



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)

1 December 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 on Part 11 and other provisions of, and Schedule 7 to, 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

Part 11

Clause 102

1. The reference to "section 6(5)" should be "section 6(7)", and the new subsection to be added should be subsection 8 instead of subsection 6, in view of the amendments made to section 6 of the Land (Miscellaneous Provisions) Ordinance (Cap. 28) in February 2015.

Clause 111(1)

2. In the new subsection (2AA) to be added, please replace "人" with "人士" in the Chinese text, as the Chinese rendition of "a person" in the English text, in view of the Chinese text of the new section 113A of, and the heading of new Part 2A of the Fifth Schedule to, the Public Health and Municipal Services Ordinance (Cap. 132).

Clause 112

3. In the Chinese text of new section 113A(2)(a) and (5) of Cap. 132, should "私營" be deleted?

4. In new section 113A(2)(a) of Cap. 132, should "的資料" be added after "名稱及位置" in the Chinese text, as the Chinese rendition of "information on" in the English text?

5. Please clarify the legal consequence(s) for a specified person failing to comply with new section 113A(2) or (5) of Cap. 132.

6. What are the particulars of the columbarium required to be set out in the list under new section 113A(5) of Cap. 132?

Clause 116

7. In the Chinese text of paragraph (b) of the definition of "private cemetery" to be substituted, "骨灰安置所。" should be "骨灰安置所；".

Clause 118

8. Please confirm the accuracy of the numbers opposite to the Private Columbaria Licensing Board and Private Columbaria Appeal Board. According to the computer version of the Prevention of Bribery Ordinance

(Cap. 201) available at the Bilingual Laws Information System (BLIS) as at 30 November 2015, there are only 125 public bodies in Schedule 1 to Cap. 201.

Schedule 7

Section 1(2) of Schedule 7

9. The reference to "section 8" should be "section 9". It is noted that amendment will be made.

10. Subject to clause 8(2), a person commits an offence under clause 9 if the person operates, keeps, manages or in any other way has control of a columbarium without a licence after the enactment date. Section 1(2) of Schedule 7 only covers the act of "continuing to operate the columbarium" without also the act of "continuing to keep, manage or in any other way have control of the columbarium". Please explain the reason(s) for such exclusion.

Section 3 of Schedule 7

11. Similar to Question 37 set out in the Schedule to my letter dated 5 November 2015, please clarify whether the requirement under clause 43 to keep records of agreements for the sale of interment rights includes the requirement set out in clause 43(1), (2) and (4).

Other provisions

Clause 4(1)(c)

12. Please note Question 2 above in respect of the Chinese rendition of "a person" in the English text.

Clause 82(3)

13. In the Chinese text, "該等職能" should be "該職能", as the Chinese rendition of "a function" in the English text.

Clause 87(2)

14. Please delete "summary" in the English text and "循簡易程序" in the Chinese text, for the sake of consistency with the drafting of other relevant provisions of the Bill.

Clause 92(2)(d)

15. In the Chinese text, please add "作出" after "合資格專業人士".

Clause 94(2)(c)

16. In the English text, should "an officer of" be replaced by "a staff of" in view of section 2 of Schedule 1?

Heading of schedule 2

17. In the heading, "or" in the English text is rendered as "以及". Please amend.