

Deputations' Comments and Administration's Responses

(I) Summary of Views in Received by the Bills Committee

	Key Comment	Deputation	Response from the Administration
(A) General			
1	The licensing regime proposed in the Bill is considered practical and is supported.	<ul style="list-style-type: none"> • Mr Davis CHAN Ying-keung • Civic Party • Democratic Party • Doctoral Exchange • Law Society • New People's Party and Civil Force • Puguangming Temple • Mr YEUNG Wai-sing, Member of Eastern District Council • 要求立法規管私營骨灰龕大埔聯盟 	Noted.
2	The Government should be cautious in taking forward the proposed licensing scheme, lest the resting place of ancestors be disturbed.	<ul style="list-style-type: none"> • 一群使用骨灰龕消費者 	Noted.
3	The scrutiny of the Bill should be completed as soon as practicable.	<ul style="list-style-type: none"> • Civic Party • Democratic Party 	Agreed.

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4	The Bill should provide for an explicit “licensee system” for assigning legal responsibility and potential criminal liability, so that a specific person could be held accountable and made punishable, when convicted of an offence under the Bill.	<ul style="list-style-type: none"> • Doctoral Exchange 	Currently, clause 88 of the Bill provides that the criminal liability of a body corporate (or partnership) could be traced back to the director, manager, secretary or other similar officer of the body corporate (or other partners in the case of a partnership) provided that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of the director, manager, secretary or officer (or the other partners in the case of a partnership).
5	Private columbaria should be encouraged to be built in the form of multi-storey buildings.	<ul style="list-style-type: none"> • Law Society 	<p>The operation of private columbaria is a commercial decision. It would be up to the operators of individual private columbaria to consider and decide on the design of their columbaria.</p> <p>Besides, private columbaria would have to comply with land, planning and building related requirements as specified under the Bill. Whether new private columbaria could be built in the form of multi-storey buildings would be subject to compliance with these requirements.</p>
6	It is not clear as to whether “storage of cremated ashes” is the same as “storage of human remains” under the conditions in Government Notification for sale of land in the New Territories.	<ul style="list-style-type: none"> • Law Society 	In the Court of First Instance judgement of <i>Regal Shining Limited v. Secretary for Justice</i> (HCMP 2781/2012) made on 21 October 2014, the term “human remains” in the leases encompasses “human ashes”.
(B) Coverage of the Bill			
7	The current definition of “ashes” will allow private columbaria to circumscribe the coverage of the Bill by turning the human ashes into synthetic materials.	<ul style="list-style-type: none"> • Doctoral Exchange • Mr KWOK Chung-man 	We will consider and assess the need, if any, for introducing Committee Stage Amendments.

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8	Pu Tong Ta, which are used for interring the ashes of deceased monks, are common essential structures found in Buddhist temples. Treating them as private columbaria fails to take into account their religious values. The Bill should allow special arrangements / exemptions for religious columbaria, especially for Pu Tong Ta run by traditional Buddhist temples that are not open for sale to the public.	<ul style="list-style-type: none"> • Lok Sang Lin Sher and 祥光苑 • Po Lam Chan Monastery • Puguangming Temple • 一群使用骨灰龕消費者 	We will consider this.
9	The definition of “domestic premises” should be set out more clearly as to whether subdivided flats are covered by the definition.	<ul style="list-style-type: none"> • Mr KWOK Chung-man 	Under clause 5 of the Bill, the term “domestic premises” is defined as premises used solely or principally for residential purposes and constituting a separate household unit. Hence, if a subdivided unit in a flat which is being used solely or principally for residential purposes constitutes a separate household unit, it is “domestic premises” within the meaning of clause 5.
10	The Administration should consider regulating columbaria for pets under the same legislation.	<ul style="list-style-type: none"> • Doctoral Exchange 	Our current focus and priority are on regulating the private columbaria that keep human ashes.

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11	The Administration should consider regulating intermediaries selling niches of private columbaria.	<ul style="list-style-type: none"> • Mr Pius YUM Kwok-yung, Member of Kowloon City District Council 	<p>The objective of the Bill is to provide for a licensing regime that regulates private columbaria, with a view to ensuring compliance with statutory and Government requirements, enhancing protection of consumer interests and putting the further development of the trade on a sustainable path. Once the Bill comes into operation, no private columbaria will be allowed to sell or let out new or unoccupied niches unless their operation is covered by a licence. In other words, niches being sold or let out (whether or not through intermediaries) would have to come from licensed columbaria.</p> <p>For protecting consumer interest, Part 5 and Schedule 4 of the Bill set out the requirements that the operator of licensed columbarium must meet, in terms of what prescribed information should go into the agreement for sale of interment rights.</p> <p>The introduction of the Bill is a big step forward in protecting consumer interest. The priority now is to enact the Bill.</p>
12	It is not clear as to whether the Bill will be applicable to columbaria which commence operation after the Bill Announcement Time (i.e. 8:00 a.m. on 18 June 2014).	<ul style="list-style-type: none"> • Mr Davis CHAN Ying-keung 	<p>The provisions in the Bill, upon coming into operation, will be applicable to <u>all</u> private columbaria in Hong Kong, irrespective of when they commence operation.</p> <p>Under the Bill, columbaria which commence operation after the Bill Announcement Time are <u>not</u> pre-Bill columbaria. As such, they are <u>not</u> eligible for exemption and temporary suspension of liability (“TSOL”). If they apply for a licence, they are subject to the requirements under clause 13 (<u>not</u> clause 14) of the Bill.</p>

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(C) Arrangements for pre-Bill columbaria			
13	The grandfathering arrangements for dated pre-Bill columbaria (i.e. those that commenced operation before 1 January 1990) are supported, as this would prevent the closing down of numerous columbaria at the same time, while containing the extent of illegality, if any.	<ul style="list-style-type: none"> • Doctoral Exchange • Mr YEUNG Wai-sing, Member of Eastern District Council • 一群使用骨灰龕消費者 	Noted.

