

For discussion
on 26 January 2016

LC Paper No. CB(2)721/15-16(01) (Revised)

Bills Committee on Private Columbaria Bill

The Third Batch of Draft Committee Stage Amendments (Part C) **To be Proposed by the Government**

Purpose

This paper sets out the third batch of draft Committee Stage Amendments (Part C) to the Private Columbaria Bill (the Bill) (CSAs)¹ to be proposed by the Government.

Textual and Technical Amendments

2. We propose a number of textual or technical amendments to enhance the clarity of the Bill. Details of the draft CSAs, the source proposing the change and the justifications for the change are set out in **Annex 1** and a marked-up version is at **Annex 2**.

Advice Sought

3. Members are invited to note the contents of the paper.

Food and Health Bureau
22 January 2016
[updated on 10 February 2016]

¹ Following deliberation, the various batches of draft CSAs will be fine-tuned into formal CSAs for inclusion into a consolidated version.

**The Third Batch of Draft Committee Stage Amendments (Part C) to the Private Columbaria Bill (CSAs)
to be proposed by the Government**

Item [Source]	Clause [Page No.]	Proposed Draft CSAs with Chinese Translation		Intent and Justifications	
		English	Chinese		
C0001 [Govt]	2(1) [C3391]	By adding after the definition of <i>columbarium premises</i> — “ <i>commencement of ash disposal notice</i> (展開骨灰處置通知) — see section 8 of Schedule 5;”.	在 <i>指明格式</i> 的定義之後，加入— “ <i>展開骨灰處置通知</i> (commencement of ash disposal notice) — 見附表5第8條;”。	2.01	This seeks to enhance the clarity of the provision.
C0002 [Govt]	2(1) [C3395]	In the definition of <i>sell</i> , by deleting “is to be construed in accordance with” and substituting “—see”.	在 <i>出售</i> 的定義中，刪除“須按照第3條解釋”，代以“—見第3條”。	2.02	This seeks to streamline the presentation.
C0003 [Govt]	2(1) [C3395]	In the definition of <i>specified form</i> , by deleting “in the form as” and substituting “the form”.	在英文文本中，在 <i>指明格式</i> 的定義中，刪除“in the form as”，代以“the form”。	2.03	This seeks to enhance the clarity of the provision.
C0004 [Govt]	2(4) [C3397]	By deleting “means” and substituting “is a reference to”.	刪除“指”，代以“即提述”。	2.04	This seeks to streamline the presentation.
C0005 [Govt]	2(5) [C3397]	By deleting “means” and substituting “is a reference to”.	刪除“指”，代以“即提述”。	2.05	This seeks to streamline the presentation.

Item [Source]	Clause [Page No.]	Proposed Draft CSAs with Chinese Translation		Intent and Justifications	
		English	Chinese		
C0006 [Govt]	2(6) [C3399]	By deleting “means” and substituting “is a reference to”.	刪除“指”，代以“即提述”。	2.06	This seeks to streamline the presentation.
C0007 [Govt]	2(7) [C3399]	By deleting “means” and substituting “is a reference to”.	刪除“指”，代以“即提述”。	2.07	This seeks to streamline the presentation.
C0008 [Govt]	2(8) [C3399]	By deleting “means” and substituting “is a reference to”.	刪除“指”，代以“即提述”。	2.08	This seeks to streamline the presentation.
C0009 [Govt]	4, heading [C3403]	By deleting “ or undertakers ” and substituting “ , undertakers ”.	刪除“或”，代以“、”。	4.01	This seeks to enhance the clarity of the provision.
C0010 [ALA]	4(1)(c) [C3402]	In the Chinese text, by deleting “的人” and substituting “的人士”.	在中文文本中，刪除“的人”，代以“的人士”。	4.02	Please see item 12 of our response dated 3 January 2016 to ALA’s letter dated 1 December 2015.

Item [Source]	Clause [Page No.]	Proposed Draft CSAs with Chinese Translation		Intent and Justifications	
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C0011 [ALA]	7(1) [C3407]	By deleting “principal”.	刪除“主要”。	7.01	This is made in response to an enquiry from ALA to the Government on 1 December 2015: Given that clause 7(1)(b) covers any other things that the Licensing Board is required or authorized to do under this Ordinance, whether it is appropriate for clause 7(1) to refer to “the principal functions”. We agree that the word “principal” may be deleted.
C0012 [Govt]	7(1)(a)(iii) [C3407]	In the Chinese text, by deleting “營辦者” and substituting “營辦人”.	在中文文本中，刪除“營辦者”，代以“營辦人”。	7.02	This seeks to enhance consistency with similar expressions in the Bill.
C0013 [Govt]	9(3)(b)(ii) [C3411]	By deleting “a”.	在英文文本中，刪除“a”。	9.01	This seeks to enhance consistency with similar expressions in the Bill.

Item [Source]	Clause [Page No.]	Proposed Draft CSAs with Chinese Translation		Intent and Justifications
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C0014 [ALA]	11(3) [C3415]	By deleting paragraph (a) and substituting— “(a) where— (i) the columbarium premises are held directly from the Government under a lease — the remainder of the term of the lease; or (ii) the columbarium premises are occupied under a tenancy or other instrument — the remainder of the term of the tenancy or other instrument;”.	刪除(a)段，代以： “(a) 如— (i) 骨灰安置所處所是根據租契直接從政府取得而持有的—該租契餘下的年期；或 (ii) 骨灰安置所處所是根據租賃或其他文書佔用的—該租賃或其他文書餘下的年期；”。	11.01 Please see item 2 of our response dated 1 December 2015 to ALA's letter dated 26 June 2015.

Item [Source]	Clause [Page No.]	Proposed Draft CSAs with Chinese Translation		Intent and Justifications
		English	Chinese	
C0015 [ALA]	11(4) [C3417]	<p>By deleting everything after “period of an” and substituting—</p> <p>“exemption must not exceed—</p> <p>(a) where the columbarium premises are held directly from the Government under a lease — the remainder of the term of the lease; or</p> <p>(b) where the columbarium premises are occupied under a tenancy or other instrument — the remainder of the term of the tenancy or other instrument.”.</p>	<p>刪除第11(4)條的所有字句，代以：</p> <p>“豁免書的有效期不得超逾—</p> <p>(a) 如骨灰安置所處所是根據租契直接從政府取得而持有的 — 該租契餘下的年期；或</p> <p>(b) 如骨灰安置所處所是根據租賃或其他文書佔用的 — 該租賃或其他文書餘下的年期；”。</p>	11.02 Please see item 2 of our response dated 1 December 2015 to ALA’s letter dated 26 June 2015.

Item [Source]	Clause [Page No.]	Proposed Draft CSAs with Chinese Translation		Intent and Justifications
		English	Chinese	
C0016 [Govt]	11(5) [C3417]	By deleting everything after “must not exceed” and substituting “3 years”.	刪除在“不得超逾”之後的所有字句，代以“3年”。	11.03 Clause 30(1) and (2) provides that a temporary suspension of liability is subject to the condition that its holder must take, with reasonable expedition, all necessary steps towards meeting the requirements, and procuring the issue, of a licence or an exemption (as the case may be). This will include taking steps to procure a longer term relating to the use of columbarium premises for the purpose of satisfying the requirements under clause 13(1)(b) or 15(h)(i) <u>or</u> clause 14(3)(b) or 15(h)(ii). Hence, clause 11(5)(a) is not necessary. Removing it will also enable the application for a temporary suspension of liability to be processed more expeditiously.

Item [Source]	Clause [Page No.]	Proposed Draft CSAs with Chinese Translation		Intent and Justifications
		English	Chinese	
C0017 [Govt]	11(7) [C3417]	<p>(a) By deleting “subsections (3)(b) and (5)(b), the validity period of a specified instrument issued, renewed or extended” and substituting “subsection (3)(b), the validity period of a licence or exemption issued or renewed”.</p> <p>(b) By deleting everything after “concurrent with” and substituting “the term of the short term tenancy (including any extended term) until the short term tenancy is terminated on notice given for a specified period in accordance with the short term tenancy agreement.”</p>	<p>(a) 刪除“除第(3)(b)及(5)(b)款另有規定外，就第(6)款提述的骨灰安置所處所發出、續期或延展的指明文書的有效期”，代以“除第(3)(b)款另有規定外，就第(6)款提述的骨灰安置所處所發出或續期的牌照或豁免書的有效期”。</p> <p>(b) 刪除“持續的期間看齊”，代以“的年期(包括任何延展的年期)看齊，直至該短期租賃按照有關短期租賃協議，藉發出達指明期間的通知而終止”。</p>	11.04 With item C0016, item C0017 seeks to make consequential amendment by removing reference to “(5)(b)” and temporary suspension of liability in clause 11(7).

Item [Source]	Clause [Page No.]	Proposed Draft CSAs with Chinese Translation		Intent and Justifications
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C0018 [ALA]	11 [C3417]	<p>By adding after clause 11(7)—</p> <p>“(7[A]) A specified instrument in respect of which an application for renewal or extension is made in accordance with section 11A, and which expires prior to the determination by the Licensing Board of the application, remains in effect until the determination of the application unless—</p> <p>(a) the application is withdrawn;</p> <p>(b) the specified instrument is revoked under section 33;</p> <p>(c) despite subsection (3)(b), for a licence — the remainder of the term under subsection (3)(a)(i) or (ii) (as the case requires) expires; or</p>	<p>在第11(7)款條之後，加入—</p> <p>“(7[A]) 某指明文書在發牌委員會就其根據第11A條提出的續期或延展申請作出決定前，有關指明文書的有效期已告屆滿，則除非—</p> <p>(a) 該申請被撤回；</p> <p>(b) 該指明文書根據第33條被撤銷；</p> <p>(c) 就牌照而言 —儘管有第(3)(b)款的規定，根據第(3)(a)(i)或(ii)款（視乎何種情況而定）的餘下的年期屆滿；或</p> <p>(d) 就豁免書而言 —根據第(4)(a)或(b)款（視乎何種情況而定）的餘下的年期屆滿，</p> <p>否則該指明文書在該申請作出決定前繼續有效。”。</p>	<p>11.05 Please see items 8, 13 and 16 of our response dated 27 November 2015 to ALA’s letter dated 17 April 2015.</p> <p>11.06 The assigned number in square brackets is subject to change, having regard to other CSAs in the pipeline.</p>

Item [Source]	Clause [Page No.]	Proposed Draft CSAs with Chinese Translation		Intent and Justifications
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		(d) for an exemption — the remainder of the term under subsection (4)(a) or (b) (as the case requires) expires.”.		
C0019 [Govt ALA]	New [C3415]	<p>By adding before clause 11(2)—</p> <p>“11A. Time limit for application for specified instrument</p> <p>(1) An application for the issue of a specified instrument in respect of a pre-Bill columbarium must be made to the Licensing Board at any time—</p> <p>(a) after the expiry of 3 months beginning on the enactment date; but</p> <p>(b) before the expiry of 6 months beginning on the same date.</p> <p>(2) Despite subsection (1), the Licensing Board may consider an application that is made out of time if—</p>	<p>在第11(2)條之前，加入—</p> <p>“11A. 提出指明文書申請的時限</p> <p>(1) 要求就草案前骨灰安置所發出指明文書的申請，須在符合以下說明的任何時間，向發牌委員會提出 —</p> <p>(a) 在自刊憲日期起計的3個月屆滿之後；但</p> <p>(b) 在自該日期起計的6個月屆滿之前。</p> <p>(2) 儘管有第(1)款的規定，凡有不在上述限期內提出的申請，如 —</p> <p>(a) 申請人對未有在上述限期內提出該申</p>	<p>11.07 Item C0019 seeks to reorganise clause 11 into 3 clauses, namely –</p> <p>(a) clause 11 providing that the Licensing Board may, on application and subject to any conditions that it thinks fit to impose, issue, renew or extend a specified instrument;</p> <p>(b) clause 11A stipulating the time limit for filing an application for a specified instrument; and</p> <p>(c) clause 11B stipulating the validity period of a specified instrument.</p>

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		<p>(a) the applicant has a reasonable excuse for failing to make the application within time; and</p> <p>(b) in all the circumstances of the case, the Licensing Board considers that it is just and equitable to consider the application.</p> <p>(3) An application for the renewal of a licence or exemption (as the case requires) must be made not later than 18 months before the expiry of the validity period of the licence or exemption.</p> <p>(4) Subject to subsection (5), an application for the extension of a temporary suspension of liability must be made not later than 12 months before the expiry of the validity period of the temporary suspension of liability.</p>	<p>請，有合理辯解；及</p> <p>(b) 發牌委員會認為，在有關個案的整體情況下，考慮該申請是公正和公平的，</p> <p>則該委員會可考慮該申請。</p> <p>(3) 要求將某牌照或豁免書續期的申請(視情況所需而定)須在不遲於該牌照或豁免書的有效期屆滿前的18個月提出。</p> <p>(4) 除第(5)款另有規定外，要求將某暫免法律責任書延展的申請須在不遲於該暫免法律責任書的有效期屆滿前的12個月提出。</p> <p>(5) 如某暫免法律責任書的有效期短於2年，則要求將該暫免法律責任書延展的申請須在不遲於發</p>	<p>11.08 Item C0020 seeks to remove clause 21(1) and (2) and item C0019 seeks to add the same to clause 11A as subclauses (1) and (2).</p> <p>11.09 Re: clause 11A(3) to (5). Please see items 8, 13 and 16 of our response dated 27 November 2015 to ALA's letter dated 17 April 2015.</p>

Item [Source]	Clause [Page No.]	Proposed Draft CSAs with Chinese Translation		Intent and Justifications
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		<p>(5) If the validity period of a temporary suspension of liability is shorter than 2 years, an application for the extension of a temporary suspension of liability must be made not later than a date specified by it.</p> <p>11B. Validity period of specified instrument”.</p>	<p>牌委員會指明的日期提出。</p> <p>11B.指明文書的有效期”。</p>	
C0020 [Govt]	21(1) and (2) [C3437]	By deleting subclauses (1) and (2).	刪除第(1)及(2)款。	21.01 With item C0019 adding clause 11A(1) and (2), item C0020 seeks to make consequential amendment by deleting the same in clause 21(1) and (2).

