

**立法會**  
**Legislative Council**

LC Paper No. CB(2)1955/15-16

(These minutes have been  
seen by the Administration)

Ref : CB2/BC/9/13

**Bills Committee on Private Columbaria Bill**

**Minutes of the thirty-third meeting  
held on Monday, 30 May 2016, at 8:30 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 WONG Kwok-hing, BBS, MH  
Hon Cyd HO Sau-lan, JP  
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP  
Hon Alan LEONG Kah-kit, SC  
Hon Steven HO Chun-yin, BBS  
Hon WU Chi-wai, MH  
Hon CHAN Han-pan, JP  
Hon LEUNG Che-cheung, BBS, MH, JP  
Hon Alice MAK Mei-kuen, BBS, JP  
Dr Hon Elizabeth QUAT, JP  
Hon Christopher CHUNG Shu-kun, BBS, MH, JP  
Hon Tony TSE Wai-chuen, BBS

**Members absent** : Hon LEE Cheuk-yan  
Hon James TO Kun-sun  
Hon Tommy CHEUNG Yu-yan, GBS, JP  
Hon CHAN Hak-kan, JP  
Hon CHEUNG Kwok-che  
Hon Paul TSE Wai-chun, JP  
Hon LEUNG Kwok-hung  
Hon Albert CHAN Wai-yip  
Hon WONG Yuk-man  
Hon CHAN Yuen-han, SBS, 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  
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 YU Kwok-hung  
Chief Building Surveyor/New Territories East (1) &  
Licensing  
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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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(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(02)(Revised), CB(2)548/15-16(02)(Revised), CB(2)548/15-16(03) to (05), CB(2)721/15-16(02), CB(2)1399/15-16(01) and CB(2)1589/15-16(01)]

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

2. The Bills Committee requested the Administration to:

- (a) amend section 2(2) of Schedule 5 to the effect that the holder of the specified instrument (i.e. a licence, an exemption or a temporary suspension of liability) of the columbarium concerned and the owner of the columbarium premises would be notified if an occupation order was made in respect of the columbarium;
- (b) consider adding to clause 65(3)(a) the conditions set out in section 3(3) of Schedule 5 in the form of a proviso to address the concern about removing section 3(3) of Schedule 5 from the Bill;
- (c) the speech of the Secretary for Food and Health ("SFH") upon the resumption of Second Reading debate on the Bill ("SFH's speech") should cover:

Action

- (i) the Bills Committee's concerns about the Administration's proposals of imposing requirements which would attract criminal sanction for non-compliance and were not prescribed by subsidiary legislation and therefore not subject to amendment by the Legislative Council ("LegCo"); and
  - (ii) the rationale underlying the Bills Committee's acceptance of these proposals (i.e. acknowledgement of the practical difficulties in stipulating such requirements in the Bill or in subsidiary legislation, of the need to strike a balance between the severity of criminal sanction imposed in the event of non-compliance and the deterrent effect of criminal sanction, whilst recognizing that the court would play the role of "gatekeeper" in deciding the penalty to be imposed on the offenders concerned when handling non-compliance cases);
- (d) review the term of imprisonment for contravening section 6(2)(b) of Schedule 5;
  - (e) consider amending section 6(2)(b) of Schedule 5, e.g. by adding the word "identifiable" to the provision so that ashes of individual deceased persons which were delivered to the Director of Food and Environmental Hygiene ("DFEH") would be identifiable. If the amendments were not feasible, specific information on how DFEH would enforce section 6(2)(b) of Schedule 5 (including the guidelines for relevant parties) should be covered in SFH's speech;
  - (f) substitute "The reasonable expenses incurred by a person" by "The reasonable expenses to be incurred by a person" in section 10(1) of Schedule 5;
  - (g) after the implementation of the Private Columbaria Ordinance, brief the relevant Panel of the sixth LegCo on the difficulties encountered in enforcing section 11(1)(b) of Schedule 5 and on the information required therein. In the aforesaid speech, SFH should also clearly state that the Administration would undertake to do so;
  - (h) replace "The Director may keep" by "The Director must keep" in section 13(2A) of Schedule 5;
  - (i) replace "has failed to do so" by "has not done so" in section 15(1)(b) of Schedule 5;

Action

- (j) replace "The Director may keep" by "The Director must keep" in section 16(1) of Schedule 5; and
- (k) include in section 16(1) of Schedule 5 a requirement that DFEH must keep a list setting out the columbaria in respect of which ash disposal procedures were being carried out or had been carried out by the Government.