	Key Comment	Deputation	Response from the Administration
14	<p>Under the proposed licensing regime, all private columbaria will be allowed to apply for a licence, whereas pre-Bill columbaria can apply for exemption and TSOL. This means that the nuisance caused by private columbaria will remain, and illegal columbaria could continue to be in existence.</p>	<ul style="list-style-type: none"> • Mr KWOK Chung-man 	<p>From the outset, we have to recognise that the Bill could not offer a panacea to each and every problem relating to private columbaria inherited from the past. That said, we believe that the licensing regime proposed under the Bill represents considerable improvement over the present situation.</p> <p>Columbaria applying for a licence will have to fulfil, among others, land, planning and building related requirements, as well as submit a management plan to the Private Columbaria Licensing Board (“the Licensing Board”) for approval.</p> <p>While pre-Bill columbaria could apply for exemption, we should bear in mind that the number of sets of ashes kept in the columbarium is limited to the total number of sets of ashes kept at the Bill Announcement Time.</p> <p>The TSOL, which is temporary in nature, seeks to allow time for pre-Bill columbaria to seek compliance with the requirements for licence or exemption, as the case may be. The number of sets of ashes kept in the columbarium is limited to the total number of sets of ashes kept at the Bill Announcement Time (if an application for the issue of an exemption is pending) or at the enactment date of the Bill (if an application for the issue of a licence (but no application for the issue of an exemption) is pending).</p> <p>The Licensing Board may impose conditions on the licence, exemption or TSOL, to minimise the nuisance caused by the operation of the columbaria to their neighbourhood.</p>

	Key Comment	Deputation	Response from the Administration
15	According to clause 15(1)(d), pre-Bill columbaria must have commenced operation before 1 January 1990 in order to be eligible to apply for exemption. Clarifications are sought as to how this date was set.	<ul style="list-style-type: none"> • Heung Yee Kuk • Illegal Columbarium Concern Group (Alliance for the Concern Over Columbarium Policy) • Law Society 	Many dated columbaria have taken root in a particular locality well before population influx and/or other columbaria appeared in its vicinity. During the second round of public consultation held in 2011, the public generally agreed that datedness was a reasonable ground for justifying the exemption of pre-Bill columbaria. In our view, 25 years would be commonly accepted as a reasonable benchmark for datedness. Hence, we have proposed setting 1 January 1990 (which is approximately 25 years preceding the expected enactment of the Bill) as the cut-off date.
16	Many operators started their private columbaria after 1 January 1990. The cut-off date for eligibility of exemption is suggested to set at 18 June 2014 instead.	<ul style="list-style-type: none"> • Heung Yee Kuk 	
17	On the eligibility criteria for exemption, more stringent criteria should be set apart from setting the Bill Announcement Time as the cut-off date. For instance, exemption should not be allowed for private columbaria which are in violation of planning requirements or those that are in the close vicinity of the residential developments. Regards should also be given to the seriousness of the illegality of the private columbaria when considering their exemption application.	<ul style="list-style-type: none"> • Democratic Party • Illegal Columbarium Concern Group (Alliance for the Concern Over Columbarium Policy) • 抗議食衛局推卸責任行動組 • 要求立法規管私營骨灰龕大埔聯盟 	Exemption from the licensing scheme is intended to be a pragmatic way to deal with dated private columbaria which are not in compliance with all the relevant statutory and Government requirements so as not to upset the final resting place of the deceased. Under the Bill, pre-Bill columbaria are eligible for exemption only if they fulfil a host of stringent criteria as set out in clause 15 of the Bill. For instance, the pre-Bill columbarium must have commenced operation (by reference to the first time when ashes were interred or interment right was sold) before 1 January 1990, ceased the sale or letting out of new or unoccupied niches as from the Bill Announcement Time, etc. These columbaria would hence lose their source of income, but they would still likely have to incur expenses on ensuring compliance with building and other statutory requirements, maintenance of the columbaria premises, etc. If other criteria are imposed in addition to the already stringent ones described above, some genuinely dated columbaria may not be able to attain exemption status, causing more social disruption arising from the need to relocate more ashes of the deceased.

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18	The Administration can consider introducing a grace period for private columbaria to continue their operation (including the selling of new or unoccupied niches) to prevent the freezing of supply of niches.	<ul style="list-style-type: none"> • 一群使用骨灰龕消費者 	<p>In the past several years when the proposed regulation of private columbaria was discussed in the community through, amongst other things, the two public consultation exercises launched by the Administration, repeated concern has been expressed by some that unauthorised private columbaria were able to continue with their development and operation and expedite the sale of niches pending commencement of the licensing scheme. It is important to address such concern at the first available opportunity upon commencement of the licensing scheme so as to protect consumer interest. Under the proposed licensing regime, once the Bill comes into operation, all private columbaria will not be allowed to sell or let out new or unoccupied niches unless their operation is covered by a licence. Schedule 7 of the Bill provides that private columbaria will be allowed a grace period of six months (counting from the enactment date of the Bill) or until an application for TSOL is finally disposed of or withdrawn, as the case may be. During the grace period, they could continue their operation, provided that there is no sale or letting out of any niches. Allowing them to sell or let out new or unoccupied niches during the grace period may result in consumers purchasing or renting niches from columbaria which at the end are not granted a licence.</p>

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19	The Administration should start collecting information from operators intending to apply for a licence so that the approval process can commence immediately upon enactment of the Bill, thereby minimising the impact of the Bill on the supply of niches in the private market.	<ul style="list-style-type: none"> • Doctoral Exchange 	A Licensing Board will be set up upon the enactment of the Bill to serve as the licensing authority for determining applications from private columbaria for licence, exemption or TSOL (collectively to be referred to as “specified instruments” hereinafter). To facilitate the processing of applications by the Licensing Board in future, the Food and Environmental Hygiene Department (“FEHD”) has launched a Notification Scheme on 18 June 2014 to collect operational particulars of existing private columbaria. Information so collected would help the Licensing Board in determining the pre-Bill status of the relevant columbaria, which may in turn affect their eligibility for seeking various specified instruments under the Bill.
20	While participation in the Notification Scheme is not a mandatory requirement for pre-Bill columbaria applying for a specified instrument under the Bill, it is important to have more columbaria to join the scheme. The Administration should proactively identify hidden private columbaria. A task force could be formed under FEHD.	<ul style="list-style-type: none"> • Doctoral Exchange 	Upon the launching of the Notification Scheme on 18 June 2014, FEHD has tried to reach out to all private columbaria known to the Government and encouraged them to furnish the operational particulars of their columbaria by participating in the Notification Scheme. Through various press releases and announcements in radio and newspapers, we have also appealed to other operators and the public to provide information on private columbaria that were not included in the Information on Private Columbaria maintained by the Development Bureau (“DEVB’s List”). As at early November 2014, FEHD received a total of 140 responses from private columbaria, among which 124 were from private columbaria on DEVB’s List and 16 were from those outside DEVB’s List.