Item [Source]	Clause [Page No.]	Proposed Draft CSAs with Chinese Translation		Intent and Justifications	
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C0021 [Govt]	21(3) [C3437]	By deleting “section 14, 15 or 16 or section 4 of Schedule 2 (each is called an <i>eligibility-related provision</i>)” and substituting “an eligibility-related provision”.	刪除“第 14、15 或 16 條或附表 2 第 4 條(以上條文稱為 <i>資格相關條文</i>)”，代以“某資格相關條文”。	21.02	Please see item 21 of our response dated 9 October 2014 to ALA’s letter dated 4 September 2014.
				21.03	Having reviewed the provision, we propose adding an interpretative provision on the term “eligibility-related provision” as clause 21(6) (see item C0024), thereby allowing us to simplify the write-up in clause 21(3) (see item C0021) and clause 22(1)(b) (see item C0026).
C0022 [Govt]	21(3)(e) [C3439]	By adding “and” after the semicolon.	在分號之後，加入“及”。	21.04	This seeks to enhance the clarity of the provision.
C0023 [Govt]	21(5)(a) [C3439]	By deleting “liability; and” and substituting “liability;”.	刪除“；及”，代以“；”。	21.05	This seeks to enhance the clarity of the provision.

Item [Source]	Clause [Page No.]	Proposed Draft CSAs with Chinese Translation		Intent and Justifications	
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C0024 [Govt]	21 [C3441]	By adding after subclause (5)— “(6) In subsection (3), <i>eligibility-related provision</i> (資格相關條文) means section 14, 15 or 16 or section 4 of Schedule 2.”.	在第(5)款之後，加入— “(6) 在第(3)款中， <i>資格相關條文</i> (eligibility-related provision)指第14、15或16條或附表2第4條。”。	21.06	Please see items C0021 and C0026.
C0025 [Govt]	22(1)(a) [C3441]	By deleting “operator” and substituting “ <i>operator</i> (營辦人)”.	刪除“營辦人”，代以“ <i>營辦人</i> (operator)”。	22.01	This seeks to streamline the presentation.
C0026 [Govt]	22(1)(b) [C3441]	By deleting paragraph (b) and substituting— “(b) <i>eligibility-related provision</i> has the same meaning as in section 21(6);”.	刪除(b)段，代以— “(b) 資格相關條文的涵義，與第21(6)條中該詞的涵義相同；”。	22.02	Please see items C0021 and C0024.
C0027 [Govt]	22(1)(c) [C3441]	By deleting “notifiable particulars mean” and substituting “ <i>notifiable particulars</i> (須通報詳情) means”.	刪除“須通報詳情指”，代以“ <i>須通報詳情</i> (notifiable particulars) 指”。	22.03	This seeks to streamline the presentation.
C0028 [Govt]	22(1)(d) [C3441]	By deleting “batch 1 particulars mean” and substituting “ <i>batch 1 particulars</i> (第1組詳情) means”.	刪除“第1組詳情，指”，代以“ <i>第1組詳情</i> (batch 1 particulars)，指”。	22.04	This seeks to streamline the presentation.

Item [Source]	Clause [Page No.]	Proposed Draft CSAs with Chinese Translation		Intent and Justifications	
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C0029 [Govt]	22(1)(e) [C3441]	By deleting “batch 2 particulars mean” and substituting “ <i>batch 2 particulars</i> (第 2 組詳情) means”.	刪除“第 2 組詳情，指”，代以“ 第 2 組詳情 (batch 2 particulars) ，指”。	22.05	This seeks to streamline the presentation.
C0030 [Govt]	22(1)(f) [C3441]	By deleting “the notifications scheme is” and substituting “ <i>notification scheme</i> (通報計劃) means”.	刪除“通報計劃，即”，代以“ 通報計劃 (notification scheme) ，指”。	22.06	This seeks to streamline the presentation.
C0031 [Govt]	22(2)(b) [C3442]	In the Chinese text, by deleting “該營辦人” and substituting “營辦人”.	在中文文本中，刪除“該營辦人”，代以“營辦人”。	22.07	This seeks to enhance the clarity of the provision.
C0032 [Govt]	22(2)(b)(i) [C3443]	In the English text, by deleting “particulars,” and substituting “particulars—”.	在英文文本中，刪除“particulars,” ，代以“particulars—”。	22.08	This seeks to streamline the presentation.
C0033 [Govt]	22(2)(b)(ii) [C3443]	In the English text, by deleting “particulars,” and substituting “particulars—”.	在英文文本中，刪除“particulars,” ，代以“particulars—”。	22.09	This seeks to streamline the presentation.
C0034 [Mbr]	22(8) [C3445]	By adding “(as read with subsection (6))” after “subsection (4)”.	在”，以為”之前，加入“(與第(6)款一併理解)”。	22.10	This seeks to enhance the clarity of the provision.
C0035 [Govt]	24(b) [C3449]	By adding “and” after the semicolon.	在分號之後，加入“及”。	24.01	This seeks to enhance the clarity of the provision.

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C0036 [Govt]	38(2)(b) [C3471]	By deleting “premises.” and substituting “columbarium.”	刪除“處所。”，代以“骨灰安置所。”。	38.01 This seeks to enhance the clarity of the provision.
C0037 [Govt]	40 [C3473]	By renumbering it as subclause (1).	重新編號為第(1)款。	40.01 This seeks to enhance the clarity of the provision.
C0038 [ALA]	40(1) [C3473]	By deleting “this Part and Schedule 4” and substituting “Division 1 of this Part”.	刪除“本部及附表4”，代以“本部第1分部”。	40.02 Please see item 1 of our response dated 1 December 2015 to ALA’s letter dated 26 June 2015.
C0039 [ALA]	40 [C3473]	By adding after subclause (1)— “(2) Division 1 of this Part applies to an agreement for the sale of an interment right entered into on or after the enactment date.”.	在第(1)款之後，加入— “(2) 本部第1分部適用於在刊憲日期當日或之後訂立的安放權出售協議。”。	40.03 Please see item 1 of our response dated 1 December 2015 to ALA’s letter dated 26 June 2015.
C0040 [Govt]	41(1) [C3473]	By deleting “columbarium.” and substituting “columbarium, whether or not to the purchaser as dedicated person.”.	在“，而”之後，加入“不論買家是否為受供奉人，”。	41.01 This seeks to enhance the clarity of the provision.
C0041 [Govt]	42(1) [C3477]	In the English text, by deleting “made” and substituting “entered into”.	在英文文本中，刪除“made”，代以“entered into”。	42.01 This seeks to enhance the clarity of the provision.

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C0046 [Govt]	New [C3485]	<p>By adding after clause 46—</p> <p>“46[A]. Records on interment and disinterment of ashes, etc.</p> <p>(1) A person holding a specified instrument in respect of a columbarium must keep—</p> <p>(a) a record on interment and disinterment of ashes in and from the columbarium; and</p> <p>(b) a record of the contact details of authorized representatives in respect of the ashes interred in the columbarium.</p> <p>(2) A person holding a specified instrument in respect of a columbarium must make the copies of records</p>	<p>在第46條之後，加入—</p> <p>“46[A]. 安放及移走骨灰的紀錄</p> <p>(1) 就骨灰安置所持有指明文書的人，須備存—</p> <p>(a) 將骨灰安放在該骨灰安置所，以及將安放在該骨灰安置所的骨灰移走的紀錄；及</p> <p>(b) 安放在該骨灰安置所內的骨灰的獲授權代表的聯絡資料的紀錄。</p> <p>(2) 就骨灰安置所持有指明文書的人，須應署長或獲授權人員要求，將根據本條就該骨灰安置所備存的紀錄，提供予署長或該人員查閱。</p> <p>(3) 任何人違反第(1)或(2)款，即屬犯罪，一經定罪，可處第3級罰款及監禁6個月。”。</p>	<p>46[A].01 Please see items C0043 and C0044.</p> <p>46[A].02 The assigned number in square brackets is subject to change, having regard to other CSAs in the pipeline.</p>

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		<p>kept in respect of the columbarium under this section available for inspection, on request, by the Director or authorized officer.</p> <p>(3) A person who contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 6 months.”.</p>		
C0047 [Govt]	48 [C3487]	By renumbering it as subclause (1).	重新編號為第(1)款。	48.01 This seeks to enhance the clarity of the provision.
C0048 [Govt]	48(1) [C3487]	By adding “in writing” after “appoint”.	在“委任”之前，加入“以書面”。	48.02 Please see item 1 of our response dated 3 January 2016 to ALA’s letter dated 20 November 2015.

Item [Source]	Clause [Page No.]	Proposed Draft CSAs with Chinese Translation		Intent and Justifications
		English	Chinese	
C0049 [Govt]	48 [C3487]	By adding after subclause (1)— “(2) When exercising a power or performing a function under this Ordinance, an authorized officer— (a) may be assisted by such persons as the officer reasonably requires; and (b) must produce the officer’s written appointment under subsection (1) for inspection by any person who reasonably requires to see it.”.	在第(1)款之後，加入— “(2) 在行使本條例所賦予的權力或履行本條例所授予的職能時，獲授權人員— (a) 可由該人員合理所需的人協助；及 (b) 須出示該人員根據第(1)款獲委任的書面證明，以供合理地要求查看該文件的人查閱。”。	48.03 Please see item 1 of our response dated 3 January 2016 to ALA’s letter dated 20 November 2015.
C0050 [Govt]	49(1)(c) [C3487]	By deleting “remove and” and substituting “remove or”.	刪除“移走和”，代以“移走或”。	49.01 This seeks to enhance consistency with similar expressions in the Bill.
C0051 [ALA]	50(4) [C3491]	By adding “(or by the exercise under subsection (3) of the powers referred to in subsection (2)(b))” after “under subsection (2)(b)”.	在“根據第(2)(b)款”之後，加入“(或根據第(3)款行使第(2)(b)款所提述的權力)”。	50.01 Please see item 7 of our response dated 3 January 2016 to ALA’s letter dated 20 November 2015.

Item [Source]	Clause [Page No.]	Proposed Draft CSAs with Chinese Translation		Intent and Justifications	
		English	Chinese		
C0052 [ALA]	50(4)(a) [C3491]	By deleting “, written in the Chinese language,”.	刪除“中文”。	50.02	Please see item 8 of our response dated 3 January 2016 to ALA’s letter dated 20 November 2015.
C0053 [ALA]	50(4)(a) [C3490]	In the Chinese text, by adding “外” after “有關處所”.	在中文文本中，在“有關處所”之後，加入“外”。	50.03	Please see item 9 of our response dated 3 January 2016 to ALA’s letter dated 20 November 2015.
C0054 [Govt]	51(2)(a) [C3490]	In the Chinese text, by deleting “拘補” and substituting “拘捕”.	在中文文本中，刪除“拘補”，代以“拘捕”。	51.01	This seeks to enhance the clarity of the provision.
C0055 [ALA]	53(1) [C3493]	By adding “(or by the exercise under section 50(3) of the powers referred to in section 50(2)(b))” after “under section 50(2)(b)”.	在“根據第50(2)(b)條”之後，加入“(或根據第50(3)條行使第50(2)(b)條所提述的權力)”。	53.01	Please see item 10 of our response dated 3 January 2016 to ALA’s letter dated 20 November 2015.
C0056 [ALA]	53(3)(b) [C3494]	In the Chinese text, by adding “其他” before “方式”.	在中文文本中，在“方式”之前，加入“其他”。	53.02	Please see item 12 of our response dated 3 January 2016 to ALA’s letter dated 20 November 2015.

Item [Source]	Clause [Page No.]	Proposed Draft CSAs with Chinese Translation		Intent and Justifications
		English	Chinese	
C0057 [Govt]	54(1) [C3495]	(a) By deleting “, require” and substituting “served on”. (b) By adding “, require the recipient” before “to do”.	(a) 在“通知”之前，加入“向骨灰安置所持有指明文書的人送達”。 (b) 刪除“要求就骨灰安置所持有指明文書的人，代以“要求接獲通知的人”。	54.01 This seeks to enhance the clarity of the provision.
C0058 [ALA]	54(2)(a) [C3495]	By adding “, if applicable,” before “the time”.	在“停止”之前，加入“(若適用的話)”。	54.02 Please see item 16 of our response dated 3 January 2016 to ALA’s letter dated 20 November 2015.
C0059 [ALA]	54(2)(c) [C3495]	By deleting “any” and substituting “if applicable, the”.	在“通知對象”之前，加入“(若適用的話)”。	54.03 Please see item 16 of our response dated 3 January 2016 to ALA’s letter dated 20 November 2015.
C0060 [Govt]	54(2)(e)(i) [C3495]	By deleting “action to be taken” and substituting “any action to be taken that the Director considers necessary or desirable”.	刪除“採取行動”，代以“採取任何其認為屬必要或可取的行動”。	54.04 This seeks to enhance the clarity of the provision.