**II. Date of next meeting**

- 3. Members noted that the next meeting would be held on Monday, 6 June 2016 at 2:30 pm.

**III. Any other business**

- 4. There being no other business, the meeting ended at 11:26 am.

Council Business Division 2  
Legislative Council Secretariat  
4 August 2016

**Proceedings of the thirty-third meeting of the  
Bills Committee on Private Columbaria Bill  
on Monday, 30 May 2016, at 8:30 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>			
001132 - 001241	Chairman	Opening remarks	
001242 - 001722	Chairman Admin	<p>Discussion of the full set of draft Committee stage amendments ("CSAs") to the Bill proposed by the Administration (updated version) (LC Paper No. CB(2)1399/15-16(01)).</p> <p><u>Schedule 5 - section 1 and the proposed section 1A (Annex 2 to LC Paper No. CB(2)1399/15-16(01))</u></p> <p>The Administration's briefing on its proposed CSAs.</p>	
001723 - 002522	Chairman ALA6 Ms Cyd HO Admin	<p><u>Schedule 5 - section 2 (Annex 2 to LC Paper No. CB(2)1399/15-16(01))</u></p> <p>The Administration's advice that it would amend section 2(2) of Schedule 5 to the effect that the holder of the specified instrument (i.e. a licence, an exemption or a temporary suspension of liability) of the columbarium concerned and the owner of the columbarium premises would be notified if an occupation order was made in respect of the columbarium.</p> <p>ALA6 invited members to consider whether it was acceptable not to suspend the operation of an occupation order pending the determination of an appeal against the order. The Chairman's concern that an appeal might become nugatory under such an arrangement. The Administration's explanation of the justifications for the proposed arrangement. The Administration's advice that in most such cases, the columbaria in respect of which occupation orders had been made might have been abandoned. The longer ash disposal was delayed, the greater the social acrimony that might be caused by the uncertainty. During the period when the occupation order was applicable, the owners concerned would still be able to dispose of their properties, though they might not be able to deliver vacant possession. Members raised no objection to the aforesaid arrangement.</p>	Admin (paragraph 2(a) of the minutes)

Time marker	Speaker(s)	Subject(s)	Action required
		Ms Cyd HO's enquiry and the Administration's response regarding the meaning of "necessary modifications" in the proposed section 2(3A) of Schedule 5 and how these modifications would be made. The Administration provided examples of these modifications.	
002523 - 010116	Chairman ALA6 Mr WU Chi-wai Mr WONG Kwok-hing Mr Alan LEONG Dr Priscilla LEUNG Admin	<p><u>Schedule 5 - section 3 (Annex 2 to LC Paper No. CB(2)1399/15-16(01))</u></p> <p>ALA6's advice that the Administration's proposal to delete section 3(3) of Schedule 5 from the Bill might affect the basic rights of the persons who lived in the columbarium premises concerned ("columbarium residents"). She suggested retaining section 3(3) of Schedule 5. The Administration's response that the proposal was made in response to the views of Mr WONG Kwok-hing, Mr Paul TSE and Mr Alan LEONG expressed at a previous meeting of the Bills Committee. In response to ALA6's concern, the Administration advised that the judges would make a decision having regard to the arguments put forward by the specified officer and the operator of a private columbarium ("operator").</p> <p>The Administration's response to Mr WU Chi-wai's enquiry that the Private Columbaria Ordinance ("the Ordinance") did not apply to keeping of not more than 10 containers of ashes in domestic premises.</p> <p>Mr WONG Kwok-hing expressed support for ALA6's suggestion.</p> <p>Mr Alan LEONG's concern that retaining section 3(3) of Schedule 5 might create a loophole. He instanced cases in which a person moved into the columbarium concerned on the day before the occupation order was made and used it for residential purpose. Section 3(3) would render it impossible to make the occupation order. ALA6's response that while the aforesaid cases could not be ruled out, it would be better to retain section 3(3) of Schedule 5 to protect the rights of people residing in the columbarium premises.</p> <p>ALA6's response to Dr Priscilla LEUNG's enquiry that Article 29 of the Basic Law provided that "the homes and other premises of Hong Kong residents shall be inviolable. Arbitrary or unlawful search of, or intrusion</p>	