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21	Clarification is sought as to how private columbaria can prove their ash interment capacity as at the Bill Announcement Time.	<ul style="list-style-type: none"> • Law Society 	The information collected through the Notification Scheme (mentioned in our response to item (19) above) will help serve such purpose. The Licensing Board will consider, among other things, the relevant information collected by FEHD through the Notification Scheme in determining the merits of applications for specified instruments from individual private columbaria.
22	When the Bill comes into operation, operators of private columbaria will not be allowed to sell or let out any more niches until they are issued with a licence. Some operators may face financial difficulties when their sale or letting out of niches is frozen.	<ul style="list-style-type: none"> • Puguangming Temple 	<p>The Licensing Board will, in accordance with the provisions of the Bill, consider the applications for specified instruments according to the merits of each case and endeavour to complete the processing as soon as possible.</p> <p>On their part, private columbaria should initiate early actions to seek compliance with the requirements under various specified instruments. For example, for prospective applicants who wish to obtain a licence, they could well start seeking compliance with the planning requirements now, if not having done so earlier.</p>
23	The Bill currently does not allow sold niches which were unoccupied as at the Bill Announcement Time to be occupied afterwards. The Licensing Board should be given discretion under the Bill to deal with special circumstances (e.g. death of a close relative of the ancestor; religious niches reserved for nuns/monks, etc.), provided that the commercial operation of the columbaria would not be expanded. The Administration can also consider imposing stringent criteria for allowing such arrangements.	<ul style="list-style-type: none"> • Civic Party • Illegal Columbarium Concern Group (Alliance for the Concern Over Columbarium Policy) 	A stringent approach was adopted in the Bill for handling sold or let out niches which were unoccupied as at the Bill Announcement Time to guard against abuse. Information gathered under the Notification Scheme will allow us to acquire a better understanding of the on-the-ground situation. Under the pre-requisite of guarding against abuse, we will consider a pragmatic way to handle such niches.

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24	The criteria for modifications to certain requirements applicable to pre-Bill columbaria (clause 14 refers) should be more stringent. In particular, all operators should be required to hold the columbarium premises directly from the Government. For pre-Bill columbaria, proving that they have the right to continue to use the columbarium for five years should <u>not</u> be considered sufficient.	<ul style="list-style-type: none"> • Heung Yee Kuk 	We would have to be pragmatic in resolving the problems inherited from the past, lest it might result in ash displacement of a large scale. Under this pragmatic approach, pre-Bill columbaria that satisfy the requirements for a licence in all respects should be granted a licence even if they do not hold the columbarium premises directly from the Government. The requirement for a pre-Bill columbarium to have the right to continue to use the columbarium premises for five years is pragmatic and can ensure steady service provision for at least the following five years and probably beyond.
25	Illegal columbaria should not be allowed to apply for exemption for sold niches on one hand, while apply for licence for newly built ones on the other.	<ul style="list-style-type: none"> • 抗議食衛局推卸責任行動組 • 抗議極樂寺違規骨灰龕行動組 	<p>In granting exemption, the Licensing Board would state clearly in the approved plan the ash interment layout (paraphrased as “exempted area” in layman term). Such exempted area would not be too extensive and would be confined to those premises with ashes interred in the niches before the Bill Announcement Time.</p> <p>In theory, a pre-Bill columbarium operator could submit an application for a licence for places outside the exempted area in the columbarium, if the premises concerned are stand-alone ones and separated from the exempted area. A licence applicant needs to satisfy the Licensing Board that the premises comply with the requirements in respect of planning, land and building safety, and that he/she has the right to use the premises. The licence applicant is also required to submit a management plan to the Licensing Board for approval. Where applicable, planning applications would be required for licence applications. The traffic impact assessment on the cumulative traffic flow and the public’s views would have to be taken into account at the stage of processing the planning applications by the Town Planning Board. If the Licensing Board considers it appropriate, it would also consider the public’s views at the stage of processing the licence applications.</p>

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26	For pre-Bill columbaria involving breach of tenancy/lease or unlawful occupation of government land, clarification is sought as to whether waiver fees / land premium will be retrospectively charged for the past period if the Lands Department agrees to issue a waiver / short term tenancy (“STT”) / land lease (as the case may be) for future columbaria use.	<ul style="list-style-type: none"> • Law Society 	<p>Dated columbaria seeking exemption under the Bill would have to cease the sale or letting out of niches since the Bill Announcement Time. These columbaria would hence lose their source of income, but they would still likely have to incur expenses on ensuring compliance with building and other statutory requirements, maintenance of the columbaria premises, etc.</p> <p>We, therefore, propose that for pre-Bill columbaria confirmed to be eligible for exemption, the Director of Lands might, upon application, consider administratively regularising the breach of lease conditions and/or unlawful occupation of unleased land for the proposed exempted area before and during the exemption period, by way of a waiver and/or a STT, with the relevant waiver fees, STT rentals and administrative fees waived, depending on the circumstances and merits of each application. Through this arrangement, we intend to allow pre-Bill columbaria with exemption status to continue their operation, thereby minimising the disturbance to society that may otherwise arise from enactment of the Bill.</p> <p>However, for pre-Bill columbaria applying for a licence, any regularisation application, if approved, will be subject to, inter alia, payment of full market value premium which reflects the difference of the “before” and “after” land value.</p>
27	Land premium in respect of unlawful occupation of government land by pre-Bill columbaria should not be waived.	<ul style="list-style-type: none"> • Mr YEUNG Wai-sing, Member of Eastern District Council 	
28	For those private columbaria which are able to comply with all the relevant statutory and government requirements within four years upon the enactment of the Bill, their land premium should be waived as an incentive for more legal private columbaria development.	<ul style="list-style-type: none"> • Doctoral Exchange 	

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(D) Details about specified instruments			
29	The validity period of a TSOL (i.e. a maximum of three years plus an extension of three years, totalling six years) is rather long. Pre-Bill columbaria should have ample time to regularise their illegality if they choose to do it early.	<ul style="list-style-type: none"> • Civic Party • Illegal Columbarium Concern Group (Alliance for the Concern Over Columbarium Policy) • New People's Party and Civil Force • 關注仁孝宗祠違規龕場行動組 	Having made reference to the time required by private columbaria seeking rectification/regularisation in respect of land, planning and building related requirements under the existing mechanism, we consider the current validity period of no more than six years in total reasonable.
30	The validity period of a licence (i.e. a maximum of ten years) is too short.	<ul style="list-style-type: none"> • Law Society 	Upon expiry of the licence term, operators of private columbaria may apply for renewal of licence should they wish to do so. We consider ten years an appropriate interval for reviewing the circumstances of the columbaria for the renewal of licence.
31	There might be discrepancies in the number of niches as specified in the Notification Scheme, that approved by the Licensing Board and that approved under the planning application. Operators should be informed clearly which set of numbers would be binding on them, and that what should be done in respect of the ashes already interred but not covered by the relevant specified instrument.	<ul style="list-style-type: none"> • Puguangming Temple 	Applicants seeking specified instruments are required to submit plans to the Licensing Board for approval. Such plans will stipulate clearly the ash interment capacity (including the maximum number of sets of ashes that may be interred in the columbarium) for licences, and the ash interment quantity (including the total number of sets of ashes that are interred in the columbarium) for exemption or TSOL.
32	According to clause 11(9), TSOL may be extended more than once if exceptional circumstances exist. Clarification is sought as to what amount to an "exceptional circumstance".	<ul style="list-style-type: none"> • Law Society 	The Licensing Board will be the licensing authority for determining the merits of applications for specified instruments, including the renewal of TSOL. Upon establishment, it will prepare and issue a set of guidelines for applying for different kinds of specified instruments for the reference of prospective applicants to ensure transparency of the process.