Item [Source]	Clause [Page No.]	Proposed Draft CSAs with Chinese Translation		Intent and Justifications
		English	Chinese	
C0061 [ALA]	54(4) [C3497]	By adding “within the stated time” after “in the notice”.	在“沒有”之後，加入“在述明時間內”。	54.05 Please see item 18 of our response dated 3 January 2016 to ALA’s letter dated 20 November 2015.
C0062 [ALA]	54 [C3497]	By adding after subclause (5)— “(6) An appeal under section 72 against a decision of the Director to serve an enforcement notice does not suspend the operation of the decision, pending the determination of the appeal, unless the Director decides otherwise.”.	在第(5)款之後，加入— “(6) 除非署長另有決定，否則在根據第72條針對署長送達執法通知的決定的上訴待決期間，不暫緩執行該決定。”。	54.06 Please see item 17 of our response dated 3 January 2016 to ALA’s letter dated 20 November 2015.

Footnote:

“Source” refers to the party giving the views, which could be –

- (1) “Govt” denotes “HKSAR Government”;
- (2) “Mbr” denotes “Bills Committee Members (Private Columbaria Bill)”;
- (3) “ALA” denotes “Assistant Legal Adviser (Private Columbaria Bill)”;
- and
- (4) “Dptn” denotes “Deputations who have attended a previous meeting and/or provided written submissions”

Food and Health Bureau

22 January 2016

[updated on 10 February 2016]

第三批政府建議就《私營骨灰安置所條例草案》提出的草擬委員會審議階段修正案(C 部分)
的標明修訂事項文本

The Third Batch of Draft Committee Stage Amendments (Part C) to the Private Columbaria Bill (CSAs)
to be proposed by the Government - Marked-Up Version

Note: Draft CSAs (Parts A and B) shown on previous marked-up version are kept. To facilitate identification, draft CSAs (Part C) are shaded in gray.

註 我們保留在過往標明修訂事項文本顯示的草擬委員會審議階段修正案(A 及 B 部分)。為方便識別，我們就草擬委員會審議階段修正案(C 部分)掃上灰色底色。

中文	English
<p>2. 釋義</p> <p>(1) 在本條例中 —</p> <p>出售 (sell) 須按照第 3 條解釋 — 見第 3 條； [C0002]</p> <p>賣方 (seller) 就骨灰安置所的安放權而言(除在第 5 部第 1 分部及附表 4 外)，指出售該權利的人； [A0008]</p> <p>刊憲日期 (enactment date) 指本條例於憲報刊登的日期；</p> <p>可就草案前骨灰安置所核證的構築物 (structures certifiable for a pre-Bill columbarium) — 見附表 2 第 4 條；</p> <p>未批租土地 (unleased land) 具有《土地(雜項條文)條例》(第 28 章)第 2 條給予該詞的涵義；</p> <p>合資格專業人士 (qualified professional) 就本條例任何條文而言，指根據第 86 條就該條文而指明的人；</p>	<p>2. Interpretation</p> <p>(1) In this Ordinance—</p> <p>approved plans (經批准圖則), in relation to a columbarium, means plans approved under section 20 (as read with section 21(5), if applicable) in respect of the columbarium that are, on the issue of a specified instrument in respect of the columbarium, annexed to the instrument;</p> <p>ashes (骨灰)—</p> <p>(a) means ashes resulting from the cremation of human remains; and</p> <p>(b) (except in the definition of eligible claimant in section 5(2) of, and sections 9(7) and 11(4) of, Schedule 5) includes any plaque and any other related items interred together with the ashes; but any related items interred together with the ashes; and</p> <p>(c) excludes includes synthetic diamonds, jewellery, ornaments or and any other materials transformed from human ashes; [A0002]</p>

安放 (inter)就某人的骨灰而言 —

- (a) 指在任何處所，以任何方式，存放該等骨灰，而 —
 - (i) 不論該等骨灰是否存放在一個容器內；及
 - (ii) 不論該等骨灰或裝載該等骨灰的容器，是否存放在龕位內；但
- (b) 不包括在署長根據《公眾衛生及市政條例》(第 132 章)第 118(1)條給予的准許下，在任何處所撒骨灰；

安放權 (interment right)就骨灰安置所而言，指在該骨灰安置所安放骨灰的權利，而 —

- (a) 不論是否安放在 ~~龕位內或指明位置；特定龕位或範圍內；及~~ [A0006]
- (b) 不論是否有安放限期；

局長 (Secretary)指食物及衛生局局長；

受供奉者 (dedicated person) —

- (a) 就骨灰安置所中安放某人的骨灰的龕位或任何其他 ~~地方範圍~~而言 — 指該人；或
- (b) 就安放權(~~不論是否關乎骨灰安置所的龕位或其他地方不論是關乎骨灰安置所中的龕位或任何其他範圍~~)而言 — 指符合以下說明的人：該人的骨灰，將會透過行使該權利而獲安放，不論該人是否在世，亦不論是否已分配某特定龕位或 ~~位置範圍~~；[A0004] [A0005]

建築工程 (building works)具有《建築物條例》(第 123 章)第 2(1)條給予該詞的涵義；

建築物 (building)具有《建築物條例》(第 123 章)第 2(1)條給予該詞的涵義；

指明文書 (specified instrument)指 —

- (a) 牌照；
- (b) 豁免書；或
- (c) 暫免法律責任書；

指明格式 (specified form)(除在第 33(2)(f)(ii)條外)指發牌委員會指明的格

authorized officer (獲授權人員) means any officer appointed under section 48;

authorized representative (獲授權代表), in relation to an agreement for the sale of an interment right, means a person who is authorized under the agreement to claim for the return of ashes interred under the agreement;

Bill announcement time (草案公布時間) means 8 a.m. on 18 June 2014;

building (建築物) has the meaning given by section 2(1) of the Buildings Ordinance (Cap. 123);

building works (建築工程) has the meaning given by section 2(1) of the Buildings Ordinance (Cap. 123);

columbarium (骨灰安置所)—

- (a) means any premises that are used, or intended to be used, for keeping ashes; and
- (b) includes furnaces for burning offerings and any other essential ancillary facilities supporting the premises to be so used; but
- (c) excludes premises used or to be used for scattering ashes with the permission of the Director under section 118(1) of the Public Health and Municipal Services Ordinance (Cap. 132);

columbarium premises (骨灰安置所處所) means the premises comprising a columbarium;

commencement of ash disposal notice (展開骨灰處置通知) — see section 8 of Schedule 5; [C0001]

dedicated person (受供奉者) means—

- (a) in relation to a niche or any other ~~place~~ **area** in a columbarium in which ashes of a person are interred—the person; or
- (b) in relation to an interment right (whether in respect of a niche or ~~otherwise~~ **any other area** in a columbarium)—a person whose ashes are to be interred by exercising the interment right, whether or not the person is living and whether or not a specific niche or ~~location~~ **area** is allocated; [A0004] [A0005]

Director (署長) means the Director of Food and Environmental Hygiene;

enactment date (刊憲日期) means the day on which this Ordinance is

式；

展開骨灰處置通知 (commencement of ash disposal notice — 見附表 5 第 8 條； [C0001]

草案公布時間 (Bill announcement time)指 2014 年 6 月 18 日上午 8 時；

草案前骨灰安置所 (pre-Bill columbarium)指於緊接草案公布時間前正在營辦的、於其內已有骨灰安放在龕位中的骨灰安置所；

骨灰 (ashes) —

- (a) 指人類遺骸經火化後遺留的骨灰；~~及~~
- (b) (除附表 5 第 5(2)條中**合資格申索人**的定義及附表 5 第 9(7)及 11(4)條外)包括連同骨灰安放的任何~~匾牌及其他相關物品；但相關物品；及~~
- (c) ~~不~~包括~~任何~~由人類骨灰轉化而成的人造鑽石、珠寶、裝飾品~~或及~~任何其他物料；[A0002] [A0003]

骨灰安置所 (columbarium) —

- (a) 指任何用作或擬用作存放骨灰的處所；及
- (b) 包括用作焚化祭品的火爐，以及任何其他支援有關處所作上述用途的必要配套設施；但
- (c) 不包括用作或將用作在署長根據《公眾衛生及市政條例》(第 132 章)第 118(1)條給予的准許下撒骨灰的處所；

骨灰安置所處所 (columbarium premises)指構成骨灰安置所的處所；

處所 (premises)包括地方，並尤其包括 —

- (a) 任何土地或建築物；
- (b) 停定的車輛、船隻、飛機、氣墊船或其他運輸工具；
- (c) 構築物(不論能否移動或是否離岸)；及
- (d) (a)、(b)或(c)段描述的處所的某部分；

牌照 (licence)(~~除第 4(2)條外~~)指根據第 11 條發出或續期的牌照；

發牌委員會 (Licensing Board)指根據第 6 條設立的委員會；

買方 (purchaser)就骨灰安置所的安放權而言(~~除第 5 部第 1 分部及附表 4 外~~)，指獲出售該權利的人，不論是否以該人為受供奉者；[A0007]

經批准圖則 (approved plans)就骨灰安置所而言，指根據第 20 條(與第 21(5)

published in the Gazette;

exemption (豁免書) means an exemption issued or renewed under section 11;

inter (安放), in relation to ashes of a person—

- (a) means keep the ashes in, on or at any premises in any manner—
 - (i) whether or not the ashes are kept in a container; and
 - (ii) whether or not the ashes or container of ashes are or is kept in a niche; but
- (b) excludes scatter ashes in, on or at any premises with the permission of the Director under section 118(1) of the Public Health and Municipal Services Ordinance (Cap. 132);

interment right (安放權), in relation to a columbarium, means the right to inter ashes in the columbarium—

- (a) whether or not in a ~~niche or a specified location;~~specific niche or area; and [A0006]
- (b) whether or not for a definite period;

licence (牌照) (except in the definition of **owner** in this subsection and in sections 4(2), 13(1)(b), 14(3) (where it first appears), 15(1)(h)(i) and 41(2)(c), sections 1(b) and 4(2)(a) of Schedule 2 and sections 1(c) and 2(d) of Schedule 4) means a licence issued or renewed under section 11;

Licensing Board (發牌委員會) means the board established under section 6;

niche (龕位) means a compartment, cubicle or vault that is used, or intended to be used, for keeping ashes of one or more persons usually with the ashes of each person in a container;

non-compliant structures (違規構築物)—see section 4(1) of Schedule 2;

owner (擁有人), in relation to any premises—

- (a) means—
 - (i) a person holding the premises direct from the Government, whether under a lease, licence or otherwise;
 - (ii) a mortgagee in possession; or
 - (iii) a person who receives the rent of the premises, solely or

條一併理解(如適用的話))就該骨灰安置所批准的、在指明文書就該骨灰安置所發出之時屬該文書的附錄的圖則；

署長 (Director)指食物環境衛生署署長；

違例發展 (unauthorized development)具有《城市規劃條例》(第 131 章)第 1A 條給予該詞的涵義；

違規構築物 (non-compliant structures) — 見附表 2 第 4(1)條；

暫免法律責任書 (temporary suspension of liability)指根據第 11 條發出或延展的暫免法律責任書；

擁有人 (owner)就任何處所而言 —

(a) 指 —

- (i) 以租契、許可證或其他方式持有直接從政府取得的該處所的人；
- (ii) 管有承按人；或
- (iii) 單獨或與另一人一同收取該處所的租金的人(不論是為自己收取，或是為另一人收取)，或假使該處所出租予租客便會收取租金的人；及

(b) 如(a)段提述的人不能尋獲、身分不能確定、不在香港或無行為能力 — 亦指該人的代理人；但

(c) 除在第 7 部及附表 5 外，不包括政府；

獲授權人員 (authorized officer)指根據第 48 條委任的人員；

獲授權代表 (authorized representative)就安放權出售協議而言，指符合以下說明的人：該人按該協議，獲授權提出申索，要求交還根據該協議安放的骨灰；

豁免書 (exemption)指根據第 11 條發出或續期的豁免書；

龕位 (niche)指用作或擬用作存放一名或多於一名人士的骨灰(每名人士的骨灰通常置於一個容器內)的小室、格位或地下空間。

with another, on the person's own behalf or that of another person, or who would receive the rent if the premises were let to a tenant; and

(b) if a person referred to in paragraph (a) cannot be found or ascertained or is absent from Hong Kong or is under a disability—also means the agent of the person; but

(c) except in Part 7 and Schedule 5, excludes the Government;

pre-Bill columbarium (草案前骨灰安置所) means a columbarium that was in operation, and in which ashes were interred in niches, immediately before the Bill announcement time;

premises (處所) includes a place and, in particular, includes—

- (a) any land or building;
- (b) a vehicle, vessel, aircraft, hovercraft or other conveyance, if stationary;
- (c) a structure (whether or not movable or offshore); and
- (d) a part of any of the premises described in paragraph (a), (b) or (c);

purchaser (買方), in relation to an interment right in respect of a columbarium, ~~means a~~ (except in Division 1 of Part 5 and Schedule 4), ~~means the~~ person to whom the right is sold, whether or not to the person as dedicated person; [A0007]

qualified professional (合資格專業人士), in relation to any provision of this Ordinance, means the person or persons specified under section 86 in relation to that provision;

Secretary (局長) means the Secretary for Food and Health;

sell (出售) ~~is to be construed in accordance with—see~~ section 3; [C0002]

seller (賣方), in relation to an interment right in respect of a columbarium (except in Division 1 of Part 5 and Schedule 4), means the person by whom the right is sold; [A0008]

specified form (指明格式) (except in section 33(2)(f)(ii)) means ~~in the form as the form~~ specified by the Licensing Board; [C0003]

specified instrument (指明文書) means—

- (a) a licence;

