

**立法會**  
**Legislative Council**

LC Paper No. CB(2)2047/15-16

(These minutes have been  
seen by the Administration)

Ref : CB2/BC/9/13

**Bills Committee on Private Columbaria Bill**

**Minutes of the twenty-sixth meeting  
held on Tuesday, 23 February 2016, at 4:30 pm  
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 James TO Kun-sun  
Hon Tommy CHEUNG Yu-yan, GBS, JP  
Hon WONG Kwok-hing, BBS, MH  
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP  
Hon Paul TSE Wai-chun, JP  
Hon Alan LEONG Kah-kit, SC  
Hon LEUNG Kwok-hung  
Hon Albert CHAN Wai-yip  
Hon Steven HO Chun-yin, BBS  
Hon WU Chi-wai, MH  
Hon CHAN Han-pan, JP  
Hon CHAN Yuen-han, SBS, JP  
Hon LEUNG Che-cheung, BBS, MH, JP  
Hon Alice MAK Mei-kuen, BBS, JP  
Dr Hon Helena WONG Pik-wan  
Hon Christopher CHUNG Shu-kun, BBS, MH, JP
- Members absent** : Hon Cyd HO Sau-lan, JP  
Hon CHAN Hak-kan, JP  
Hon CHEUNG Kwok-che  
Hon WONG Yuk-man  
Dr Hon Elizabeth QUAT, JP  
Hon Tony TSE Wai-chuen, BBS

**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

Mr HUI Fai-wing  
Senior Superintendent (Cemeteries & Crematoria)  
Special Duties  
Food and Environmental Hygiene Department

Mr Thomas LEUNG  
Assistant Director/New Buildings 1  
Buildings Department

Ms Doris CHOW  
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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**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(08), CB(2)431/14-15(01), CB(2)630/14-15(01), CB(2)367/15-16(01) to (04), CB(2)486/15-16(01)(Further revised) to (02)(Revised), CB(2)548/15-16(01)(Revised) to (02)(Revised), CB(2)548/15-16(03) to (05) and CB(2)721/15-16(01)(Revised) to (02)]

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

*(At 5:48 pm, the Chairman suspended the meeting to allow members of the Bills Committee who were also members of the Panel on Development ("the Panel") to proceed to the meeting venue of the Panel for voting on a motion. The meeting resumed at 5:53 pm).*

2. The Bills Committee requested the Administration to:

- (a) if it decided to put forward Committee stage amendments ("CSAs") to fine-tune the timing required for on-site claim period and impose a fine for contravening section 7(1)(c) of Schedule 5, provide such amendments to the Bills Committee for consideration;
- (b) consider notifying landlords when applications for licences for operating columbaria were received in respect of their premises;

Action

- (c) consider moving CSAs to fine-tune the arrangements for applications for occupation orders and appeals on decisions made by the court and applications for court orders (including the appeal mechanism) mentioned in section 9(6) and (8) of Schedule 5;
- (d) consider moving CSAs to section 10 of Schedule 5;
- (e) consider informing mortgagees of the licence applications in respect of the columbarium premises under mortgage;
- (f) provide a written response to spell out the information to be required under section 11(1)(b) of Schedule 5 in the Bill or under subsidiary legislation;
- (g) consider whether a person who failed to take the steps to facilitate the return of ashes under section 12 of Schedule 5 would be subject to lighter sanction;
- (h) provide a written response in relation to the scenario under which the Director of Food and Environmental Hygiene ("DFEH") knew that there were pending legal proceedings and how DFEH might dispose of the ashes which were in his/her possession;
- (i) consider reviewing section 16 of Schedule 5;
- (j) provide a written response explaining why it was considered appropriate for the specified person (in this case the Board of Management of the Chinese Permanent Cemeteries) to remain subject to regulation under the Public Health and Municipal Services Ordinance (Cap. 132) and the Private Cemeteries Regulation (Cap. 132 sub. leg. BF), rather than under the Bill;
- (k) consider spelling out the particulars of columbaria to be set out in the list under the new section 113A(5) of Cap. 132 added by clause 112;
- (l) consider moving CSAs to amend the definition of "columbarium" in the Bill; and
- (m) consider uploading the register of private columbaria on the Internet for access by the public.

Action

**II. Any other business**

3. The Chairman said that the Bills Committee should continue to discuss the Administration's responses to the issues raised by members at previous meetings (LC Paper No. CB(2)721/15-16(02)) and commence the discussion of the final version of CSAs at the next meeting to be held tentatively in end-March 2016. Members agreed.