Time marker	Speaker(s)	Subject(s)	Action required
		<p>into, a resident's home or other premises shall be prohibited".</p> <p>Dr Priscilla LEUNG's enquiry and the Administration's response regarding housing arrangements for the columbarium residents affected by an occupation order. The Administration's advice that section 3(4)(a) of Schedule 5 empowered a specified officer to permit any person to enter and remain on the columbarium for a purpose specified in the permit.</p> <p>In response to the Chairman's enquiry regarding whether section 3(4)(a) of Schedule 5 could address the concern about the rights of columbarium residents, ALA6 advised that section 3(4)(a) of Schedule 5 empowered a specified officer but not a magistrate to permit a person to enter and remain on the columbarium.</p> <p>Mr Alan LEONG's view that clause 65 seemed to have provided a magistrate with sufficient flexibility to determine matters in relation to occupation orders having regard to geographical features, usage of individual columbaria, residential purposes etc. on the basis of the evidence produced, even if section 3(3) of Schedule 5 was deleted from the Bill. ALA6's response that clause 65 should be duly amended to allow a magistrate to have such flexibility.</p> <p>Dr Priscilla LEUNG's view and the Administration's response in relation to entering the columbarium premises for carrying out steps necessary for disposal of ashes without an occupation order.</p> <p>Mr Alan LEONG's view that section 3(3) of Schedule 5 would restrict the powers of a magistrate and clause 65(3) could cover the purpose served by section 3(3) of Schedule 5, as a magistrate might make an occupation order after having considered relevant factors. He suggested that ALA6's view and concern might be dealt with in the procedures for making an occupation order for which the Chief Justice might provide by practice directions under the proposed section 1A(1) of Schedule 5.</p> <p>The Chairman expressed support for deleting section 3(3) of Schedule 5 from the Bill in the light of section 3(4)(a) of Schedule 5 and the procedures for making an occupation order.</p>	



Time marker	Speaker(s)	Subject(s)	Action required
		<p>Mr WU Chi-wai's view that retention of section 3(3) of Schedule 5 would make it clearer that the residential part and the common area of the columbarium concerned would not be affected by an occupation order.</p> <p>Dr Priscilla LEUNG's reiteration of her concern about the housing arrangements for the columbarium residents affected by an occupation order. Her views that a magistrate should not be given too much discretion and it should be clearly stated in the Bill that the residential part of the columbarium would not be affected by an occupation order.</p> <p>The Administration's advice that without section 3(3) of Schedule 5, a magistrate would be given room to exercise the balancing act after hearing the representations advanced by both sides. Should section 3(3) of Schedule 5 be retained, the hands of the magistrate would be tied (in that he would have to rule in favour of the operator under the scenario where part of the columbarium premises was used for residential purpose.). It was the considered view of the Administration that the purposes of the Bill would be better served without section 3(3) of Schedule 5.</p> <p>ALA6's advice that clause 65(3) should be amended to empower a magistrate to exclude the residential part of a columbarium in making an occupation order.</p> <p>Mr Alan LEONG suggested and members agreed that the Administration might explore adding to clause 65(3)(a) the conditions set out in section 3(3) of Schedule 5 in the form of a proviso to address the concern about deleting section 3(3) of Schedule 5 from the Bill. The Administration was requested to consider Mr LEONG's suggestion.</p>	Admin (paragraph 2(b) of the minutes)
010117 - 010207	Chairman Admin	<p><u>Schedule 5 - section 4 (Annex 2 to LC Paper No. CB(2)1399/15-16(01))</u></p> <p>The Administration's briefing on its proposed CSAs.</p>	
010208 - 011144	Chairman Ms Cyd HO Admin	<p><u>Schedule 5 - section 5 (Annex 2 to LC Paper No. CB(2)1399/15-16(01))</u></p> <p>Ms Cyd HO's view regarding the inclusion of a same-sex partner of a deceased person in the definition of relative under section 5(2) of</p>	