	<p>(b) an exemption; or</p> <p>(c) a temporary suspension of liability;</p> <p>structures certifiable for a pre-Bill columbarium (可就草案前骨灰安置所核證的構築物)—see section 4 of Schedule 2;</p> <p>temporary suspension of liability (暫免法律責任書) means a temporary suspension of liability issued or extended under section 11;</p> <p>unauthorized development (違例發展) has the meaning given by section 1A of the Town Planning Ordinance (Cap. 131);</p> <p>unleased land (未批租土地) has the meaning given by section 2 of the Land (Miscellaneous Provisions) Ordinance (Cap. 28).</p>
<p>(2) 在本條例中，提述指明文書申請，即提述 —</p> <p>(a) 要求發出牌照或將之續期的申請；</p> <p>(b) 要求發出豁免書或將之續期的申請；或</p> <p>(c) 要求發出暫免法律責任書或將之延展的申請。</p>	<p>(2) In this Ordinance, a reference to an application for a specified instrument is a reference to—</p> <p>(a) an application for the issue or renewal of a licence;</p> <p>(b) an application for the issue or renewal of an exemption; or</p> <p>(c) an application for the issue or extension of a temporary suspension of liability.</p>
<p>(3) 在本條例中，對以下任何一項的提述，須按照附表 2 第 1 部的條文解釋 —</p> <p>(a) 符合關乎土地的規定；</p> <p>(b) 符合關乎規劃的規定；</p> <p>(c) 符合關乎建築物的規定。</p>	<p>(3) In this Ordinance, a reference to any of the following is to be construed in accordance with the provisions of Part 1 of Schedule 2—</p> <p>(a) compliance with the land-related requirements;</p> <p>(b) compliance with the planning-related requirements;</p> <p>(c) compliance with the building-related requirements.</p>
<p>(4) 在本條例中，提述不合法佔用未批租土地，指即提述違反《土地(雜項條文)條例》(第 28 章)第 4 條的未批租土地佔用。 [C0004]</p>	<p>(4) In this Ordinance, a reference to unlawful occupation of unleased land means a reference to the occupation of unleased land in contravention of section 4 of the Land (Miscellaneous Provisions) Ordinance (Cap. 28). [C0004]</p>

<p>(5) 在本條例中，提述對營辦骨灰安置所屬必需(或與之配套)的佔用土地，<u>指即提述</u>土地由下列項目佔用 — [C0005]</p> <p>(a) 內有用作或擬用作安放骨灰的龕位的建築物或建築工程；<u>及或</u> [A0009]</p> <p>(b) 屬用作焚化祭品的火爐，以及支援(a)段提述的建築物或建築工程用於該段提述的用途的其他必要配套設施。</p> <p>對營辦骨灰安置所屬必需(或與之配套)的不合法佔用未批租土地，須據此解釋。</p>	<p>(5) In this Ordinance, a reference to occupation of land as is necessary for, or ancillary to, the operation of a columbarium <u>means a reference to</u> the occupation of land by— [C0005]</p> <p>(a) any building or building works containing niches used or intended to be used for the interment of ashes; <u>and/or</u> [A0009]</p> <p>(b) furnaces for burning offerings and any other essential ancillary facilities supporting the building or building works referred to in paragraph (a) to be used as referred to in that paragraph.</p> <p>Unlawful occupation of unleased land as is necessary for, or ancillary to, the operation of a columbarium is to be construed accordingly.</p>
<p>(6) 在本條例中，提述對營辦骨灰安置所屬必需(或與之配套)而進行或<u>持續繼續</u>的違例發展，<u>指即提述</u>屬下列項目的形式的違例發展 — [A0010] [C0006]</p> <p>(a) 內有用作或擬用作安放骨灰的龕位的建築物或建築工程；<u>及或</u> [A0011]</p> <p>(b) 屬用作焚化祭品的火爐，以及支援(a)段提述的建築物或建築工程用於該段提述的用途的其他必要配套設施。</p>	<p>(6) In this Ordinance, a reference to unauthorized development undertaken or continued as is necessary for, or ancillary to, the operation of a columbarium <u>means a reference to</u> the unauthorized development in the form of— [C0006]</p> <p>(a) any building or building works containing niches used or intended to be used for the interment of ashes; <u>and/or</u> [A0011]</p> <p>(b) furnaces for burning offerings and any other essential ancillary facilities supporting the building or building works referred to in paragraph (a) to be used as referred to in that paragraph.</p>
<p>(7) 在本條例中，提述對營辦骨灰安置所屬必需(或與之配套)的構築物，<u>指即提述</u> — [C0007]</p> <p>(a) 內有用作或擬用作安放骨灰的龕位的建築物或建築工程；或</p> <p>(b) 符合以下說明的建築物或建築工程：屬用作焚化祭品的火爐，以及支援(a)段提述的建築物或建築工程用於該段提述的用途的其他必要配套設施。</p>	<p>(7) In this Ordinance, a reference to structures necessary for, or ancillary to, the operation of a columbarium <u>means a reference to</u>— [C0007]</p> <p>(a) building or building works that contain niches used or intended to be used for the interment of ashes; or</p> <p>(b) building or building works that are furnaces for burning offerings and any other essential ancillary facilities supporting the building or building works referred to in paragraph (a) to be used as referred to in that paragraph.</p>
<p>(8) 在本條例中，提述對營辦骨灰安置所屬必需(或與之配套)的違規構築物，指屬符合第(7)款所<u>指即提述</u>的對營辦該骨灰安置所屬必需(或與之配套)的<u>構築物</u>的違規構築物。 [A0012] [C0008]</p>	<p>(8) In this Ordinance, a reference to non-compliant structures necessary for, or ancillary to, the operation of a columbarium <u>means a reference to</u> non-compliant structures that are structures necessary for, or ancillary to, the operation of the columbarium within the meaning of subsection (7). [C0008]</p>

<p>(9) 如由某人持有的指明文書，根據第 32 條轉讓予另一人，在本條例中提述持有該文書的人，須解釋為提述獲轉讓該文書的人。</p>	<p>(9) If a specified instrument is transferred under section 32, a reference in this Ordinance to the person holding the instrument is to be construed as a reference to the person to whom it has been transferred.</p>
<p>4. 條例不適用於政府骨灰安置所、私營墳場、私營火葬場或殮葬商等 [C0009]</p> <p>(1) 本條例不適用於以下任何地方 —</p> <p>(a) 由政府興建、營辦、管理或維持的骨灰安置所，包括位於《公眾衛生及市政條例》(第 132 章)附表 5 第 5 部所指明的政府火葬場內的骨灰安置所；</p> <p>(b) 位於該附表第 2 部所指明的私營墳場內的骨灰安置所；</p> <p>(c) 由該附表第 2A 部所指明的人的人士管理和控制的骨灰安置所；[C0010]</p> <p>(d) 該附表第 6 部所指明的認可私營火葬場，但只限於屬臨時性質的、與其作為火葬場的營辦配套的骨灰存放。</p> <p>(2) 如 —</p> <p>(a) 某骨灰安置所，是持有《殮葬商規例》(第 132 章，附屬法例 CB)所指的牌照的人的營業地點；而</p> <p>(b) 該牌照不禁止在該地點存放骨灰，</p> <p>則本條例(第 7 部及附表 5 除外)不適用於該骨灰安置所。</p>	<p>4. Ordinance not applicable to Government columbaria, private cemeteries, private crematoria or undertakers, undertakers of burials, etc. [C0009]</p> <p>(1) This Ordinance does not apply to any of the following—</p> <p>(a) a columbarium that is built, operated, administered or maintained by the Government, including one that is in a Government crematorium specified in Part 5 of the Fifth Schedule to the Public Health and Municipal Services Ordinance (Cap. 132);</p> <p>(b) a columbarium that is in a private cemetery specified in Part 2 of that Schedule;</p> <p>(c) a columbarium under the management and control of a person specified in Part 2A of that Schedule;</p> <p>(d) an authorized private crematorium specified in Part 6 of that Schedule to the extent that the keeping of ashes in it is transient and incidental to its operation as a crematorium.</p> <p>(2) This Ordinance (except Part 7 and Schedule 5) does not apply to a columbarium if—</p> <p>(a) it is the place of business of a person holding a licence under the Undertakers of Burials Regulation (Cap. 132 sub. leg. CB); and</p> <p>(b) that licence does not prohibit the keeping of ashes in that place of business.</p>

<p>7. 發牌委員會的職能及權力</p> <p>(1) 發牌委員會的主要職能是 — [C0011]</p> <p>(a) 規管骨灰安置所的的營辦和管理的營辦和管理，以及尤其是 — [A0015]</p> <p>(i) 考慮根據本條例向該委員會提出的申請，並作出定奪；</p> <p>(ii) 發出關於營辦和管理骨灰安置所的指引及實務守則；及</p> <p>(iii) 處理針對骨灰安置所營辦者營辦人的投訴，並調查骨灰安置所營辦者營辦人的不當行為；以及根據本條例行使撤銷或暫時吊銷指明文書的權力，或其他紀律懲處權力；及 [C0012]</p> <p>(b) 作出本條例規定或授權發牌委員會作出的任何其他事情。</p> <p>(2) 發牌委員會具有為使該委員會能執行其職能而需要的一切附帶權力。</p>	<p>7. Functions and powers of Licensing Board</p> <p>(1) The principal functions of the Licensing Board are— [C0011]</p> <p>(a) to regulate the operation and management of columbaria and, in particular—</p> <p>(i) to consider and determine applications made to it under this Ordinance;</p> <p>(ii) to issue guidelines and codes of practice about the operation and management of columbaria; and</p> <p>(iii) to handle complaints against, and investigate into irregularities of, operators of columbaria and to exercise the power to revoke or suspend a specified instrument or other disciplinary powers under this Ordinance; and</p> <p>(b) to do any other things that the Licensing Board is required or authorized to do by this Ordinance.</p> <p>(2) The Licensing Board has all ancillary powers that may be necessary to enable it to perform its functions.</p>
<p>9. 關於第 8 條的罪行</p> <p>[...]</p> <p>(3) 如某人就任何處所，被控犯第(1)款所訂罪行，如該人證明在指稱的罪行發生時 —</p> <p>(a) 該人不知道(而在合理情況下不能知道)有關處所是骨灰安置所；或</p> <p>(b) 該人基於合理理由，相信營辦、維持、管理或以其他方式控制該骨灰安置所的人 —</p> <p>(i) 是按牌照如此行事；或</p> <p>(ii) 不出售該骨灰安置所的安放權，並就該骨灰安置所持有豁免書，或暫免法律責任書，</p> <p>則該人享有免責辯護。</p> <p>[...]</p>	<p>9. Offences relating to section 8</p> <p>[...]</p> <p>(3) A person charged with an offence under subsection (1) in respect of any premises has a defence if the person establishes that, at the time of the alleged offence—</p> <p>(a) the person did not know and could not have reasonably known that the premises concerned were a columbarium; or</p> <p>(b) the person believed on reasonable grounds that the person who operated, kept, managed or otherwise had control of the columbarium—</p> <p>(i) did so under a licence; or</p> <p>(ii) did not sell any interment right in respect of the columbarium and held, in respect of the columbarium, an exemption or a temporary suspension of liability. [C0013]</p> <p>[...]</p>

11. 牌照、豁免書及暫免法律責任書

- (1) 發牌委員會可應申請，並且在該委員會認為適宜施加的條件的規限下 —
 - (a) 就某骨灰安置所發出牌照，或將之續期；
 - (b) 就某草案前骨灰安置所發出豁免書，或將之續期；~~及或~~ [A0017]
 - (c) 就某草案前骨灰安置所發出暫免法律責任書，或將之延展。

11A. 提出指明文書申請的時限 [C0019]

- (1) 要求就草案前骨灰安置所發出指明文書的申請，須在符合以下說明的任何時間，向發牌委員會提出 —
 - (a) 在自刊憲日期起計的 3 個月屆滿之後；但
 - (b) 在自該日期起計的 6 個月屆滿之前。
- (2) 儘管有第(1)款的規定，凡有不在上述限期內提出的申請，如 —
 - (a) 申請人對未有在上述限期內提出該申請，有合理辯解；及
 - (b) 發牌委員會認為，在有關個案的整體情況下，考慮該申請是公正和符合公義公平的， [A0031]則該委員會可考慮該申請。
- (3) 要求將某牌照或豁免書續期的申請(視情況所需而定)須在不遲於該牌照或豁免書的有效期限滿前的 18 個月提出。
- (4) 除第(5)款另有規定外，要求將某暫免法律責任書延展的申請須在不遲於該暫免法律責任書的有效期限滿前的 12 個月提出。
- (5) 如某暫免法律責任書的有效期限短於 2 年，則要求將該暫免法律責任書延展的申請須在不遲於發牌委員會指明的日期提出。 [C0019]

11. Licence, exemption and temporary suspension of liability

- (1) The Licensing Board may, on application and subject to any conditions that the Licensing Board thinks fit to impose—
 - (a) issue or renew a licence in respect of a columbarium;
 - (b) issue or renew an exemption in respect of a pre-Bill columbarium; ~~and/or~~ [A0017]
 - (c) issue or extend a temporary suspension of liability in respect of a pre-Bill columbarium.