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33	According to section 2 in schedule 2, a columbarium is considered to be in compliance with the planning-related requirements only if the columbarium complies with every requirement under the Town Planning Ordinance (Cap. 131) (TPO). Clarification is sought as to whether “every requirement” includes the terms of a Section 16 approval.	<ul style="list-style-type: none"> • Law Society 	Private columbaria are required to comply with every requirement under the TPO (Cap. 131). This includes the need to seek approval from the Town Planning Board (TPB) under sections 12A and 16 of Cap. 131, if applicable, and compliance with the terms or conditions in the approval granted by TPB, if any.
34	While an applicant for licence will have to prove that the applicant holds the columbarium premises directly from the Government, whether under a lease, licence or otherwise, it was not clear in the Bill whether the applicant could be considered to have satisfied this criterion if they have mortgaged the premises. The Bill should clearly stipulate that the premises must not be subject to any mortgage.	<ul style="list-style-type: none"> • 道風山環境關注組 	Under a mortgage effected by a legal charge, the mortgagor should remain the legal owner of the property. Hence, even if the applicant has mortgaged the columbarium premises to a bank or financial institution, the applicant would still be the legal owner of the premises and considered to be holding the premises directly from the Government.
35	Clarification is sought as to whether an Occupation Permit issued by the Buildings Department would be sufficient evidence for proving that the columbarium has complied with all the building-related requirements specified in section 3(1) in schedule 2.	<ul style="list-style-type: none"> • Law Society 	Under section 21 of the Buildings Ordinance (Cap. 123), an occupation permit is required before a newly completed building can be occupied. However, it should not be regarded as sufficient evidence for proving the columbarium’s compliance with all the building-related requirements under section 3(1) of Schedule 2 to the Bill. This is similar to the restaurant licensing regime.
36	The term “small building” used in the Bill (Part 3 of Schedule 2 refers) may cause confusion with the term “New Territories Exempted House” (which covers “small building”) and “small house” (which is commonly used in regard to the Small House Policy).	<ul style="list-style-type: none"> • Law Society 	The term “small building” has been clearly defined in section 5 of Schedule 2. “New Territories Exempted House” and “small house” are different concepts in different contexts.

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(E) Licensing authority and application procedures			
37	The Licensing Board should serve as the gate-keeper and should not allow dated pre-Bill columbaria that expanded in recent years to apply for exemption. The Administration can consider setting out such assessment criteria in subsidiary legislation or binding guidelines to ensure effective implementation.	<ul style="list-style-type: none"> • Civic Party 	Please see our response in item (17).
38	Clause 17(2)(a) provides that the Licensing Board must have regard to the public interest in determining an application for a specified instrument. The interpretation of “public interest” could be very wide and this might give the Licensing Board too much discretion without guidelines.	<ul style="list-style-type: none"> • Law Society 	Clause 17(2)(a) sets out an overarching principle governing the work of the Licensing Board. According to clause 17(2)(b), apart from public interest, the Licensing Board may take into account other relevant considerations. A set of guidelines for applying for different kinds of specified instruments will be prepared and published by the Licensing Board for the reference of prospective applicants to ensure transparency of the process.

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39	Application for the issue of specified instrument should be made to the Licensing Board within three months after the enactment of the Bill. This three-month period appears too short.	<ul style="list-style-type: none"> • Law Society 	<p>Under clause 21(1) of the Bill, private columbaria are required to submit applications for specified instruments in respect of a pre-Bill columbarium in the three-month period that follows the expiry of the third month after enactment of the Bill. Under clause 21(2), the Licensing Board may consider out-of-time application, provided that certain conditions are satisfied. If an individual columbarium operator requires more time for rectifying/regularising illegality/irregularity for the purpose of obtaining a licence or exemption, the Licensing Board may consider issuing a TSOL (the maximum validity of which is six years in total) to the operator. Bearing in mind –</p> <p>(a) the public wish to implement regulation of private columbaria at an early date;</p> <p>(b) the above provisions in the Bill; and</p> <p>(c) the fact that private columbaria can start preparing for applying for specified instruments before enactment of the Bill,</p> <p>we consider the three-month application period appropriate.</p>
40	Whether a columbarium will be issued with a licence mainly hinges on compliance with land, planning and building-related requirements. The Licensing Board should ensure that comments from the local community would be taken into account suitably. The Administration can consider setting this out in binding guidelines to ensure that the voices from the local community will form part of the Licensing Board's assessment criteria.	<ul style="list-style-type: none"> • Civic Party • Heung Yee Kuk 	<p>In submitting a planning application for its columbarium development, the applicant for a licence in respect of the columbarium will need to assess the impact of its operation on traffic, environment and other aspects, and come up with mitigation measures. The applicant should also respond to comments from the local community during the public inspection process and relevant Government departments.</p> <p>In addition, if the Licensing Board considers it appropriate, a notice of application will be published, and the local community may submit to the Licensing Board further</p>

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41	The publication of notice of application should be made mandatory, and objections to the application should be invited.	<ul style="list-style-type: none"> • Law Society 	comments and suggestions in respect of the columbarium. The Licensing Board may, as it thinks fit, impose conditions on the operator with a view to, among other things, minimising the environmental nuisance caused to the neighbourhood by the operation of the columbarium.
42	Licences should not be granted to columbaria that create nuisance to the neighbourhood.	<ul style="list-style-type: none"> • Alliance against to Chung Woo Ching Sai's Columbarium in Ma Wo • 上禾輦村民 • 道風之友 • 新峰大聯盟反對政府縱容違規龕場小組 • 新峰大聯盟取締違規龕場關注組 	
43	It is not clear whether an application for a licence must be accompanied by a traffic impact assessment, environmental impact assessment and other reports.	<ul style="list-style-type: none"> • Law Society 	<p>The applicant should have assessed the impact on traffic and any other relevant aspects in submitting their planning applications in respect of the columbarium, and come up with appropriate mitigation measures. In applying for a licence, private columbaria will also need to submit a management plan to the Licensing Board for approval.</p> <p>Upon establishment, the Licensing Board will prepare and publish guidelines for applying for different kinds of specified instruments for the reference of prospective applicants to ensure transparency of the process.</p>