Time marker	Speaker(s)	Subject(s)	Action required
		<p>Schedule 5. Ms HO's indication that she might consider putting forward a CSA for such inclusion if the Administration did not do so. The Administration's response that the definition of "relative" in that section followed that in the current law of Hong Kong. The Administration's advice on the various avenues available under the Bill for a same-sex partner of a deceased person to claim back the ashes of the deceased person (i.e. in his/her capacity as the authorized representative named in the agreement for the sale of interment right; as the purchaser) or claim back the item (i.e. in his/her capacity as eligible claimant). At the end of the day, the Director of Food and Environmental Hygiene ("DFEH") had been given the discretion to return the ashes in his/her possession to any party as he/she deemed appropriate, under the scenario where there was no competing claim.</p>	
011145 - 012121	<p>Chairman ALA6 Deputy Chairman Ms Cyd HO Admin</p>	<p><u>Schedule 5 - section 6 (Annex 2 to LC Paper No. CB(2)1399/15-16(01))</u></p> <p>ALA6's advice that section 6(2)(b) of Schedule 5 empowered DFEH to decide how the ashes, which were not returned to an eligible claimant, should be delivered to DFEH and contravening section 6(2)(b) of Schedule 5 was subject to criminal sanction under clause 63 (i.e. on summary conviction, liable to a fine of \$2,000,000 and to imprisonment for three years, and on conviction on indictment, liable to a fine of \$5,000,000 and to imprisonment for seven years.) She invited members to consider whether the Administration's proposal was acceptable.</p> <p>In response to the Chairman's enquiry, ALA6 advised that the manner in which the aforesaid ashes should be delivered to DFEH might be provided for in the Bill or in subsidiary legislation. The Administration's explanation of the justifications for its proposal and its advice that the provision allowed DFEH to specify a reasonable way for delivering ashes to him/her appropriate to different circumstances.</p> <p>The Deputy Chairman's view that the arrangement mentioned in section 6(2)(b) of Schedule 5 should be prescribed by subsidiary legislation. The Administration's concern that prescribing the manner in which the ashes were to be returned through subsidiary legislation might affect the timeliness in carrying out the</p>	

Time marker	Speaker(s)	Subject(s)	Action required
		<p>work related to ash disposal, as abandonment cases triggering the ash disposal could arguably arise as soon as the the Ordinance came into effect.</p> <p>The Administration's response to the Deputy Chairman's enquiry that there were provisions in the Bill on drawing up guidelines and issuing the codes of practice.</p> <p>ALA6's response to the Deputy Chairman's enquiry that the requirement imposed by DFEH under section 6(2)(b) of Schedule 5 would not be subject to amendment by the Legislative Council ("LegCo") as it was not provided for in subsidiary legislation.</p> <p>Ms Cyd HO said that she did not have strong view against the Administration's proposal.</p>	
012122 - 012248	Chairman Admin	<p>The Chairman's advice that at previous meetings of the Bills Committee, members had discussed the Administration's proposals to empower the future Private Columbaria Licensing Board ("Licensing Board") under the Bill to impose certain requirements which were not provided for in subsidiary legislation and therefore would not be subject to amendment by LegCo. Having considered the severity of imposing criminal sanction for non-compliance, the practical difficulties in stipulating such requirements in the Bill or in subsidiary legislation, the deterrent effect of criminal sanction and the fact that non-compliant cases would be handled by the court, the Bills Committee considered the Administration's proposals acceptable on balance. The Chairman suggested that the Bills Committee's concerns and the rationale of the Bills Committee's decision should be covered in the speech of the Secretary for Food and Health ("SFH") when the Second Reading debate on the Bill ("SFH's speech") was resumed.</p>	Admin (paragraph 2(c) of the minutes)
012249 - 012812	Chairman Ms Cyd HO Deputy Chairman Admin	<p>Ms Cyd HO's request for the Administration to brief Members on the experience on ash disposal after the ash handlers had carried out the ash disposal procedures for the first time. The Administration responded that it would brief LegCo on codes of practice about the operation and management of columbaria and the guidelines issued by the Licensing Board.</p> <p>At Ms Cyd HO's request, the Administration undertook to review the term of imprisonment</p>	Admin