4. There being no other business, the meeting ended at 6:35 pm.

Council Business Division 2  
Legislative Council Secretariat  
14 September 2016

**Proceedings of the twenty-sixth meeting of the  
Bills Committee on Private Columbaria Bill  
on Tuesday, 23 February 2016, at 4:30 pm  
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>			
000624 - 000901	Chairman	Opening remarks	
000902 - 003054	Chairman ALA6 Admin Mr James TO	<p>Discussion of the Administration's responses to ALA6's letter dated 5 November 2015 (LC Paper No. CB(2)548/15-16(03)).</p> <p><u>Item 44 of the Annex to LC Paper No. CB(2)548/15-16(03)</u></p> <p>The Administration's advice that it was considering amendments to fine-tune the timing required for the on-site claim period, including revisiting the need for any off-site claim period. It was also considering imposing a fine for contravening section 7(1)(c) of Schedule 5. The Administration was requested to provide such amendments to the Bills Committee for consideration if it decided to put forward such amendments.</p> <p>The Administration's response to the Chairman's enquiry that its initial proposal was to remove section 6(4) of Schedule 5 from the Bill.</p> <p>ALA6's enquiry and the Administration's response regarding whether, with its proposed amendments, an ash handler would not have the option of carrying out the off-site portion of the prescribed ash disposal procedures.</p> <p>ALA6's enquiry and the Administration's response regarding whether a person in possession, who did not know that the premises concerned were used as a columbarium, was required to carry out only the on-site portion of the prescribed ash disposal procedures under section 7 of Schedule 5.</p> <p>The Administration's response to Mr James TO's enquiry that it was considering adopting two different sets of ash disposal procedures, one set for persons in possession who knew that the premises concerned were used for columbarium operation and another set for those who did not know.</p>	Admin (paragraph 2(a) of the minutes)

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		<p>In response to Mr James TO's enquiry, the Administration advised that certificates of columbarium use issued by the future Private Columbaria Licensing Board would be registered in the Land Registry. Mr TO's view that to protect interest of landlords whose premises were used for columbarium operation by their tenants, these landlords should be notified when their tenants applied for a licence for operating columbaria in the premises. The Administration undertook to consider meeting Mr TO's suggestion through administrative means.</p>	<p>Admin (paragraph 2(b) of the minutes)</p>
003055 - 003235	<p>Chairman ALA6 Admin</p>	<p><u>Item 48 of the Annex to LC Paper No. CB(2)548/15-16(03)</u></p> <p>Noting that the Administration would not make subsidiary legislation for providing rules on the procedures relating to an application for a court order (including the appeal mechanism) (section 9(6) and (8) of Schedule 5), ALA6 asked how the Administration would address the concern about the non-provision of such rules in the Bill. The Administration's response that it was discussing the matter with the Judiciary Administrator and would propose Committee stage amendments ("CSAs") to fine-tune the arrangements.</p>	<p>Admin (paragraph 2(c) of the minutes)</p>
003236 - 003521	<p>Chairman ALA6 Admin</p>	<p><u>Item 50 of the Annex to LC Paper No. CB(2)548/15-16(03)</u></p> <p>The Administration's response to ALA6's enquiry that it would consider moving CSAs to section 10 of Schedule 5.</p>	<p>Admin (paragraph 2(d) of the minutes)</p>
003522 - 003941	<p>Chairman ALA6 Admin Mr James TO</p>	<p><u>Item 44 of the Annex to LC Paper No. CB(2)548/15-16(03)</u></p> <p>Further to his view on item 44 above (time marker: 000902-003054), Mr James TO considered that mortgagees should also be notified of the licence applications in respect of the premises under mortgage. The Administration's response that mortgagees would be informed of the licence applications through administrative means.</p>	<p>Admin (paragraph 2(e) of the minutes)</p>
003942 - 004232	<p>Chairman ALA6 Admin Mr James TO</p>	<p><u>Item 51 of the Annex to LC Paper No. CB(2)548/15-16(03)</u></p> <p>ALA6's view that given the heavy penalties imposed for contravening section 11(1)(b) of Schedule 5, the Administration should consider</p>	