11A. Time Limit for application for specified instrument [C0019]

- (1) An application for the issue of a specified instrument in respect of a pre-Bill columbarium must be made to the Licensing Board at any time—
 - (a) after the expiry of 3 months beginning on the enactment date; but
 - (b) before the expiry of 6 months beginning on the same date.
- (2) Despite subsection (1), the Licensing Board may consider an application that is made out of time if—
 - (a) the applicant has a reasonable excuse for failing to make the application within time; and
 - (b) in all the circumstances of the case, the Licensing Board considers that it is just and equitable to consider the application.
- (3) An application for the renewal of a licence or exemption (as the case requires) must be made not later than 18 months before the expiry of the validity period of the licence or exemption.
- (4) Subject to subsection (5), an application for the extension of a temporary suspension of liability must be made not later than 12 months before the expiry of the validity period of the temporary suspension of liability.
- (5) If the validity period of a temporary suspension of liability is shorter than 2 years, an application for the extension of a temporary suspension of liability must be made not later than a date specified by it. [C0019]

11B. 指明文書的有效期 [C0019]

- (2) 發牌委員會可運用其酌情權，決定指明文書的發出年期、續期年期或延展年期(有效期)。 [A0018]
- (3) 牌照的有效期，不得超逾以下兩者中的較短者 —
- ~~(a) (如骨灰安置所處所，是根據租賃、租契或其他文書佔用的)該租賃、租契或文書餘下的租年期；~~
- ~~(a) 如 —~~
- ~~(i) 骨灰安置所處所是根據租契直接從政府取得而持有的 — 該租契餘下的年期；或~~
- ~~(ii) 骨灰安置所處所是根據租賃或其他文書佔用的一該租賃或其他文書餘下的年期； [A0019] [C0014]~~
- (b) 10 年。
- (4) ~~就屬關於根據租賃、租契或其他文書佔用的骨灰安置所處所的豁免書的有效期，不得超逾該租賃、租契或文書餘下的租年期。豁免書的有效期不得超逾 —~~
- ~~(a) 骨灰安置所處所是根據租契直接從政府取得而持有的 — 該租契餘下的年期；或~~
- ~~(b) 骨灰安置所處所是根據租賃或其他文書佔用的一該租賃或其他文書餘下的年期； [A0019] [C0015]~~
- (5) 暫免法律責任書的有效期，不得超逾以下兩者中的較短者——
- ~~(a) (如骨灰安置所處所，是根據租賃、租契或其他文書佔用的)該租賃、租契或文書餘下的租年期； [A0019]~~
- ~~(b) 3 年。3 年。 [C0016]~~
- (6) 如骨灰安置所處所是根據可按期續約的、由政府批出的短期租賃佔用，而該租賃可按照有關短期租賃協議，藉發出達指明期間的通知而終止，則第(7)款適用。
- (7) ~~除第(3)(b)及(5)(b)款另有規定外，就第(6)款提述的骨灰安置所處所發出、續期或延展的指明文書的有效期除第(3)(b)款另有規定外，就第(6)款提述的骨灰安置所處所發出或續期的牌照或豁免書的有效期，可與有關短期租賃持續的期間看齊的年期(包括任何延展的年期)看齊，直至該短期租賃按照有關短期租賃協議，藉發出達指明期間的通知而終止。~~

11B. Validity period of specified instrument [C0019]

- (2) The Licensing Board may, in its discretion, determine the term for which the **specified** instrument is issued, renewed or extended (**validity period**). [A0018]
- (3) The validity period of a licence must not exceed the shorter of the following—
- ~~(a) if the columbarium premises are occupied under a tenancy, lease or other instrument, the remainder of the term of the tenancy, lease or other instrument;~~
- ~~(a) where—~~
- ~~(i) the columbarium premises are held directly from the Government under a lease — the remainder of the term of the lease; or~~
- ~~(ii) the columbarium premises are occupied under a tenancy or other instrument — the remainder of the term of the tenancy or other instrument; [C0014]~~
- (b) 10 years.
- (4) The validity period of an ~~exemption in respect of columbarium premises occupied under a tenancy, lease or other instrument must not exceed the remainder of the term of the tenancy, lease or other instrument~~ ~~exemption must not exceed —~~
- ~~(a) where the columbarium premises are held directly from the Government under a lease — the remainder of the term of the lease; or~~
- ~~(b) where the columbarium premises are occupied under a tenancy or other instrument — the remainder of the term of the tenancy or other instrument. [C0015]~~
- (5) The validity period of a temporary suspension of liability must not exceed ~~the shorter of the following —~~
- ~~(a) if the columbarium premises are occupied under a tenancy, lease or other instrument, the remainder of the term of the tenancy, lease or other instrument;~~
- ~~(b) 3 years. 3 years. [C0016]~~

<p>[C0017]</p> <p>(7[A]) 某指明文書在發牌委員會就其根據第 11A 條提出的續期或延展申請作出決定前，有關指明文書的有效期已告屆滿，則除非—</p> <p>(a) 該申請被撤回；</p> <p>(b) 該指明文書根據第 33 條被撤銷；</p> <p>(c) 就牌照而言 — 儘管有第(3)(b)款的規定，根據第(3)(a)(i)或(ii)款（視乎何種情況而定）的餘下的年期屆滿；或</p> <p>(d) 就豁免書而言 — 根據第(4)(a)或(b)款（視乎何種情況而定）的餘下的年期屆滿，</p> <p>否則該指明文書在該申請作出決定前繼續有效。 [C0018]</p> <p>(8) 在牌照的有效期內，牌照可在其指明的日期覆檢。</p> <p>(9) 除非存在特殊的情況，否則暫免法律責任書不可獲延展多於一次。</p>	<p>(6) Subsection (7) applies if the columbarium premises are occupied under a short term tenancy from the Government that is renewable on a periodic basis and terminable on notice given for a specified period in accordance with the short term tenancy agreement.</p> <p>(7) Subject to subsections (3)(b) and (5)(b), the validity period of a specified instrument issued, renewed or extendedsubsection (3)(b), the validity period of a licence or exemption issued or renewed in respect of the columbarium premises referred to in subsection (6) may be concurrent with the period for which the short term tenancy lasts; the term of the short term tenancy (including any extended term) until the short term tenancy is terminated on notice given for a specified period in accordance with the short term tenancy agreement. [C0017]</p> <p>(7[A]) A specified instrument in respect of which an application for renewal or extension is made in accordance with section 11A, and which expires prior to the determination by the Licensing Board of the application, remains in effect until the determination of the application unless—</p> <p>(a) the application is withdrawn;</p> <p>(b) the specified instrument is revoked under section 33;</p> <p>(c) despite subsection (3)(b), for a licence — the remainder of the term under subsection (3)(a)(i) or (ii) (as the case requires) expires; or</p> <p>(d) for an exemption — the remainder of the term under subsection (4)(a) or (b) (as the case requires) expires. [C0018]</p> <p>(8) A licence may be subject to review within its validity period on the dates specified in the licence.</p> <p>(9) A temporary suspension of liability may not be extended more than once, unless exceptional circumstances exist.</p>
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第 2 次分部 — 關於草案前骨灰安置所的申請

21. 關於草案前骨灰安置所的申請 — 時限及以草案公布時間狀況為準的骨灰安放布局及骨灰安放數量的證據、骨灰安放布局及數量等證據，以及圖則 [B0001]

~~(1) 要求就草案前骨灰安置所發出指明文書的申請，須在符合以下說明的任何時間，向發牌委員會提出——~~

~~(a) 在自刊憲日期起計的 3 個月屆滿之後；但~~

~~(b) 在自該日期起計的 6 個月屆滿之前。~~

~~(2) 儘管有第(1)款的規定，凡有不在上述限期內提出的申請，如——~~

~~(a) 申請人對未有在上述限期內提出該申請，有合理辯解；及~~

~~(b) 發牌委員會認為，在有關個案的整體情況下，考慮該申請是公正和符合公義公平的， [A0031]~~

~~則該委員會可考慮該申請。 [C0020]~~

(3) ~~第 14、15 或 16 條或附表 2 第 4 條(以上條文稱為「資格相關條文」)~~某資格相關條文所相關的、就某草案前骨灰安置所的指明文書申請，須附有以下詳情(每項均稱為「資格相關詳情」)的證據 — [C0021]

(a) 以草案公布時間狀況為準的骨灰安放布局；

(b) (就要求發出牌照或將之續期的申請而言)以草案公布時間狀況為準的骨灰安放容量；

(c) (就要求發出豁免書或將之續期，或發出暫免法律責任書或將之延展的申請而言)以草案公布時間狀況為準的骨灰安放數量；

(d) 以草案公布時間狀況為準的對營辦該骨灰安置所屬必需(或與之配套)的土地佔用範圍；

(e) 以下事實：在草案公布時間，有對營辦該骨灰安置所屬必需(或與之配套)的構築物存在；及 [C0022]

(f) (就要求發出豁免書的申請而言)首次在该骨灰安置所內的龕位內安放骨灰的日期，或首次出售該骨灰安置所內龕位的安放權的日期。

(4) 除第 19 條規定的圖則外，就某草案前骨灰安置所的指明文書申請，亦

Subdivision 2—Applications in respect of Pre-Bill Columbaria

21. Application concerning pre-Bill columbarium—time limit, evidence of ash interment layout and ~~ash interment quantity as at Bill announcement time~~quantity, etc. and plans [B0001]

~~(1) An application for the issue of a specified instrument in respect of a pre-Bill columbarium must be made to the Licensing Board at any time—~~

~~(a) after the expiry of 3 months beginning on the enactment date; but~~

~~(b) before the expiry of 6 months beginning on the same date.~~

~~(2) Despite subsection (1), the Licensing Board may consider an application that is made out of time if—~~

~~(a) the applicant has a reasonable excuse for failing to make the application within time; and~~

~~(b) in all the circumstances of the case, the Licensing Board considers that it is just and equitable to consider the application. [C0020]~~

(3) An application for a specified instrument in respect of a pre-Bill columbarium, to which ~~section 14, 15 or 16 or section 4 of Schedule 2 (each is called an eligibility-related provision)~~an eligibility-related provision is relevant, must be accompanied by evidence of the following particulars (each is called an *eligibility-related particular*)— [C0021]

(a) the ash interment layout as at the Bill announcement time;

(b) (for an application for the issue or renewal of a licence) the ash interment capacity as at the Bill announcement time;

(c) (for an application for the issue or renewal of an exemption, or for the issue or extension of a temporary suspension of liability) the ash interment quantity as at the Bill announcement time;

(d) the extent of occupation of land as was necessary for, or ancillary to, the operation of the columbarium as at the Bill announcement time;

(e) the fact that any structures necessary for, or ancillary to, the operation of the columbarium existed as at the Bill

<p>須附有一套符合以下規定的圖則 —</p> <p>(a) 該等圖則須顯示資格相關詳情；及 [A0032]</p> <p>(b) 該等圖則須指出，在甚麼範圍內(如有的話)，第 19(3)條提述的有待授權或准許的詳情，與(a)段提述者有所不同。</p> <p>(5) 凡有就某草案前骨灰安置所的指明文書申請，發牌委員會在按照第 20 條為該申請的目的而批准圖則時，須決定以下事宜，並將之在該等圖則指出 —</p> <p>(a) 就暫免法律責任書而言 — 對營辦該骨灰安置所屬必需(或與之配套)的不合法佔用未批租土地的範圍(該暫免法律責任書所涵蓋者) 及； [C0023]</p> <p>(b) 在有關指明文書所涵蓋的該骨灰安置所或其之內或之上的可就草案前骨灰安置所核證的構築物。</p> <p><u>(6) 在第(1)款中，資格相關條文 (eligibility-related provision) 指第 14、15 或 16 條或附表 2 第 4 條。 [C0024]</u></p>	<p>announcement time; and [C0022]</p> <p>(f) (for an application for the issue of an exemption) the first date on which a set of ashes was interred in a niche in the columbarium or the first date on which an interment right in respect of a niche in the columbarium was sold.</p> <p>(4) In addition to the plans required under section 19, an application for a specified instrument in respect of a pre-Bill columbarium must also be accompanied by a set of plans that meet the following requirements—</p> <p>(a) they must show the eligibility-related particulars; and [A0032]</p> <p>(b) they must identify the extent (if any) to which the particulars to be authorized or permitted as referred to in section 19(3) differ from those as referred to in paragraph (a).</p> <p>(5) On approving the plans in accordance with section 20 for the purposes of an application for a specified instrument in respect of a pre-Bill columbarium, the Licensing Board must decide on, and identify, the following in the plans—</p> <p>(a) for a temporary suspension of liability—the extent of unlawful occupation of unleased land as is necessary for, or ancillary to, the operation of the columbarium and covered by the temporary suspension of liability; and liability; [C0023]</p> <p>(b) structures certifiable for a pre-Bill columbarium in, on or at the columbarium as are covered by the specified instrument.</p> <p><u>(6) In subsection (3), eligibility-related provision (資格相關條文) means section 14, 15 or 16 or section 4 of Schedule 2. [C0024]</u></p>
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22. 通報計劃：證明關於草案前骨灰安置所的詳情