Time marker	Speaker(s)	Subject(s)	Action required
		<p>for contravening section 6(2)(b) of Schedule 5. The Chairman said that he did not go for a lighter punishment as the punishment should achieve a deterrent effect.</p> <p>The Deputy Chairman's view that the Administration should inform members of its preliminary thinking of how DFEH would enforce section 6(2)(b) of Schedule 5 and how the relevant parties would be notified of the arrangement.</p>	(paragraph 2(d) of the minutes)
012813 - 013158	Chairman Admin	<p>The Administration's suggestion that it would explore the practicality of amending section 6(2)(b) of Schedule 5 at this stage, e.g. by adding the word "identifiable" to the provision so that ashes of individual deceased persons which were delivered to DFEH would be identifiable. If the amendments were not feasible, specific information on how DFEH would enforce section 6(2)(b) of Schedule 5 (including the guidelines for relevant parties) would be covered in SFH's speech. Members agreed to the Administration's suggestion.</p> <p>The Chairman said that the Bills Committee's concerns about the requirements to be imposed by DFEH and the rationale of accepting the Administration's suggestions as mentioned earlier (time marker: 012122-012248) should also be covered in SFH's speech.</p>	<p>Admin (paragraph 2(e) of the minutes)</p> <p>Admin (paragraph 2(c) of the minutes)</p>
013159 - 013210	Chairman Admin	<p><u>Schedule 5 - section 7 (Annex 2 to LC Paper No. CB(2)1399/15-16(01))</u></p> <p>The Administration's briefing on its proposed deletion of section 7 of Schedule 5.</p>	
013211 - 014228	Chairman ALA6 Ms Cyd HO Admin	<p><u>Schedule 5 - section 8 (Annex 2 to LC Paper No. CB(2)1399/15-16(01))</u></p> <p>ALA6's advice that the particulars relating to the intended handling of the ashes referred to in section 8(4)(b)(iii) of Schedule 5 were not spelt out and contravening the provision was subject to criminal sanction under clause 63. She invited members to consider whether the Administration's proposal was acceptable.</p> <p>Ms Cyd HO's enquiry and the ALA6's response regarding the feasibility of making amendments to section 8(4)(b)(iii) of Schedule 5 which were similar to those to be made to section 6(2)(b) of Schedule 5 within a short period of time.</p>	

Time marker	Speaker(s)	Subject(s)	Action required
		Views of the Chairman and Ms Cyd HO that the concerns about section 8(4)(b)(iii) of Schedule 5 should be handled in the same manner as those about section 6(2)(b) of Schedule 5 (i.e. specific information on how DFEH would enforce the provision (including the guidelines for relevant parties) should be covered in SFH's speech).	Admin (paragraph 2(e) of the minutes)
014229 - 015615	Chairman ALA6 Ms Cyd HO Admin	<p><u>Schedule 5 - section 9 (Annex 2 to LC Paper No. CB(2)1399/15-16(01))</u></p> <p>The Chairman's enquiry and the Administration's response regarding the reasons for an authorized representative's claim for ashes to have priority over that of the purchaser and a claim of a personal representative or relative to have priority over that of the purchaser. The Administration's advice that the purchaser could appoint himself/herself as an authorized representative.</p> <p>ALA6's response to the enquiries of Ms Cyd HO and the Chairman that a personal representative's claim and a relative's claim had equal priority over the purchaser's claim under the proposed section 9(5)(ba) of Schedule 5. The Administration's explanation of the justifications for its proposal and its advice that competing claims should be determined by the court.</p>	
015616 - 020711	Chairman	Break	
020712 - 021815	Chairman ALA6 Ms Cyd HO Admin	<p><u>Schedule 5 - section 9 (Annex 2 to LC Paper No. CB(2)1399/15-16(01))</u></p> <p>ALA6 invited members to consider whether the proposed section 9(8)(aa)(ii) of Schedule 5 was acceptable (i.e. returning the specified item after the expiry of the on-site claim period to a person who was not a prescribed claimant and who claimed to be the owner of the item as referred to in section 9(7)(b) of Schedule 5). In the light of the length of the on-site claim periods (at least eight months under the revised section 6(3)(a) of Schedule 5 or at least 12 months under section 6(2)(a) of Schedule 5), members raised no objection to the Administration's proposal.</p>	
021816 - 022204	Chairman ALA6 Admin	<p><u>Schedule 5 - section 10 (Annex 2 to LC Paper No. CB(2)1399/15-16(01))</u></p> <p>ALA6's view that the expenses incurred in carrying out the prescribed ash disposal</p>	

