>	
014757 - 015813	Chairman ALA6 Admin	Items 6 to 14 of the Annex to LC Paper No. CB(2)367/15-16(01)	
015814 - 015844	Chairman Deputy Chairman	At the Deputy Chairman's request, the Administration undertook to provide information on the provisions of the Bedspace Apartments Ordinance (Cap. 447) which were relevant to the Bill.	Admin (paragraph 2(e) of the minutes)

<b>Time marker</b>	<b>Speaker(s)</b>	<b>Subject(s)</b>	<b>Action required</b>
015845 - 015903	Chairman	Date of next meeting	

Council Business Division 2  
Legislative Council Secretariat  
2 September 2016