(1) 在本條中 —

- (a) 就骨灰安置所而言，~~營辦人~~**營辦人 (operator)** 指營辦、維持、管理或以任何其他方式控制該骨灰安置所的人； [C0025]
- ~~(b) 資格相關條文的涵義，與第 21(3)條中該詞的涵義相同； [C0026]~~
- ~~(b) 資格相關條文的涵義，與第 21(6)條中該詞的涵義相同； [C0026]~~
- (c) ~~須通報詳情指~~**須通報詳情 (notifiable particulars)** 指第 1 組詳情或第 2 組詳情； [C0027]
- (d) ~~第 1 組詳情，指~~**第 1 組詳情 (batch 1 particulars)**，指第 21(3)(a)、(b)、(c)或(f)條所提述的任何資格相關詳情，或指在草案公布時間已存在的在有關骨灰安置所內供焚化祭品的火爐的詳情； [C0028]
- (e) ~~第 2 組詳情，指~~**第 2 組詳情 (batch 2 particulars)**，指符合以下說明的任何其他設施(不論是否屬建築物或建築工程)的詳情：該等設施在草案公布時間，已存在於有關骨灰安置所，並且營辦人擬聲稱該等設施是攸關第 21(3)(d)及或(e)條所提述的資格相關詳情； [A0033] [C0029]
- (f) ~~通報計劃，即~~**通報計劃 (notification scheme)**，指於草案公布時間由局長公布的、符合以下說明的行政計劃 — [C0030]
 - (i) 計劃的目的，是令署長或獲授權為該計劃的目的而行事的公職人員(署長及該等人員均稱為**計劃人員**)得以按第(2)、(3)及(4)款描述的方式，確定須通報詳情；及
 - (ii) 計劃的另一目的，是利便按第(5)、(6)、(7)及(8)款描述的方式，斷定任何須通報詳情是否已為就草案前骨灰安置所的指明文書申請的目的，而獲證明。

(2) 根據通報計劃，草案前骨灰安置所的營辦人 —

- (a) 須按計劃人員決定的份數，向該人員提供以該人員決定的方式擬備的 —
 - (i) 關於**有關**須通報詳情的陳述；及 [A0034]
 - (ii) 該人員決定的關乎**有關**須通報詳情的任何其他紀錄；及

22. Notification scheme: proof of particulars about pre-Bill columbarium

(1) In this section—

- (a) ~~operator~~**operator (營辦人)**, in relation to a columbarium, means a person who operated, kept, managed or in any other way had control of the columbarium; [C0025]
- ~~(b) eligibility-related provision has the same meaning as in section 21(3); [C0026]~~
- ~~(b) eligibility-related provision has the same meaning as in section 21(6); [C0026]~~
- (c) ~~notifiable particulars mean~~**notifiable particulars (須通報詳情)** means batch 1 particulars or batch 2 particulars; [C0027]
- (d) ~~batch 1 particulars mean~~**batch 1 particulars (第 1 組詳情)** means any of the eligibility-related particulars referred to in section 21(3)(a), (b), (c) or (f) or the particulars of furnaces for burning offerings existing in the columbarium concerned as at the Bill announcement time; [C0028]
- (e) ~~batch 2 particulars mean~~**batch 2 particulars (第 2 組詳情)** means the particulars of any other facilities (whether or not they are building or building works) existing in the columbarium concerned as at the Bill announcement time that the operator intended to claim to be relevant to the eligibility-related particulars referred to in section 21(3)(d) and or (e); [A0033] [C0029]
- (f) ~~the notification scheme is~~**notification scheme (通報計劃)** means the administrative scheme that was announced by the Secretary at the Bill announcement time— [C0030]
 - (i) for the Director or a public officer authorized to act for the purposes of the scheme (either is called a **scheme officer**) to ascertain the notifiable particulars in the manner described in subsections (2), (3) and (4); and
 - (ii) for facilitating, in the manner described in subsections (5), (6), (7) and (8), the determination of whether any notifiable particulars are proved for the purposes of an application for a specified instrument in respect of a pre-Bill columbarium.

(2) Under the notification scheme, an operator of a pre-Bill columbarium

[A0034]

(b) 須同意計劃人員在以下期間，進入該骨灰安置所，以核實由該營辦人提供的上述陳述及紀錄，並確定有關須通報詳情 — [C0031]

- (i) (如屬第 1 組詳情)於草案公布時間開始，並於 2014 年 6 月 30 日完結的期間；及
- (ii) (如屬第 2 組詳情)於草案公布時間開始，並於 2014 年 8 月 31 日完結的期間。

(3) 在進入有關骨灰安置所和核實由有關營辦人提供的關於有關須通報詳情的陳述及紀錄後，計劃人員如信納該等陳述及紀錄的準確性，可拍攝照片和製備任何其他紀錄。 [A0034] [A0035]

(4) 在編製上述紀錄後，計劃人員如有此意願，可為 —

- (a) 關於有關須通報詳情的陳述； [A0036]
- (b) 關於有關須通報詳情的、該人員認為合適而拍攝的一套照片及製備的其他紀錄(包括示明任何設施的位置的圖則)， [A0036]

製備兩套複本，並可保存其中 1 套，以及將另一套提供予有關營辦人。 [A0036]

(5) 第(6)、(7)、(8)及(9)款適用於草案前骨灰安置所的指明文書申請。

(6) 為施行資格相關條文，在沒有相反證明的情況下，由計劃人員按第(4)款根據通報計劃擬備的關於有關須通報詳情的陳述，以及所拍攝的照片及製備的其他紀錄(包括圖則)，屬該等詳情的證據。 [A0036]

(7) 為免生疑問，為施行第 21(3)(d)及(e)條 —

- (a) 第(6)款只關乎以下事宜的證明：供焚化祭品的火爐或其他設施，在草案公布時間已存在於有關骨灰安置所，以及該等火爐或設施在該時間佔用土地；及 [B0002]
- (b) 發牌委員會對該等火爐或設施是否屬以下條文所提述的必要配套設施的決定，不受第(6)款影響 — [B0003]
 - (i) 第 2(1)條(骨灰安置所的定義)或第 2(5)(b)、(6)(b)或(7)(b)條；或
 - (ii) 附表 2 第 4(1)條中可就草案前骨灰安置所核證的構築物的定義的(a)(ii)段。

was—

- (a) to provide to a scheme officer, in the number of copies and prepared in the manner as the scheme officer determined—
 - (i) a statement of the notifiable particulars; and
 - (ii) any other records relating to the notifiable particulars as the scheme officer determined; and

(b) to give consent to the scheme officer to enter into the columbarium during the following periods to verify the statement and records provided by the operator to ascertain the notifiable particulars—

- (i) for batch 1 ~~particulars, particulars—~~ the period beginning at the Bill announcement time and ending on 30 June 2014; and [C0032]
- (ii) for batch 2 ~~particulars, particulars—~~ the period beginning at the Bill announcement time and ending on 31 August 2014. [C0033]

(3) On entering into the columbarium and verifying the statement of the notifiable particulars and records provided by the operator and being satisfied with their accuracy, the scheme officer might take photographs and make any other records.

(4) After compiling the records, the scheme officer might, if he or she so desired, prepare the following in duplicate and might retain 1 set and provide the other set to the operator—

- (a) a statement of the notifiable particulars;
- (b) a set of photographs taken and other records made as the scheme officer thought fit, relating to the notifiable particulars (including plans to indicate the location of any facilities).

(5) Subsections (6), (7), (8) and (9) apply to an application for a specified instrument in respect of a pre-Bill columbarium.

(6) For the purposes of the eligibility-related provisions, a statement of the notifiable particulars prepared, the photographs taken and other records (including plans) made, under the notification scheme by the scheme officer under subsection (4) is evidence of the notifiable particulars in the absence of evidence to the contrary.

<p>(8) 除非申請人藉交出根據第(4)款擬備的、關於某須通報詳情的陳述的複本，以及根據第(4)款擬備的照片及其他紀錄(包括圖則)的複本(與第(6)款一併理解)，以為資格相關條文的目的證明該等詳情，否則發牌委員會可將該人視為未能就有關骨灰安置所證明致使該委員會信納該等詳情。 [C0034]</p> <p>(9) 凡有指明文書申請就某骨灰安置所提出，而該骨灰安置所被聲稱為草案前骨灰安置所，則為該申請的目的，發牌委員會可行使其獨有的獨有和絕對酌情權，考慮關於有關須通報詳情的證據(並非第(4)款所提述的證據者)，但該委員會如此行事的先決條件，是——</p> <p>(a) 申請人令發牌委員會信納，申請人因為不在其控制範圍內的情況，而無法參加通報計劃；及</p> <p>——(b) 申請人交出證明價值與第(4)款提述的證據相若的證據。申請人交出證明價值與該款提述的證據相若的證據。 [A0037] [A0038]</p>	<p>(7) To avoid doubt, for the purposes of section 21(3)(d) and (e)—</p> <p>(a) subsection (6) relates only to proof of the existence of the furnaces for burning offerings or any other facilities in the columbarium as at the Bill announcement time and the occupation of land by the furnaces or facilities as at that time; and [B0002]</p> <p>(b) subsection (6) does not affect the Licensing Board's determination of whether the furnaces or facilities fall within the essential ancillary facilities referred to in— [B0003]</p> <p>(i) section 2(1) (definition of <i>columbarium</i>) or section 2(5)(b), (6)(b) or (7)(b); or</p> <p>(ii) paragraph (a)(ii) of the definition of <i>structures certifiable for a pre-Bill columbarium</i> in section 4(1) of Schedule 2.</p> <p>(8) The Licensing Board may treat the applicant as having failed to prove to its satisfaction any notifiable particulars in respect of the columbarium for the purposes of an eligibility-related provision unless the applicant proves them by producing a copy of the statement of the notifiable particulars, photographs and other records (including plans) prepared under subsection (4) (as read with subsection (6)). [C0034]</p> <p>(9) For the purposes of an application for a specified instrument in respect of a columbarium that is alleged to be a pre-Bill columbarium, the Licensing Board may, in its sole and absolute discretion, consider evidence of the notifiable particulars other than evidence referred to in subsection (4) if——</p> <p>——(a) the applicant satisfies the Licensing Board that the applicant was precluded from participating in the notification scheme by circumstances beyond the applicant's control; and</p> <p>——(b) the applicant produces evidence of probative value comparable to the evidence referred to in that subsection-(4). [A0038]</p>
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<p>24. 牌照 — 關於安放骨灰、違規構築物及管理方案的條件</p> <p>牌照骨灰安置所牌照受以下條件規限 — [A0039]</p> <ul style="list-style-type: none"> (a) 存放在有關骨灰安置所內的骨灰的份數，須限於有關經批准圖則所指明的骨灰安放容量； [A0040] (b) 如屬草案前骨灰安置所 — 對營辦該骨灰安置所屬必需(或與之配套)的違規構築物，須限於有關經批准圖則顯示的可就草案前骨灰安置所核證的構築物；及 [C0035] (c) 持牌人須按照管理方案(為施行第 13(2)條而就有關骨灰安置所批准者)，營辦和管理有關骨灰安置所。 	<p>24. Licence—conditions about ash interment, non-compliant structures and management plan</p> <p>The licenseeA licence in respect of a columbarium is subject to the following conditions— [A0039]</p> <ul style="list-style-type: none"> (a) that the number of sets of ashes kept in the columbarium must be limited to the ash interment capacity specified inshown on the approved plans; [A0040] (b) for a pre-Bill columbarium—that the non-compliant structures necessary for, or ancillary to, the operation of the columbarium must be limited to the structures certifiable for a pre-Bill columbarium shown in the approved plans;and [C0035] (c) that the licence holder must operate and manage the columbarium in accordance with the management plan approved for the purposes of section 13(2) in respect of the columbarium.
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第 6 分部 — 證明書及登記冊

38. 骨灰安置所用途證明書

- (1) 發牌委員會在就任何處所(已根據《土地註冊條例》(第 128 章)就其備存土地登記冊者)向某人(文書持有人)發出指明文書後，須盡快發出骨灰安置所用途證明書。
- (2) 上述證明書 —
 - (a) 須述明 —
 - (i) 有關處所屬本條例適用的骨灰安置所；
 - (ii) 指明文書已就該骨灰安置所發出；及
 - (iii) 該文書的文書持有人的姓名或名稱；及 [A0056]
 - (b) 須述明第 7 部及附表 5 條文附表 5 中關於進行訂明骨灰處置程序的責任及指明人員(第 65(1)條所界定者)根據第 65 條申請佔用令的權力的條文，適用於有關處所骨灰安置所。 [A0057] [C0036]
- (3) 在發出上述證明書後，發牌委員會須在合理地切實可行的範圍內，盡快將該證明書於土地註冊處針對有關處所註冊。 [A0058]

Division 6—Certificate and Register

38. Certificate of columbarium use

- (1) As soon as the Licensing Board has issued a specified instrument to a person (*instrument holder*) in respect of any premises for which a land register has been kept under the Land Registration Ordinance (Cap. 128), the Licensing Board must issue a certificate of columbarium use.
- (2) The certificate—
 - (a) must state—
 - (i) that the premises are a columbarium to which this Ordinance applies;
 - (ii) that a specified instrument is issued in respect of the columbarium; and
 - (iii) the name of the instrument holder; and
 - (b) must state that the provisions of Part 7 and Schedule 5 on obligations to carry out the prescribed ash disposal procedures and the power of a specified officer, as defined by section 65(1), to apply for an occupation order under section 65 apply to the premises columbarium. [C0036]
- (3) As soon as reasonably practicable after the certificate is issued, the Licensing Board must register the certificate against the premises in the Land Registry.