	Key Comment	Deputation	Response from the Administration
44	Clause 16(2)(b)(ii) provides that the Licensing Board may refuse an application for TSOL if the private columbarium occupies unleased land unlawfully but the applicant does not provide a written declaration that he has no claim to the unleased land. The Administration may wish to note that there may be cases where writs have been issued against the Government for adverse possession, or the Government has taken action in the possession of the land whereby the claimant is defending on adverse possession grounds.	<ul style="list-style-type: none"> • Law Society 	<p>Under clause 16(2)(b)(ii) of the Bill, the Licensing Board may refuse to grant a TSOL in respect of a pre-Bill columbarium which is occupying unleased land unlawfully if the applicant does not provide a written declaration to the Director of Lands that the applicant has no claim to the unleased land, whether based on possession of the unleased land before, on or after the date of application or on any other ground.</p> <p>In the case of legal action being pending in respect of the columbarium in which adverse possession claims are involved, the above written declaration will be inconsistent with the applicant's adverse possession claims. In such cases, if the applicant refuses to provide the written declaration to the Director of Lands as required by the Bill, Licensing Board may refuse his application for TSOL in respect of the columbarium.</p>
45	The Administration can consider including a representative from Heung Yee Kuk in the Licensing Board.	<ul style="list-style-type: none"> • Heung Yee Kuk 	The Licensing Board will be set up within three months upon the enactment of the Bill. Suitable candidates for appointment to the Licensing Board will be identified and considered in due course.
46	Clarifications are sought as to whether the purported transferor of the specified instrument must show to the Licensing Board that the proposed transferee has the necessary competence to run a columbarium, and whether a new management plan (or confirmation that the transferee intends to adopt the existing management plan) is required. It is also not clear as to whether the same requirements apply to persons who succeeded the columbarium under clause 33(2)(g)(i).	<ul style="list-style-type: none"> • Law Society 	It is for the Licensing Board (to be set up in future) to determine the information, certificates or documents required for the purpose of effecting the transfer of a specified instrument.

	Key Comment	Deputation	Response from the Administration
(F) Appeal mechanism			
47	All relevant stakeholders (including a person who has raised an objection during the public notice period, if any) should be allowed to appeal against the decisions of the Licensing Board, provided that they have sufficient and reasonable justifications.	<ul style="list-style-type: none"> • Civic Party • Law Society 	Under clause 72, a person aggrieved by certain decisions of the Licensing Board (e.g. refusal of an application for specified instrument, decision to revoke or suspend a specified instrument, etc.) may raise an appeal to the Private Columbaria Appeal Board.
48	Appeal must be made within 21 days of the notice of decision under appeal is given to the person. Clarification is sought as to whether it is clear at law on when the notice is “given” to the appellant.	<ul style="list-style-type: none"> • Law Society 	We will consider including an express provision in the Bill as to when a notice is regarded as served or given.
(G) Enforcement			
49	The definitions of “specified officer” and “authorized officer” are very similar.	<ul style="list-style-type: none"> • Mr KWOK Chung-man 	A “specified officer”, as set out in clause 65(1) and section 1 of Schedule 5, means the Director of Food and Environmental Hygiene, an authorized officer or a public officer. This definition has a wider meaning than that of an “authorized officer”, as defined in clause 2, which means a public officer appointed by the Director as an authorized officer under clause 48. The definition of “specified officer” is relevant only in the context of clause 65 and Schedule 5 which deal with the carrying out of prescribed ash disposal procedures and Occupation Orders. On the other hand, “authorized officer” applies to the whole Bill.

	Key Comment	Deputation	Response from the Administration
50	The power to arrest without warrant by authorized officers appears too excessive.	<ul style="list-style-type: none"> • Mr KWOK Chung-man • Law Society 	The power of arrest without warrant to be exercised by authorized officers is to facilitate effective investigation and prosecution of offenders under the Bill. This is in line with the approach of other legislation in Hong Kong, including but not limited to section 84 of the Public Health and Municipal Services Ordinance (Cap. 132) and section 49 of the Food Safety Ordinance (Cap. 612), etc.
51	In respect of an Occupation Order, the specified officer should not be allowed to further delegate the power to lock or seal the columbarium to other persons.	<ul style="list-style-type: none"> • Mr KWOK Chung-man 	To ensure effective implementation of the Bill, a public officer exercising a power under the Bill should be allowed to obtain the assistance of persons he reasonably requires for the purpose of discharging his duties.
52	Under clause 65, the “court” may make an order empowering a specified officer to enter and occupy a columbarium premises, and carry out prescribed ash disposal procedures in respect of the columbarium. It is not clear whether the definition of “court” in Cap. 1 is sufficient and what court will have jurisdiction under this circumstance.	<ul style="list-style-type: none"> • Law Society 	The definition of “court” in the Interpretation and General Clauses Ordinance (Cap. 1) should apply.

	Key Comment	Deputation	Response from the Administration
(H) Ash disposal			
53	It is not clear whether a mortgagee who took possession of the columbarium premises can exercise power of sale or can only carry out the prescribed ash disposal procedures specified in clause 64(2).	<ul style="list-style-type: none"> • Law Society 	<p>The power of sale by mortgagee is generally governed by the Conveyancing and Property Ordinance (Cap. 219).</p> <p>Clause 64(2) of the Bill sets out the obligation of a mortgagee who took possession of the columbarium premises to carry out the prescribed ash disposal procedures, whether or not the mortgagee exercises the power of sale.</p> <p>If the columbarium premises are subject to an Occupation Order, while the mortgagee may still sell the property, he/she cannot deliver vacant possession during the Occupation Order period.</p>
54	Clause 5(2)(b) defines “eligible claimant” as the owner of the ashes of a deceased person, any plaque or any other related items interred together with the ashes. It seems that there can be property right in a niche but not in the ashes, as there is no property right in a human corpse.	<ul style="list-style-type: none"> • Law Society 	<p>We are aware of the common law cases that there is no property right in a human corpse (though very few exceptions to this general position also exist). That provision in the Bill, which is crafted in general terms, is meant to allow a common sense approach in handling this issue. Nonetheless, we keep an open mind to the idea of revising paragraph (b) of the definition of “eligible claimant” in section 5 of Schedule 5 to refer to “the owner of the item or the person entitled to receive the ashes”. The definition of “prescribed claimant” in the same section provides reference in determining who constitutes the person entitled to receive the ashes.</p>
55	The claim period for the ashes and related item of 12 months is too short. The claim period for ashes can be extended to 36 months while that for related item can be retained at 12 months. Ashes not claimed after the expiry of the 36 months could be scattered at sea or the Garden of Remembrance.	<ul style="list-style-type: none"> • Heung Yee Kuk 	<p>Section 6 of Schedule 5 provides that the overall claim period, in relation to a columbarium in respect of which the prescribed ash disposal procedure is carried out, should be <u>at least</u> 12 months if the ashes are not reinterred in another columbarium. In other words, the person carrying out the prescribed ash disposal procedures is entitled to stipulate a claim period longer than 12 months.</p>