Time marker	Speaker(s)	Subject(s)	Action required
		<p>procedures could not be determined until such procedures had been completed and hence there were practical difficulties as to how section 10(1) of Schedule 5 was implemented. The Administration's response that it would amend section 10(1) of Schedule 5 by substituting "The reasonable expenses incurred by a person" by "The reasonable expenses to be incurred by a person".</p> <p>ALA6 invited members to consider whether it was acceptable for the expenses to be calculated based on an estimation. Members raised no objection in this regard.</p> <p><i>(Post-meeting note: Section 10 of Schedule 5 was eventually deleted in the final CSAs.)</i></p>	Admin (paragraph 2(f) of the minutes)
022205 - 022414	Chairman ALA6 Ms Cyd HO Admin	<p><u>Schedule 5 - section 11 (Annex 2 to LC Paper No. CB(2)1399/15-16(01))</u></p> <p>ALA6's advice that the information required by the Licensing Board under section 11(1)(b) of Schedule 5 was not prescribed by subsidiary legislation and therefore such requirement would not be subject to amendment by the LegCo and non-compliance with the provision was subject to criminal sanction under clause 63. She invited members to consider whether the Administration's proposal was acceptable. In the light of the rationale of the Bills Committee's acceptance of proposals of similar nature, members raised no objection to the Administration's proposal.</p> <p>The Chairman said that section 11(1)(b) of Schedule 5 should be handled in the same manner as agreed earlier (i.e. specific information on how the Licensing Board would enforce the provision (including the guidelines for relevant parties) should be covered in SFH's speech).</p> <p>Ms Cyd HO's view that after the implementation of the Ordinance, the Administration should brief the relevant Panel of the sixth LegCo on the difficulties encountered in enforcing section 11(1)(b) of Schedule 5 for Members to consider whether the information required under that provision should be prescribed in subsidiary legislation. The Chairman's view that the Administration should also brief the relevant Panel of the sixth LegCo on the information required in that provision as far as practicable. In his speech, SFH should also clearly state that the Administration would undertake to do so.</p>	<p>Admin (paragraph 2(e) of the minutes)</p> <p>Admin (paragraph 2(g) of the minutes)</p>

Time marker	Speaker(s)	Subject(s)	Action required
022415 - 022511	Chairman ALA6 Admin	<p><u>Schedule 5 - section 12 (Annex 2 to LC Paper No. CB(2)1399/15-16(01))</u></p> <p>ALA6's advice that the steps which DFEH considered necessary to facilitate the return of ashes required to be taken under section 12 of Schedule 5 would not be subject to amendment by the LegCo as they were not prescribed by subsidiary legislation and non-compliance with the requirement was subject to criminal sanction under clause 63. She invited members to consider whether the Administration's proposal was acceptable. In the light of the rationale of the Bills Committee's acceptance of proposals of similar nature, members raised no objection to the Administration's proposal.</p> <p>The Chairman said that section 12 of Schedule 5 should be handled in the same manner as agreed earlier (i.e. specific information on how DFEH would enforce the provision (including the guidelines for relevant parties) should be covered in SFH's speech).</p>	Admin (paragraph 2(e) of the minutes)
022512 - 023043	Chairman ALA6 Admin	<p><u>Schedule 5 - section 13 (Annex 2 to LC Paper No. CB(2)1399/15-16(01))</u></p> <p>ALA6's advice that section 13(2) of Schedule 5 did not impose obligations on DFEH to dispose of ashes according to the prescribed procedures. She invited members to consider whether the Administration's proposal was acceptable. The Administration's explanation of the justifications for its proposal. Members raised no objection to the Administration's proposal.</p> <p>ALA6 invited members to consider whether it was acceptable that the proposed section 13(2A) of Schedule 5 only provided that DFEH might keep a record of the process of the steps carried out under clause 65(2) but did not require him to do so. The Administration's explanation of the justifications for its proposal.</p> <p>The Chairman's view that "The Director may keep" should be replaced by "The Director must keep" in the proposed section 13(2A) of Schedule 5. The Administration undertook to do so.</p> <p>ALA6's advice that under section 13(3) of Schedule 5, DFEH was not required to dispose of ashes according to sections 6, 8 and 9 of Schedule 5 and could carry out steps that he/she considered necessary for the disposal. She</p>	Admin (paragraph 2(h) of the minutes)