<p style="text-align: center;">第 5 部</p> <p style="text-align: center;">營辦骨灰安置所</p> <p style="text-align: center;">第 1 分部 — 關於安放權出售協議的規定</p> <p>40. 第 5 部的釋義</p> <p>(1) 在本部及附表 4 本部第 1 分部中 — [C0037] [C0038]</p> <p>買方 (purchaser) — 見第 41(1)條；</p> <p>賣方 (seller) — 見第 41(1)條。</p> <p>(2) 本部第 1 分部適用於在刊憲日期當日或之後訂立的安放權出售協議。 [C0039]</p>	<p style="text-align: center;">Part 5</p> <p style="text-align: center;">Operation of Columbaria</p> <p style="text-align: center;">Division 1—Requirements about Agreement for Sale of Interment Rights</p> <p>40. Interpretation of Part 5</p> <p>(1) In this Part and Schedule 4 Division 1 of this Part— [C0037] [C0038]</p> <p>purchaser (買方)—see section 41(1);</p> <p>seller (賣方)—see section 41(1).</p> <p>(2) Division 1 of this Part applies to an agreement for the sale of an interment right entered into on or after the enactment date. [C0039]</p>
<p>41. 賣方不可強制執行某些安放權出售協議</p> <p>(1) 如某人(賣方)為向另一人(買方)出售某骨灰安置所的安放權，而不論買家是否為受供奉人，與買方訂立協議，則本條適用。 [C0040]</p> <p>(2) 如賣方本意是以下列方式，按上述協議出售其無權出售的安放權 —</p> <p>(a) 骨灰安置所處所是根據可按期續約的、由政府批出的短期租賃佔用，而該租賃可按照有關短期租賃協議，藉發出達指明期間的通知而終止 — 以須按相同的定期而繳付款項以外的方式，出售該處所的安放權；</p> <p>(b) 骨灰安置所處所是根據租賃或租契佔用 — 出售該處所的安放權，而其年期超逾該租賃或租契的年期；或 [B0005]</p> <p>(c) 出售安放權，而其年期超逾租契、許可證或其他文書(有關骨灰安置所位處的土地，是根據該租契、許可證或文書從政府取得而持有者)的年期，</p> <p>則賣方不得針對買方強制執行該協議。</p> <p>(3) 除非符合以下所有條件，否則賣方不可針對買方強制執行上述協議 —</p> <p>(a) 在訂立該協議時，賣方就有關骨灰安置所持有牌照，並在強制執行該協議時，仍持有該牌照；</p>	<p>41. Certain agreement for sale of interment right unenforceable by seller</p> <p>(1) This section applies if a person (seller) enters into an agreement with another person (purchaser) for the sale, to the purchaser, of an interment right in respect of a columbarium-columbarium, whether or not to the purchaser as dedicated person. [C0040]</p> <p>(2) The agreement is not enforceable by the seller against the purchaser if the seller purports to sell under the agreement an interment right that the seller is not entitled to sell—</p> <p>(a) for columbarium premises occupied under a short term tenancy from the Government that is renewable on a periodic basis and terminable on notice given for a specified period in accordance with the short term tenancy agreement—by selling an interment right in respect of the premises otherwise than for payment payable on the same periodic basis;</p> <p>(b) for columbarium premises occupied under a tenancy or lease—by selling an interment right in respect of the premises for a term that extends beyond the term of the tenancy or lease; or</p> <p>(c) by selling an interment right for a term that extends beyond the term of the lease, licence or other instrument under which the land on which the columbarium is situated is held from the</p>

<p>(b) 該協議以書面訂立，並由賣方及買方雙方簽署；</p> <p>(c) 該協議以清晰措詞列出 —</p> <p>(i) 附表 4 第 1 部所指明的資料及建議；及</p> <p>(ii) 對賣方及買方在該協議下的權利和責任的全面描述，包括 (但不限於)該附表第 2 部所指明的事宜；</p> <p>(d) 該協議列出買方在第 42 條下的取消權；</p> <p>(e) 該協議包含訂定以下事項的條款：在行使安放權後，是否可以行使買方在第 42 條下的取消權，及如可行使該取消權的話，有何行使條件；</p> <p>(f) 在買方訂立該協議前，賣方已向買方解釋該協議列明的資料、建議、權利及責任；</p> <p>(g) 賣方取得買方的書面確認，指獲得(f)段提述的解釋；</p> <p>(h) 賣方向買方交付經買方簽署的該協議的一份複本； [B0006]</p> <p>(i) 在各方簽署該協議後，賣方須盡快循以下方式，向買方交付該協議的一份複本 —</p> <p>(i) 專人遞交予買方；</p> <p>(ii) 以掛號郵遞方式，寄交買方；或</p> <p>(iii) 任何其他方式，但賣方須能證明買方收到該複本；及 [B0007]</p> <p>(j) 發牌委員會訂明的任何其他規定，均已獲符合。</p> <p>(4) 凡協議不符合第(3)(b)、(c)、(d)、(e)或(j)款的規定，或該協議下的賣方沒有遵從第(3)(a)、(f)、(g)、(h)或(i)款的規定，則如 —</p> <p>(a) 該協議下的買方已根據第 42(1)條，向賣方給予取消通知；而</p> <p>(b) 賣方已拒絕向買方繳付須根據第 42(2)條繳付的款項，買方可在法院提起訴訟，以追討已根據該協議繳付的任何款項，並追討訟費。</p>	<p>Government.</p> <p>(3) The agreement is not enforceable by the seller against the purchaser unless—</p> <p>(a) the seller held a licence in respect of the columbarium at the time when the agreement was entered into and still holds the licence at the time of enforcing the agreement;</p> <p>(b) the agreement is in writing and was signed by both the seller and the purchaser;</p> <p>(c) the agreement sets out, in clear language—</p> <p>(i) the information and recommendations specified in Part 1 of Schedule 4; and</p> <p>(ii) a comprehensive description of the rights and obligations of the seller and the purchaser under the agreement including (but not limited to) the matters specified in Part 2 of that Schedule;</p> <p>(d) the agreement sets out the purchaser's cancellation rights under section 42;</p> <p>(e) the agreement includes a term on whether and, if so, on what conditions the purchaser's cancellation rights under section 42 may be exercised after the interment right has been exercised;</p> <p>(f) before the purchaser entered into the agreement, the seller has explained to the purchaser the information, recommendations, rights and obligations, as set out in the agreement;</p> <p>(g) the seller obtained the purchaser's acknowledgement, in writing, that the explanation referred to in paragraph (f) was given to the purchaser;</p> <p>—(h) the seller delivered to the purchaser a copy of the agreement as signed by the purchaser at the time the purchaser signed it; [B0006]</p> <p>(i) the seller delivered to the purchaser a copy of the agreement as soon as possible after it was signed by all parties, which delivery must be effected—</p> <p>(i) by personal delivery to the purchaser;</p> <p>(ii) by registered post to the purchaser; or</p>
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	<p>(iii) in anotherany other manner if the seller can prove receipt of the copy by the purchaser; and [B0007]</p> <p>(j) any other requirements prescribed by the Licensing Board are met.</p> <p>(4) A purchaser under an agreement that does not meet the requirements of subsection (3)(b), (c), (d), (e) or (j), or in respect of which the seller has not complied with the requirements of subsection (3)(a), (f), (g), (h) or (i), may bring an action in a court to recover any amounts paid under the agreement together with costs if—</p> <p>(a) the purchaser has given the seller notice of cancellation under section 42(1); and</p> <p>(b) the seller has refused to pay the purchaser the amount payable under section 42(2).</p>
<p>42. 取消不可強制執行的協議</p> <p>(1) 如根據第 41(2)或(3)條，某協議下的賣方不可強制執行該協議，該協議下的買方可在訂立該協議後的任何時間，藉向賣方以書面給予取消通知，取消該協議。</p> <p>(2) 賣方如收到第(1)款所指的取消通知，須在其後的 30 日內，向買方退回根據有關協議收取的所有款項。</p> <p>(3) 如有關安放權已行使，則第(1)及(2)款在第 41(3)(e)條提述的協議條款的規限下適用。</p>	<p>42. Cancellation of unenforceable agreement</p> <p>(1) A purchaser under an agreement that is not enforceable by the seller under section 41(2) or (3) may cancel the agreement at any time after it is madeentered into by giving the seller a written notice of cancellation. [C0041]</p> <p>(2) A seller who receives a notice of cancellation under subsection (1) must, within 30 days of receiving the notice, refund to the purchaser all money received under the agreement.</p> <p>(3) If the interment right has been exercised, subsections (1) and (2) apply subject to the term of the agreement referred to in section 41(3)(e).</p>

43. **備存紀錄安放權出售協議的紀錄** [C0042]

- (1) 就骨灰安置所持有牌照的人，須備存所有出售該骨灰安置所的安放權的協議(包括被致無效或遭取消的協議)的複本，直至自有關協議獲完全執行、被致無效或遭取消當日起計的 6 年屆滿為止。
- (2) 就骨灰安置所持有牌照的人 —
 - (a) 須為出售該骨灰安置所的安放權的協議，備存登記冊；及
 - (b) 須在訂明期間內，將每份協議的訂明詳情，記入該登記冊。
- (3) 就骨灰安置所持有牌照的人，須應署長或獲授權人員要求，將根據本條就該骨灰安置所備存的協議及登記冊的複本的複本及登記冊，提供予署長或該人員查閱。 [B0009]
- ~~(4) 就骨灰安置所持有指明文書的人，須備存關於以下事宜的紀錄 —
 - (a) 將骨灰安放在該骨灰安置所，以及將安放在該骨灰安置所的骨灰移走；及
 - (b) 安放在該骨灰安置所內的骨灰的獲授權代表的聯絡資料。~~ [C0043]
- (5) 任何人違反第(1)、(2) ~~、(3)或(4)款或(3)款~~，即屬犯罪，一經定罪，可處第 3 級罰款及監禁 6 個月。 [C0044]

43. **~~Record-keeping~~Records of agreements for sale of interment rights** [C0042]

- (1) A person holding a licence in respect of a columbarium must keep copies of all agreements for the sale of interment rights in respect of the columbarium (including agreements avoided or cancelled) until the expiry of 6 years beginning on the date the agreement is fully performed or is avoided or cancelled.
- (2) A person holding a licence in respect of a columbarium—
 - (a) must keep a register of agreements for the sale of interment rights in respect of the columbarium; and
 - (b) must enter the prescribed particulars of each of the **agreement agreements** into the register within the prescribed period. [B0008]
- (3) A person holding a licence in respect of a columbarium must make the copies of agreements, and the register, kept in respect of the columbarium under this section available for inspection, on request, by the Director or an authorized officer.
- ~~(4) A person holding a specified instrument in respect of a columbarium must keep a record —
 - (a) on interment and disinterment of ashes in and from the columbarium; and
 - (b) of the contact details of authorized representatives in respect of ashes interred in the columbarium.~~ [C0043]
- (5) A person who contravenes subsection (1), (2) ~~, (3) or (4) or (3)~~ commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 6 months. [C0044]

第 2 分部 — 展示文書及通告、不得偏離經批准圖則等職責

44. 須展示文書及通告

- (1) 就骨灰安置所持有指明文書的人，須在該骨灰安置所內的一個顯眼位置，展示該文書。
- (2) ~~就骨灰安置所就草案前骨灰安置所~~持有豁免書或暫免法律責任書的人，須在該骨灰安置所內的一個顯眼位置，展示一份**採用中文及英文**的通告，指出出售該骨灰安置所的任何安放權，屬第 89 條所訂罪行。
[B0010] [B0011] [C0045]
- (3) 任何人違反第(1)或(2)款，即屬犯罪，一經定罪，可處第 3 級罰款及監禁 3 個月。
- (4) 任何人不得 —
 - (a) 更改或污損指明文書，亦不得除去該文書上的任何資料；或
 - (b) 使用遭除去任何資料的指明文書，或曾被蓄意以任何方式更改或污損的指明文書，或以使用為出發點而管有符合上述情況的指明文書。
- (5) 任何人違反第(4)款，即屬犯罪，一經定罪，可處第 3 級罰款及監禁 3 個月。

Division 2—Duties to Exhibit Instruments and Notices, not to Deviate from Approved Plans, etc.

44. Instruments and notices to be exhibited

- (1) A person who holds a specified instrument in respect of a columbarium must exhibit it at a conspicuous place in the columbarium.
- (2) A person who holds an exemption or temporary suspension of liability in respect of a **pre-Bill** columbarium must exhibit at a conspicuous place in the columbarium a notice, ~~in both English and Chinese~~, to the effect that any sale of an interment right in respect of the columbarium is an offence under section 89. [B0010] [B0011] [C0045]
- (3) A person who contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 3 months.
- (4) A person must not—
 - (a) alter, deface or make any erasure on a specified instrument; or
 - (b) use, or have in the person's possession with a view to using, a specified instrument on which an erasure has been made or which has been wilfully altered or defaced in any way.
- (5) A person who contravenes subsection (4) commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 3 months.

46[A]. 安放及移走骨灰的紀錄

- (1) 就骨灰安置所持有指明文書的人，須備存—

 - (a) 將骨灰安放在該骨灰安置所，以及將安放在該骨灰安置所的骨灰移走的紀錄；及
 - (b) 安放在該骨灰安置所內的骨灰的獲授權代表的聯絡資料的紀錄。
- (2) 就骨灰安置所持有指明文書的人，須應署長或獲授權人員要求，將根據本條就該骨灰安置所備存的紀錄，提供予署長或該人員查閱。
- (3) 任何人違反第(1)或(2)款，即屬犯罪，一經定罪，可處第 3 級罰款及監禁 6 個月。

[C0046]

46[A]. Records on interment and disinterment of ashes, etc.

- (1) A person holding a specified instrument in respect of a columbarium must keep—

 - (a) a record on interment and disinterment of ashes in and from the columbarium; and
 - (b) a record of the contact details of authorized representatives in respect of the ashes interred in the columbarium.
- (2) A person holding a specified instrument in respect of a columbarium must make the copies of records kept in respect of the columbarium under this section available for inspection, on request, by the Director or authorized officer.
- (3) A person who contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 6 months.