Time marker	Speaker(s)	Subject(s)	Action required
		<p>spelling out the information to be required under this section in the Bill or under subsidiary legislation. Mr James TO's expression of support of ALA6's view. The Administration undertook to provide a response to ALA6's view.</p>	<p>Admin (paragraph 2(f) of the minutes)</p>
004233 - 004600	<p>Chairman ALA6 Admin Dr Helena WONG</p>	<p><u>Item 53 of the Annex to LC Paper No. CB(2)548/15-16(03)</u></p> <p>Enquiries of the Chairman and Dr Helena WONG and the Administration's advice that having regard to ALA6's view, it would consider whether a person who failed to take the steps to facilitate the return of ashes under section 12 of Schedule 5 would be subject to lighter sanction.</p>	<p>Admin (paragraph 2(g) of the minutes)</p>
004601 - 005502	<p>Chairman ALA6 Admin Mr James TO</p>	<p><u>Item 60 of the Annex to LC Paper No. CB(2)548/15-16(03)</u></p> <p>ALA6's advice that members might wish to consider whether the requirement under section 14(2) of Schedule 5 (i.e. the Director of Food and Environmental Hygiene ("DFEH") should be informed, by written notice, of court proceedings in respect of the ashes in DFEH's possession which were pending) was acceptable.</p> <p>Mr James TO's enquiry and the Administration's response regarding whether DFEH would take into account individual circumstances in making decisions on disposal of ashes in respect of which DFEH was not informed that court proceedings were pending. The Administration's advice that it would provide a response to the scenario under which DFEH knew that there were pending legal proceedings in respect of the ashes in his/her possession, and how DFEH might dispose of these ashes.</p>	<p>Admin (paragraph 2(h) of the minutes)</p>
005503 - 010134	<p>Chairman ALA6 Admin</p>	<p><u>Item 68 of the Annex to LC Paper No. CB(2)548/15-16(03)</u></p> <p>Pointing out that section 16(1)(a), (b) and (c) of Schedule 5 empowered DFEH to keep a list to cover matters in respect of prescribed ash disposal procedures, ALA6 invited members to consider whether it was acceptable not to impose a duty on DFEH to keep such a list.</p> <p>The Chairman's concern that DFEH might not be able to keep the aforesaid list when there were circumstances beyond her control. ALA6's suggestion that the Administration should consider reviewing section 16 of</p>	

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		Schedule 5. Having regard to the views of the Chairman and ALA6, the Administration proposed to retain section 16(1)(a) and (b) of Schedule 5 and remove section 16(1)(c) of Schedule 5 from the Bill. Members agreed to the Administration's proposal.	Admin (paragraph 2(i) of the minutes)
010135 - 010201	Chairman ALA6	The Administration's responses to ALA6's letter dated 20 November 2015 (LC Paper No. CB(2)548/15-16(04)).  ALA6 advised that she was waiting for the Administration's further responses to her questions on clauses 49 and 53. She would revert to members upon receipt of the Administration's response, if necessary.	
010202 - 011337	Chairman ALA6 Admin Mr James TO	Discussion of the Administration's responses to ALA6's letter dated 1 December 2015 (LC Paper No. CB(2)548/15-16(05)).  <u>Item 5 of the Annex to LC Paper No. CB(2)548/15-16(05)</u>  In response to the enquiries of Mr James TO and the Chairman, the Administration explained why it was considered appropriate for the specified person (in this case the Board of Management of the Chinese Permanent Cemeteries) to remain subject to regulation under the Public Health and Municipal Services Ordinance (Cap. 132) and the Private Cemeteries Regulation (Cap. 132 sub. leg. BF), rather than under the Bill.  Under the scenario of a private columbarium being operated in private multi-storey buildings, Mr James TO expressed concern that the specified person might have an edge over other private columbarium operators. The Administration undertook to provide a written response to address Mr TO's concern.	Admin (paragraph 2(j) of the minutes)
011338 - 011446	Chairman ALA6 Admin	<u>Item 6 of the Annex to LC Paper No. CB(2)548/15-16(05)</u>  ALA6's suggestion that the Administration should spell out the particulars of columbaria to be set out in the list under the new section 113A(5) of Cap. 132 added by clause 112. The Administration undertook to provide a written response.	Admin (paragraph 2(k) of the minutes)
011447 - 011939	Chairman Admin	Discussion of the Administration's responses to issues raised at the meetings of the Bills	



Time marker	Speaker(s)	Subject(s)	Action required
		regularization/rectification pending the enactment of the Bill.	
014820 - 015114	Chairman Admin	<u>Items 3 to 7 of LC Paper No. CB(2)721/15-16(02)</u>  The Administration's briefing on items 3 to 7 of LC Paper No. CB(2)721/15-16(02).	
015115 - 015929	Chairman Admin ALA6	<u>Item 10 of LC Paper No. CB(2)721/15-16(02)</u>  ALA6's enquiry and the Administration's response regarding the reasons for requiring an applicant for a licence to submit a confirmation signed by a solicitor with respect to the Deeds of Mutual Covenant in respect of the building concerned, the timing for submitting such a confirmation and the legal consequences in the event that the contents of the confirmation were incorrect.  ALA6's enquiry and the Administration's response regarding whether the Hong Kong Bar Association and The Law Society of Hong Kong had been consulted on the contents of the confirmation and the feasibility of providing the confirmation.	
015930 - 020652	Chairman ALA6 Admin	Items to be discussed at the next meeting	