Time marker	Speaker(s)	Subject(s)	Action required
		invited members to consider whether the Administration's proposal was acceptable. Members raised no objection to the Administration's proposal.	
023044 - 023225	Chairman ALA6 Admin	<u>Schedule 5 - section 14 (Annex 2 to LC Paper No. CB(2)1399/15-16(01))</u>  ALA6 invited members to consider whether the Administration's proposal under section 14(2) of Schedule 5 was acceptable. Members raised no objection to the Administration's proposal.	
023226 - 023746	Chairman Ms Cyd HO Admin	<u>Schedule 5 - section 15 (Annex 2 to LC Paper No. CB(2)1399/15-16(01))</u>  The Administration's advice that it would replace "has failed to do so" by "has not done so" in section 15(1)(b) of Schedule 5.  Ms Cyd HO's enquiry and the Administration's response regarding the rate of interest for the expenses incurred as mentioned in section 15 of Schedule 5.	Admin (paragraph (i) of the minutes)
023747 - 024558	Chairman ALA6 Admin	<u>Schedule 5 - section 16 (Annex 2 to LC Paper No. CB(2)1399/15-16(01))</u>  ALA6 invited members to consider whether it was acceptable that section 16(1) of Schedule 5 only provided that DFEH might keep the information referred to in that subsection but did not require him to do. At the Chairman's request, the Administration undertook to replace "The Director may keep" by "The Director must keep" in section 16(1) of Schedule 5.  ALA6's advice that section 16(1) of Schedule 5 did not require DFEH to keep a list setting out the columbaria in respect of which ash disposal procedures were being carried out or had been carried out by the Government. She invited members to consider whether the Administration's proposal was acceptable. The Administration's explanation of the justifications for its proposal.  In response to the Chairman's enquiry, ALA6 suggested including in section 16(1) of Schedule 5 a requirement that DFEH must keep a list setting out the columbaria in respect of which ash disposal procedures were being carried out or had been carried out by the	Admin (paragraph (j) of the minutes)



Time marker	Speaker(s)	Subject(s)	Action required
		<p>Government. The Administration's response that information on the aforesaid columbaria would be published.</p> <p>The Chairman expressed support for ALA6's suggestion and requested the Administration to amend section 16(1) of Schedule 5 accordingly.</p> <p>ALA6 invited members to consider whether the deletion of section 16(1)(c) of Schedule 5 proposed by the Administration was acceptable. The Administration's explanation of the justifications for its proposal. Members raised no objection to the Administration's proposal.</p>	Admin (paragraph 2(k) of the minutes)
024559 - 024904	Chairman ALA6 Admin	<p><u>Schedule 5 - section 17 (Annex 2 to LC Paper No. CB(2)1399/15-16(01))</u></p> <p>ALA6 invited members to consider whether it was acceptable that the applicant must carry out the prescribed ash disposal procedures as required under section 17(2B) of Schedule 5 pending the determination of an appeal against a refusal of an application for approval of an ash disposal plan. Members raised no objection in this regard.</p>	
024905 - 025057	Chairman ALA6	<p>To follow up Mr Albert CHAN's enquiry raised at the meeting of the Bills Committee on 24 May 2016, ALA6 provided examples of legislative provisions on immunity from civil liability.</p>	
025058 - 025632	Chairman Deputy Chairman Admin	<p>The Administration's response to issues raised by members at meetings of the Bills Committee on 6 July, 20 July, 29 September and 13 October 2015 (LC Paper No. CB(2)1589/15-16(01)).</p> <p>Members agreed that the Bills Committee would not go through the Administration's response item-by-item and would look at individual items only upon request by members. Members also agreed that at the next meeting to be held on 6 June 2016, the Bills Committee would deal with members' request for discussion of the Administration's response, if any, and then study the Administration's proposed CSAs which had been revised in the light of discussions at recent meetings.</p> <p>The Chairman's advice that individual members who intended to propose CSAs to the Bill should forward them to the Clerk to the Bills Committee before 6 June 2016, so that they</p>	

<b>Time marker</b>	<b>Speaker(s)</b>	<b>Subject(s)</b>	<b>Action required</b>
		could be forwarded to members for consideration at the next meeting.	
025633 - 025719	Chairman	Date of next meeting	

Council Business Division 2  
Legislative Council Secretariat  
4 August 2016