[C0046]

第 6 部

執法

48. 獲授權人員

(1) 署長可為施行本條例，以書面委任公職人員為獲授權人員。 [C0047] [C0048]

(2) 在行使本條例所賦予的權力或履行本條例所授予的職能時，獲授權人員—

(a) 可由該人員合理所需的人協助；及

(b) 須出示該人員根據第(1)款獲委任的書面證明，以供合理地要求查看該文件的人查閱。

[C0049]

49. 視察骨灰安置所等的權力

(1) 為施行本條例，署長或獲授權人員有權作出以下所有或任何事情 —

(a) 在所有合理時間，進入和視察任何骨灰安置所(有指明文書就之具有效力者)；

(b) 要求參與營辦或管理該骨灰安置所的人 —

(i) 交出該人所管有的、關乎營辦或管理該骨灰安置所(或關乎與該骨灰安置所有關的任何其他活動)的簿冊、文件或任何其他物品；或

(ii) 提交該人所管有的、關乎上述營辦、管理或活動的任何資料；

(c) 為進行檢查而查閱、移走和移走或扣押任何上述簿冊、文件或物品，為期按署長或獲授權人員認為必需而定，並予以檢查和抄錄或複印； [C0050]

(d) 進行必需的檢查和查究，以確定任何或所有以下項目是否正獲遵守或已獲遵守 —

(i) 本條例；

(ii) 指明文書的條件；或

Part 6

Enforcement

48. Authorized officers

(1) The Director may appoint in writing a public officer as an authorized officer for the purposes of this Ordinance. [C0047] [C0048]

(2) When exercising a power or performing a function under this Ordinance, an authorized officer—

(a) may be assisted by such persons as the officer reasonably requires; and

(b) must produce the officer's written appointment under subsection (1) for inspection by any person who reasonably requires to see it.

[C0049]

49. Power to inspect columbaria, etc.

(1) For the purposes of this Ordinance, the Director or an authorized officer has power to do all or any of the following things—

(a) to enter and inspect at all reasonable times a columbarium in respect of which a specified instrument is in force;

(b) to require a person taking part in the operation or management of the columbarium—

(i) to produce a book, document or any other article in the person's possession that relates to the operation or management of the columbarium or to any other activity in respect of the columbarium; or

(ii) to furnish any information in the person's possession that relates to the operation, management or activity;

(c) to inspect, remove and remove or impound for the purpose of examination for so long as the Director or authorized officer may consider necessary, and to examine and copy, any such book, document or article; [C0050]

<p>(iii) 為施行第 13(2)條而就該骨灰安置所批准的管理方案；</p> <p>(e) 行使施行本條例條文所需的任何其他權力。</p> <p>(2) 凡署長或獲授權人員要求得到協助及資料，以行使在本條之下的權力，指明文書的持有人及該人的僱員、傭工或代理人，須提供該項協助及資料。</p>	<p>(d) to conduct any examination and inquiry that may be necessary for ascertaining whether any or all of the following is being, or has been, complied with—</p> <p>(i) this Ordinance;</p> <p>(ii) the conditions of a specified instrument; or</p> <p>(iii) the management plan approved for the purposes of section 13(2) in respect of the columbarium;</p> <p>(e) to exercise any other powers that may be necessary for giving effect to the provisions of this Ordinance.</p> <p>(2) A person holding a specified instrument and the employees, servants or agents of the person must provide the assistance and information required by the Director or an authorized officer for exercising the powers under this section.</p>
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50. 進入和搜查的權力等

- (1) 裁判官如根據經宣誓而作的告發，信納有合理理由懷疑，在任何處所內，有屬或包含(或相當可能屬或包含)本條例所訂罪行的證據的任何物品，可就該處所發出搜查令。
- (2) 上述搜查令可授權署長或獲授權人員 —
 - (a) 破門和強行進入有關處所，並搜查該處所；
 - (b) 檢取、移走或扣押署長或該人員覺得屬或包含(或相當可能屬或包含)本條例所訂罪行的證據的任何物品；
 - (c) 強行移走妨礙署長或該人員行使本條賦予署長或該人員的權力的任何人或物件；及
 - (d) 扣留在該處所內發現的人，直至完成搜查該處所為止。
- (3) 如 —
 - (a) 有合理理由懷疑，在某處所內有屬或包含(或相當可能屬或包含)本條例所訂罪行的證據的任何物品；及
 - (b) 取得搜查令所必然引致的阻延，能夠導致證據喪失或毀滅，或因任何其他理由，而使取得上述搜查令並非合理地切實可行，則署長或獲授權人員可在沒有根據第(1)款發出的搜查令的情況下，就該處所行使第(2)款提述的任何權力。
- (4) 如署長或獲授權人員根據第(2)(b)款(或根據第(3)款行使第(2)(b)款所提述的權力)檢取、移走或扣押任何物品 — [C0051]
 - (a) 署長或該人員須將一份宣布該檢取、移走或扣押的中文通告，張貼於有關處所外的顯眼位置；及 [C0052] [C0053]
 - (b) 該通告須述明，該物品的擁有人可根據第 53 條，在該條指明的時限內，向署長申請將該物品交還予該人。

50. Power to enter and search, etc.

- (1) If satisfied by information on oath that there are reasonable grounds for suspecting that there is in any premises anything which is or contains, or which is likely to be or to contain, evidence of an offence under this Ordinance, a magistrate may issue a search warrant in respect of the premises.
- (2) The search warrant may authorize the Director or an authorized officer to—
 - (a) break into and forcibly enter the premises and search the premises;
 - (b) seize, remove or impound anything which appears to the Director or authorized officer to be or to contain, or to be likely to be or to contain, evidence of an offence under this Ordinance;
 - (c) remove by force a person or thing obstructing the Director or authorized officer in the exercise of a power conferred on the Director or authorized officer by this section; and
 - (d) detain a person found in the premises until the premises have been searched.
- (3) The Director or an authorized officer may exercise any of the powers referred to in subsection (2) in respect of any premises without a search warrant issued under subsection (1) if—
 - (a) there are reasonable grounds for suspecting that there is in the premises anything which is or contains, or which is likely to be or to contain, evidence of an offence under this Ordinance; and
 - (b) the delay necessary to obtain a search warrant could result in the loss or destruction of evidence or for any other reason it would not be reasonably practicable to obtain a search warrant.
- (4) If the Director or an authorized officer seizes, removes or impounds any thing under subsection (2)(b) (or by the exercise under subsection (3) of the powers referred to in subsection (2)(b))— [C0051]
 - (a) the Director or authorized officer must post at a conspicuous place outside the premises a notice, ~~written in the Chinese language,~~ declaring the seizure, removal or impoundment; and [C0052]

	(b) the notice must state that the owner of the thing may, under section 53, apply to the Director for the thing to be returned to the owner within the time specified in that section.
<p>51. 拘捕權力</p> <p>(1) 如署長或獲授權人員合理地懷疑，任何人已犯或正犯本條例所訂罪行，署長或該人員可無需手令而拘捕該人。</p> <p>(2) 如 —</p> <p>(a) 署長或獲授權人員嘗試拘捕某人，而該人以武力抗拒；或 [C0054]</p> <p>(b) 該人企圖規避拘捕，</p> <p>則署長或該人員可用一切所需的合理手段，進行拘捕。</p> <p>(3) 署長或獲授權人員如根據本條拘捕任何人，須立即將該人帶往最近的警署或交付警務人員看管，以按照《警隊條例》(第 232 章)處理該人。</p>	<p>51. Power of arrest</p> <p>(1) If the Director or an authorized officer reasonably suspects that a person has committed or is committing an offence under this Ordinance, the Director or authorized officer may arrest the person without a warrant.</p> <p>(2) The Director or an authorized officer may use all reasonable means necessary to make the arrest if the person—</p> <p>(a) forcibly resists the attempt of the Director or authorized officer to arrest the person; or</p> <p>(b) attempts to evade the arrest.</p> <p>(3) If the Director or an authorized officer arrests a person under this section, the Director or authorized officer must immediately take the person to the nearest police station or hand the person over to the custody of a police officer, to be dealt with in accordance with the Police Force Ordinance (Cap. 232).</p>

53. 處置檢取、移走或扣押的物品

- (1) 如根據第 50(2)(b)條(或根據第 50(3) 條行使第 50(2)(b)條所提述的權力)檢取、移走或扣押的任何物品，是或相當可能是須在根據本條例提起的法律程序中出示作為證據的，則署長可保留該物品，直至該法律程序被放棄或獲裁斷為止。 [C0055]
- (2) 在有關法律程序被放棄或獲裁斷後的 60 日內，被檢取、移走或扣押的物品的擁有人，可向署長提出申請，要求將該物品交還予該人。
- (3) 如有關物品的擁有人沒有根據第(2)款所訂而行事，該物品 —
 - (a) 成為政府財產，而不受任何留置權、申索權或產權負擔所約束；及
 - (b) 可被售賣或以署長認為合適的其他方式處置。 [C0056]

53. Disposal of thing seized, removed or impounded

- (1) If any thing seized, removed or impounded under section 50(2)(b) (or by the exercise under section 53(3) of the powers referred to in section 50(2)(b)) is required, or likely to be required, for production in evidence in any proceedings under this Ordinance, the Director may retain the thing until the proceedings are abandoned or determined. [C0055]
- (2) Within 60 days after the proceedings are abandoned or determined, the owner of the thing seized, removed or impounded may apply to the Director for the thing to be returned to the owner.
- (3) If the owner of the thing has not acted as provided under subsection (2), the thing—
 - (a) is to become the property of the Government, free from all liens, claims or encumbrances; and
 - (b) may be sold or otherwise disposed of in a manner that the Director thinks fit.

54. 執法通知

- (1) 署長可藉向骨灰安置所持有指明文書的人送達通知(執法通知),要求就骨灰安置所持有指明文書的人要求接獲通知的人(通知對象)作出以下一項或多於一項事情 — [C0057]
- (a) 停止違反規限該文書的條件;
 - (b) 對該項違反行為的後果,作出補救;
 - (c) 防止該項違反行為再次發生。
- (2) 上述執法通知,須述明 —
- (a) 有關違反行為的詳情,以及(若適用的話)停止該項違反行為的時限; [C0058]
 - (b) (如適用的話)通知對象為對該項違反行為的後果作出補救而須採取的行動,以及採取該行動的時限;
 - (c) (如適用的話)通知對象為防止該項違反行為再次發生而須採取的行動,以及採取該行動的時限; [C0059]
 - (d) 沒有合理辯解而不遵從該通知,屬一項罪行;及
 - (e) 如(b)或(c)段適用 —
 - (i) 如通知對象沒有在述明時間內,採取該段所提述的行動,署長可安排採取行動採取任何其認為屬必要或可取的行動,以對有關違反行為的後果作出補救,或防止該項違反行為再次發生;及 [C0060]
 - (ii) 通知對象將會負上法律責任,須支付採取該行動的開支。
- (3) 如執法通知的通知對象沒有合理辯解而不遵從該通知,即屬犯罪,一經定罪,可處第3級罰款。
- (4) 如執法通知的通知對象沒有在述明時間內採取該通知所述的行動,以對該通知所述的違反行為的後果作出補救,或防止該項違反行為再次發生,則署長可安排採取任何其認為屬必要或可取的行動,以對該後果作出補救,或防止該行為再次發生。 [C0061]
- (5) 根據第(4)款採取的任何行動的開支,可作為民事債項而向有關執法通知的通知對象追討。
- (6) 除非署長另有決定,否則在根據第72條針對署長送達執法通知的決定

54. Enforcement notice

- (1) The Director may, by notice (*enforcement notice*), ~~require served on~~ the holder of a specified instrument in respect of a columbarium (*recipient*), ~~require the recipient~~ to do one or more of the following— [C0057]
- (a) to end a contravention of a condition to which the instrument is subject;
 - (b) to remedy the consequences of the contravention;
 - (c) to prevent the recurrence of the contravention.
- (2) The enforcement notice must state—
- (a) the particulars of the contravention concerned and, ~~if applicable,~~ the time within which the contravention must end; [C0058]
 - (b) if applicable, the action that the recipient must take to remedy the consequences of the contravention and the time within which the action must be taken;
 - (c) ~~any~~ ~~if applicable, the~~ action that the recipient must take to prevent the recurrence of the contravention and the time within which the action must be taken; [C0059]
 - (d) that a failure, without reasonable excuse, to comply with the notice is an offence; and
 - (e) if paragraph (b) or (c) applies—
 - (i) that, if the recipient fails to take the action referred to in that paragraph within the stated time, the Director may arrange for ~~action to be taken any action to be taken that the~~ Director considers necessary or desirable to remedy the consequences of the contravention or to prevent the recurrence of the contravention; and [C0060]
 - (ii) that the recipient will be liable for the expenses of taking the action.
- (3) The recipient of an enforcement notice who, without reasonable excuse, fails to comply with the notice commits an offence and is liable on conviction to a fine at level 3.
- (4) If the recipient of an enforcement notice fails to take the action stated

<p>的上訴待決期間，不暫緩執行該決定。 [C0062]</p>	<p>in the notice <u>within the stated time</u> for remedying the consequences of a contravention stated in the notice or preventing the recurrence of the contravention, the Director may arrange for any action to be taken that the Director considers necessary or desirable to remedy the consequences or prevent the recurrence. [C0061]</p> <p>(5) The expenses of any action taken under subsection (4) are recoverable as a civil debt from the recipient of the enforcement notice.</p> <p>(6) <u>An appeal under section 72 against a decision of the Director to serve an enforcement notice does not suspend the operation of the decision, pending the determination of the appeal, unless the Director decides otherwise.</u> [C0062]</p>
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食物及衛生局

二零一六年一月二十二日

[於二零一六年二月十日更新]

Food and Health Bureau

22 January 2016

[updated on 10 February 2016]