	Key Comment	Deputation	Response from the Administration
(I) Management and operation of columbaria			
56	While the Administration has, during the public consultation, considered requiring private columbaria to set aside 15% of its proceeds as maintenance fund, the proposal was not taken on board in the Bill. The Administration is urged to provide for the maintenance fund requirement in the Bill. If necessary, the maintenance fund requirement can be set flexibly in such a way that operators can apply to the Licensing Board for adjustment to the fund, such that this would be in line with the Administration's preference for an "outcome-based approach".	<ul style="list-style-type: none"> • Civic Party • Democratic Party • Doctoral Exchange 	<p>The consultant for the Business Impact Assessment on the Proposed Private Columbaria Bill suggested the adoption of an "outcome-based approach" as an alternative to the maintenance fund, whereby operators are required to submit at regular intervals maintenance reports certified by professionals to ensure that operators of private columbarium will achieve long-term building/structural integrity for their columbarium premises. We believe that this arrangement will achieve the same objective as the maintenance fund in ensuring the fulfilment of maintenance obligations by private columbaria.</p> <p>While the setting up of a maintenance fund will not be made a statutory requirement, operators could opt to do so. This might well be in the operators' interests, as consumers would likely have greater confidence in patronising their columbaria and be more willing to pay a higher price for their niches. To facilitate consumers to make informed decisions, it is proposed that operators should alert consumers about the availability or otherwise of such an optional maintenance fund.</p>
57	The provisions regarding the sale of interment right appears overly complicated. The Administration should consider simplifying them.	<ul style="list-style-type: none"> • Law Society 	The provisions on the sale of interment right were elaborate in order to enhance consumer protection.

	Key Comment	Deputation	Response from the Administration
58	Clarification is sought as to whether an agreement for the sale of interment right could be sold or transferred, as this was not explicitly provided in Schedule 4 of the Bill.	<ul style="list-style-type: none"> • Law Society 	The Bill does not expressly prohibit the seller and the purchaser from entering into a novation agreement with a third party whereby the purchaser transfers the rights and obligations under the agreement for the sale of interment right to the third party with the consent from all parties. This shall be governed by the principles of contract law. The parties may consult their own legal adviser for any potential effects under the Bill if such an arrangement is made.
59	The Bill may specify how ash interment capacity and niches are to be valued. Price for niches may be calculated on a fixed sum together with pre-payment of management fees for the period of use of the niche, and that, depending on circumstances, the fixed sum may only be a small proportion of the total fee.	<ul style="list-style-type: none"> • Law Society 	The operation of private columbaria is a commercial decision. It would be up to the operators of individual private columbaria to determine their own mode of operation, including the price of their niches, payment model, etc.

	Key Comment	Deputation	Response from the Administration
	(J) Consumer protection		
60	The Administration should step up the promotion to the public on the need to stay vigilant when buying niches from private columbaria before the Bill comes into force.	<ul style="list-style-type: none"> • Civic Party • Doctoral Exchange 	<p>In the past few years, the Government has been making efforts to enhance consumer education on this front through various means, including broadcasting Announcements in the Public Interest (“APIs”) on television and radio, publishing and updating in a timely manner a pamphlet providing useful advice for consumers, and distributing the pamphlet through various channels, reminding consumers of various points that they should pay attention to when purchasing or renting niches.</p> <p>After the announcement of the Bill, we have launched a new round of publicity to further enhance consumer education. We have set up a hotline, broadcast APIs on radio, issued press releases and placed advertisements in newspapers. Through these, we introduce the provisions of the Bill to the public, reiterate our earlier advice for consumers and, in the light of latest development on the ground, remind consumers of the importance to exercise due care.</p> <p>After the announcement of the Bill, the Consumer Council, through its Choice Magazine, expresses support for the direction taken by the Government and conveys similar messages for the protection of consumer interests. We will continue to liaise with the Consumer Council, monitor the market situation closely and make further efforts to enhance consumer education where necessary.</p>

	Key Comment	Deputation	Response from the Administration
61	Pre-Bill columbaria that intend to apply for a licence can continue to sell niches before the Bill comes into operation. A lot of private columbaria will thus take the opportunity to dump their niches to the public during this window. This will put pressure on the Licensing Board in future when it processes the licence application from these columbaria, as they will have many sold niches by then and not issuing a licence to them will cause a lot of ash displacement.	<ul style="list-style-type: none"> • Civic Party • Democratic Party • 明月山索償大聯盟 • 要求即規即管即立法骨灰龕大聯盟 	<p>The Bill provides that it is the responsibility of the operators of private columbaria to dispose of the ashes interred in their columbaria properly before the cessation of their business (including cases in which the operators cease their business due to their inability to obtain a licence after the Bill comes into force). Failure to do so will render the operators criminally liable; one is liable on summary conviction to a fine of \$2 million and imprisonment for three years, and on conviction on indictment to a fine of \$5 million and imprisonment for seven years. We believe such penalties should carry sufficient deterrence.</p> <p>The earlier the Bill is passed, the sooner would we be able to remove the uncertainty associated with the “window” in question.</p>
62	Pre-Bill columbaria will be allowed to apply for TSOL, the maximum validity of which is six years. Malicious operators will be able to continue to sell niches in the interim and this will leave consumer vulnerable.	<ul style="list-style-type: none"> • Democratic Party • Doctoral Exchange 	<p>After the Bill comes into operation, all private columbaria will be governed by the proposed licensing regime and no private columbaria will be allowed to sell or let out niches unless their operation is covered by a licence. If operators are only issued with TSOL, the number of sets of ashes kept in the columbarium is limited to the total number of sets of ashes kept at the Bill Announcement Time (if an application for the issue of an exemption is pending) or at the enactment date of the Bill (if an application for the issue of a licence (but no application for the issue of an exemption) is pending). In other words, they will not be allowed to sell or let out niches, the contravention of which constitutes an offence.</p>
63	Consumers should be given standardised pricing information and terms of service by the operators to facilitate their purchase decision.	<ul style="list-style-type: none"> • Doctoral Exchange • 善終設施關注組 	<p>The operation of private columbaria is a commercial decision. It would be up to the operators of individual private columbaria to determine their own mode of operation, including the price of their niches, payment</p>

