



立法會秘書處 法律事務部  
LEGAL SERVICE DIVISION  
LEGISLATIVE COUNCIL SECRETARIAT

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By Fax (2136 3282)

20 November 2015

Miss Diane WONG  
Prin AS for Food & Health (Food)2  
Food and Health Bureau  
17/F, East Wing  
Central Government Offices  
2 Tim Mei Avenue  
Tamar, Hong Kong

Dear Miss WONG,

**Re: Private Columbaria Bill**

Please find attached a schedule listing my observations in relation to Part 6 of the Bill for your consideration. I would be grateful if you could let me have the Administration's reply in bilingual form as soon as possible.

Yours sincerely,

(Wendy KAN)  
Assistant Legal Adviser

Encl.

c.c. DoJ (Attn: Ms Phyllis KO & Miss Cindy CHEUK (By Fax: 3918 4613))  
Clerk to Bills Committee  
LA  
SALA3

## Schedule

### Clause 48

1. Should the appointment of an authorized officer be made in writing? Further, should an authorized officer be imposed with an obligation to produce written evidence of his or her identity and appointment upon request when exercising his or her powers conferred by the Bill? Please provide such requirements in the Bill.

### Clause 49(1)(c)

2. It seems that "any such book, document or article" in clause 49(1)(c) means the book, document or article that relates to the operation or management of the columbarium or to any other activity in respect of the columbarium in the possession of a person taking part in the operation or management of the columbarium as referred to in clause 49(1)(b). Please clarify. Please also clarify whether the power of inspection under clause 49(1)(c) also covers items required to be kept in clause 43.

3. Please explain the reason(s) for requiring to vest the Director or an authorized officer with a power to remove and impound under clause 49(1)(c) in view of the powers given under clause 50(3).

4. Please provide expressly in the Bill a duty on the Director or an authorized officer to return the book, document or article impounded after completing the examination.

### Clause 49(1)(e)

5. The Director or an authorized officer has been given wide powers under clause 49(1)(e). Please give the justification.

### Clause 49(2)

6. Please clarify the legal consequence(s) for contravening clause 49(2).

### Clause 50(4)

7. Clause 50(4) applies if the Director or an authorized officer seizes, removes or impounds any thing under clause 50(2)(b). What if the Director or authorized officer does so pursuant to clause 50(3)?

Clause 50(4)(a)

8. Clause 50(4)(a) provides that the notice required to be posted at a conspicuous place outside the premises be written in the Chinese language only. Please explain the reason(s) for providing so.

9. In the Chinese text, should "張貼於有關處所的顯眼位置" rather be "張貼於有關處所外的顯眼位置", as the Chinese rendition of "post at a conspicuous place outside the premises" in the English text?

Clause 53

10. Please note Question 7 above regarding any thing seized, removed or impounded under clause 50(3).

Clause 53(3)

11. Please provide the justification for clause 53(3).

Clause 53(3)(b)

12. In the Chinese text, "以署長認為合適的方式處置" should be "以署長認為合適的其他方式處置" instead, as the relevant English text is "otherwise disposed of in a manner that the Director thinks fit".

Enforcement notice under clause 54

13. Please consider to change the Chinese rendition of "enforcement notice" in the English text from "執法通知" to "執行通知", as in other legislation, "enforcement notice" in the English text is usually rendered as "執行通知" in the Chinese text.

Clause 54(2)(a)

14. In clause 54(2)(a), "must" in the English text has not been rendered in the Chinese text.

Clause 54(2)(b) and (c)

15. In clause 54(2)(b) and (c), should "以及採取該行動的時限" in the Chinese text be "以及須採取該行動的時限" instead, as the Chinese rendition of "and the time within which the action must be taken" in the English text?

Clause 54(2)(c)

16. For consistency with the wording of clause 54(2)(b), please consider to replace "any action" in clause 54(2)(c) with "if applicable, the action".

Clause 54(2)

17. It appears that even if an appeal is lodged under clause 72(1)(f) on the Director's decision to serve an enforcement notice under clause 54, the recipient of the notice is still required to end the contravention or take the action within the stated time in accordance with the notice. Should an express provision, in such event, be made in the Bill to provide for a suspension of the operation of the notice pending the determination of the appeal or to specify the time when the stated time in the notice starts to run?

Clause 54(4)

18. In clause 54(4), please add "within the stated time" after "preventing the recurrence of the contravention" in the English text and make corresponding amendment to the Chinese text.