	Key Comment	Deputation	Response from the Administration
64	Private columbaria on Part A of DEVB's List may raise the price of their niches prior to the Bill's coming into force as they would likely think that they have a better chance than their counterparts in Part B to be issued a licence.	<ul style="list-style-type: none"> • 善終設施關注組 	<p>model, etc.</p> <p>For protecting consumer interest, Part 5 and Schedule 4 of the Bill set out the requirements that the operator of licensed columbarium must meet, in terms of what prescribed information, including price of niches, services to be provided, etc., should go into the agreement for sale of interment rights.</p>
65	The Administration should publish information on private columbaria eligible for licence / exemption, as well as illegal ones.	<ul style="list-style-type: none"> • Doctoral Exchange • Heung Yee Kuk • New People's Party and Civil Force 	It is for the Licensing Board to decide whether a private columbarium is eligible for a particular specified instrument, in the light of the circumstances of the private columbarium concerned.
66	The Administration can consider enhancing temporary storage facilities as a transitional arrangement to assist people who have patronised illegal columbaria.	<ul style="list-style-type: none"> • New People's Party and Civil Force 	In the coming two years, it is anticipated that FEHD will increase the capacity of temporary storage facilities to hold about 47 000 urns, including the existing temporary storage facilities in Wo Hop Shek Cemetery and Kwai Chung Crematorium, which can accommodate about 8 000 urns altogether.
67	Operators should be required to submit their contracts on sale of interment right to the Licensing Board for approval. Standardised contract templates could be developed by the Administration to ensure that – (a) niches would not be sold as undivided share of the ownership of the columbarium premises; and (b) the arrangements (including further rents to be paid by the consumers, if any) when the current land grant/lease applicable to the relevant columbarium expires are clearly spelt out in the contracts.	<ul style="list-style-type: none"> • Doctoral Exchange • 善終設施關注組 	Part 5 and Schedule 4 of the Bill set out the requirements relating to the prescribed information, recommendations and essential terms that should be included in agreements for sale of interment rights. We would consider drawing up sample contract templates for the easy reference of consumers and operators.

	Key Comment	Deputation	Response from the Administration
68	<p>Clarification is sought as to whether there would be any legal protection afforded to consumers who bought niches from columbaria that commenced operation after the Bill Announcement Time but before the Bill comes into operation.</p>	<ul style="list-style-type: none"> • Mr Davis CHAN Ying-keung • 明月山索償大聯盟 • 善終設施關注組 	<p>As mentioned in our response to item (60) above, we have been making efforts to enhance consumer education and warn the public of the risks of patronising private columbaria prior to the commencement of the Ordinance. Consumers who chose to purchase or rent private niches before the commencement of the Ordinance should pay attention and ascertain if contract terms were in place to protect their interests. They should refrain from making rash decision. Prior to obtaining sufficient information, members of the public might consider renting a niche on a short-term basis. They should consider seeking independent legal advice where necessary.</p> <p>As in the case of other trades and industries, consumers who have suffered loss as a result of the non-compliant operation of private columbaria or their cessation of business may, should they feel aggrieved by the arrangements of their operators, seek remedies under the general consumer protection regime or through civil legal proceedings (such as in accordance with the contractual provisions).</p>

	Key Comment	Deputation	Response from the Administration
(K) Undertakers			
69	There is no specific limit on the amount and duration allowed for “temporary” storage of ashes by undertakers. This will lead to establishment of “ash hotels” in private residential premises and industrial buildings.	<ul style="list-style-type: none"> • Doctoral Exchange • Mr Pius YUM Kwok-yung, Member of Kowloon City District Council 	<p>Undertakers are currently regulated under Cap. 132 and the Undertakers of Burials Regulation (Cap. 132CB).</p> <p>Temporary storage of ashes has not been allowed in the case of undertakers whose application for licence was submitted after December 2008. At present, there remained 81 undertakers whose licences did not debar the temporary storage of ashes within their premises. Part 7 and Schedule 5 of the Bill which touch on ash disposal procedures apply to undertakers, while the other parts of Bill will not be applicable to them.</p> <p>We intend to impose more stringent conditions in the undertakers’ licences issued under the regulatory regime of Cap. 132, so as to tighten up the regulation over temporary storage of ashes, thereby minimising their nuisance to the local community.</p>
(L) Facilitation measures			
70	Guidelines on applications for specified instruments should be issued to private columbaria.	<ul style="list-style-type: none"> • Heung Yee Kuk • New People’s Party and Civil Force 	Upon establishment, the Licensing Board will prepare and publish guidelines for applying for different kinds of specified instruments for the reference of prospective applicants to ensure transparency of the process.
71	The Administration could issue inter-departmental guidelines to set out objective criteria on policy support in areas such as traffic arrangements and environmental issues to facilitate approvals. Relevant departments should make concerted effort to facilitate the greenlighting of sensible projects.	<ul style="list-style-type: none"> • Doctoral Exchange • Heung Yee Kuk 	We are in the process of drawing up an inter-departmental protocol for processing applications for specified instruments. Besides, upon establishment, the Licensing Board will prepare and publish guidelines for applying for different kinds of specified instruments for the reference of prospective applicants to ensure transparency of the process.

	Key Comment	Deputation	Response from the Administration
72	The Administration can consider providing a list of pre-approved incinerator models to facilitate the columbarium designers in coming up with feasible proposals.	<ul style="list-style-type: none"> • Doctoral Exchange 	Noted.
73	A dedicated urban design committee could be set up under the Town Planning Board, with representation from the academia and profession, to allow designers to obtain objective, concrete and technical feedback on their proposals for private columbaria.	<ul style="list-style-type: none"> • Doctoral Exchange 	<p>In general, prior to the submission of a planning application, advice could be sought from the respective District Planning Office of the Planning Department (PlanD), which is the executive arm of the TPB.</p> <p>On urban design issues for private columbaria, pre-submission meeting(s) between the applicant and the Urban Design and Landscape (UD & L) Section of PlanD as well as other relevant Government departments could be arranged to exchange views on the applicant's proposal. Comments of UD&L Section of PlanD and the relevant departments could also be disseminated to the applicant during the planning application process.</p>
74	The process for submitting planning applications is very lengthy and complicated. More information or guidelines should be provided to the public to facilitate the process.	<ul style="list-style-type: none"> • Puguangming Temple 	Guidance notes have been promulgated by the TPB to provide the public with information and guidance on making planning applications under sections 12A and 16 of Cap. 131 respectively. TPB Guidelines in respect of planning applications have also been promulgated, setting out the relevant requirements of the TPB and may therefore be of assistance to applicants in preparing their applications.
75	The term of a STT granted for private columbaria should be longer, say, ten years.	<ul style="list-style-type: none"> • Law Society 	STT is normally for a fixed term of not more than seven years.

	Key Comment	Deputation	Response from the Administration
	(M) Comments on other related matters		
76	The Administration should continue to endeavour to meet the demand of niches by public supply. A more concrete development plan could be formulated by the Administration in this regard.	<ul style="list-style-type: none"> • Mr KWOK Chung-man • Lo Wai Columbarium Concern Group • New People’s Party and Civil Force • Puguangming Temple • Mr YEUNG Wai-sing, Member of Eastern District Council • 要求立法規管私營骨灰龕大埔聯盟 • 善終設施關注組 	<p>In 2010 and 2011, the Government has identified 24 potential sites across the 18 districts for developing columbarium facilities. Whether these sites could eventually be used for the purpose will depend on the results of technical feasibility studies and traffic impact assessments (where applicable). We will continue to work with the relevant District Councils when taking forward the development projects.</p> <p>FEHD and the Board of Management of the Chinese Permanent Cemeteries (“BMCP”) are already taking measures to optimise the use of their columbaria –</p> <p>(a) Starting from 2 January 2014, FEHD has relaxed the cap on the number of sets of ashes that may be stored in a niche, allowing applicants to deposit additional sets of ashes in a niche (be this standard or family) and to further expand the definition of “kinship”; and</p> <p>(b) The Government plans to amend the Chinese Permanent Cemeteries Rules (Cap. 1112A) to relax the eligibility for shared use of BMCP’s family niches as well as grave spaces, through expanding the definition of “close relatives” and allowing the interment of ashes in exhumable lots.</p>

	Key Comment	Deputation	Response from the Administration
77	<p>On green burial, the Administration should –</p> <p>(a) continue to enhance the publicity campaign for green burial;</p> <p>(b) allow greater flexibility in the number of family members allowed on the vessel for scattering ashes at sea (e.g. more quota could be offered at a fee); and</p> <p>(c) come up with better designs of large-scale memorial parks to inspire the public to embrace green burial.</p>	<ul style="list-style-type: none"> • Doctoral Exchange • Law Society • Lo Wai Columbarium Concern Group • 善終設施關注組 	<p>FEHD will continue to step up publicity and educational programmes to enhance public awareness and acceptance of green burial.</p> <p>Since January 2012, FEHD has enhanced the free ferry service by employing a bigger vessel which can accommodate over 300 passengers per sail. Applicants may apply for increasing the number of family members (normally 10) if need be.</p> <p>FEHD will continue to provide new and bigger gardens of remembrance whenever practicable.</p>
78	<p>The Administration should encourage people to stagger their visits to the columbaria from one month before to one month after the Ching Ming and Chung Yeung Festivals by providing necessary traffic arrangements.</p>	<ul style="list-style-type: none"> • Law Society 	<p>Special traffic and transport arrangements have already been put in place in certain areas before and after the two grave-sweeping periods. We will continue to monitor the situation and implement further arrangements as necessary.</p> <p>FHB/FEHD are also giving consideration to the possibility of designating different worship periods for different blocks of niches for public columbarium projects under planning, as a measure to even out traffic load during the peak grave-sweeping season.</p>

	Key Comment	Deputation	Response from the Administration
79	<p>The Administration has not been taking sufficient actions against illegal private columbaria. These columbaria should not have been allowed to commence operation without first complying with the planning requirements, or submit repeated planning applications without any material change in proposal.</p>	<ul style="list-style-type: none"> • Illegal Columbarium Concern Group (Alliance for the Concern Over Columbarium Policy) • 友愛之友 • 抗議極樂寺違規骨灰龕行動組 • 要求立法規管私營骨灰龕大埔聯盟 • 道風之友 • 新峰大聯盟反對政府縱容違規龕場小組 • 新峰大聯盟取締違規龕場關注組 • 關注仁孝宗祠違規龕場行動組 	<p>Before the commencement of the Ordinance, relevant departments (including the Planning Department, Lands Department and Buildings Department) would continue to take enforcement actions against illegal private columbaria, exercising the powers conferred on them by existing legislation. We recognise that due to the limitations of the existing regime, individual columbaria which are yet to have their irregularities fully rectified may at present continue to offer niches for sale. The proposed licensing regime under the Bill will provide for more effective enforcement. After the Bill comes into force, a columbarium will not be allowed to continue to sell or let out new or unoccupied niches unless its operation is covered by a licence. After enactment of the Bill, FEHD would take necessary enforcement actions against private columbaria which had not applied for or been unsuccessful in their applications for specified instruments. In parallel, other relevant departments, on the other hand, could also follow up as provided for under the relevant legislation prevailing at that time.</p>

(II) Case-specific Clarifications Sought by Operators

	Key Comment / Clarification Sought	Response from the Administration
(A) Po Lam Chan Monastery		
1	They do not receive payments from deceased monks for interring their ashes in Pu Tong Ta, and only minimal fees if the deceased is the monk's parents or relatives. They have difficulties paying handsome land premium and other related fees, including the recurrent fees for hiring professionals for assessment every five years.	We have taken note of suggestions that columbaria run by religious bodies should be exempted from the Bill or accorded special arrangements. We will consider how best to deal with these columbaria.
2	About 40% of niches in its Pu Tong Ta are empty niches yet to be used. They would like to know how these would be dealt with.	As the Bill currently stands, if an operator chooses to apply for exemption in respect of the columbarium, he/she must cease the selling or letting out of new or unoccupied niches as from the Bill Announcement Time. Should the operator wish to continue the selling or letting out of niches after the Bill comes into force, he/she would have to apply for a licence in respect of the concerned columbarium. Please see item (25) above to see if the aforesaid arrangements could be of any assistance to their cases.
(B) Lok Sang Lin Sher and 祥光苑		
3	The niches in their Pu Tong Ta were not "sold". They were not sure how to fill in the form for the Notification Scheme.	We would advise the operator to furnish us with the information of their niches through the Notification Scheme as well as they could. If necessary, the operator may consider adding remarks (on such matters as how the niches were allocated, whether they are offered free of charge, who is eligible to use these niches, etc.) in their returns to FEHD. This will allow us to have more accurate information about the actual situation of different columbaria, such that we would be able to size up the various issues raised by different bodies and consider how best to handle such issues.
4	The amount of resources required to put in for applying exemption, let alone licence, is disproportionately huge compared to the number of niches in their Pu Tong Ta, especially in light of the fact that the remaining unoccupied niches will be provided to their monks (and the monks' parents) for free.	We have taken note of suggestions that columbaria run by religious bodies should be exempted from the Bill or accorded special arrangements. We will consider how best to deal with these columbaria.