

For discussion
on 21 December 2015

LC Paper No. CB(2)486/15-16(01) (Further revised)

Bills Committee on Private Columbaria Bill

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

Purpose

This paper sets out the first batch of draft Committee Stage Amendments (Part A) 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
18 December 2015
[updated on 31 December 2015]

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

**The First Batch of Draft Committee Stage Amendments (Part A) 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	
A0001 [Govt]	1(3) [C3387]	By adding after paragraph (c) — “(ca) Divisions 1, 2 and 3 of Part 11;”.	在(c)段之後，加入 — “(ca) 第 11 部 第 1、2 及 3 分 部；”。	1.01 We propose that Divisions 1, 2 and 3 of Part 11 (comprising clauses 101 to 109) and Part 10 should commence at the same time, as these provisions are inter-related.
A0002 [Govt]	2(1) [C3389]	In the definition of <i>ashes</i> — (a) in paragraph (a), by deleting “and”; (b) in paragraph (b), by deleting everything after “includes” and substituting “any related items interred together with the ashes; and”; (c) in paragraph (c)— (i) by deleting “excludes” and	在 <i>骨灰</i> 的定義中 — (a) 在(a)段中，刪除“及”； (b) 在(b)段中，刪除“匾牌及其他相關物品；但”，代以“相關物品；及”； (c) 在(c)段中 — (i) 刪除“不”； (ii) 刪除“或”，代以“及”。	2.01 The term “any related items” would serve the purpose of the Bill adequately. There is no need to highlight “any plaque”. 2.02 Re: workplace for transforming human ashes into synthetic materials. There is demand from some to carry with them or bring home synthetic materials, as a means of remembrance of the deceased. This form of ash disposal is environmentally-friendly and sustainable. Such act is a matter of personal choice that does not affect other people. Hence, we do not intend to regulate them when preparing the Bill.

		<p>substituting</p> <p>“includes”;</p> <p>(ii) by deleting “or”</p> <p>and substituting</p> <p>“and”.</p>		<p>However, some operators are selling private niches for interring synthetic materials in a manner no different from that applicable to columbaria. This is tantamount to running columbaria in disguise to circumvent the regulatory requirements.</p> <p>To ensure that the regulatory regime is effective, we propose moving CSAs to address this issue, by –</p> <p>(a) bringing such form of keeping ashes within the scope of the Ordinance; but</p> <p>(b) excluding them from the application of the Ordinance, subject to certain pre-requisites being met (this will be the subject of another CSA to be put to the Bills Committee).</p>
A0003 [ALA]	2(1) [C3392]	In the Chinese text of definition of <i>ashes</i> , by deleting “任何” before “由人類骨灰” and adding “任何” before “其他物料”.	在中文文本中，在 <i>骨灰</i> 的定義中，刪除在“由人類骨灰”之前的“任何”，及在“其他物料”之前加入“任何”。	2.03 Please see item 1 of our response dated 9 October 2014 to ALA’s letter dated 4 September 2014.

A0004 [Govt]	2(1) [C3391]	In the definition of <i>dedicated person</i> — (a) in paragraph (a), by deleting “place” and substituting “area”; and (b) in paragraph (b), by deleting “location” and substituting “area”.	在 受供奉者 的定義中 — (a) 在(a)段中，刪除“地方”，代以“範圍”；及 (b) 在(b)段中，刪除“位置”，代以“範圍”。	2.04 This seeks to enhance consistency with similar expressions in the Bill.
A0005 [ALA]	2(1) [C3391]	In paragraph (b) of the definition of <i>dedicated person</i> , by deleting “otherwise” and substituting “any other area”.	在 受供奉者 的定義中的，在(b)段中，刪除“不論是否關乎骨灰安置所的龕位或其他地方”，代以“不論是否關乎骨灰安置所中的龕位或任何其他範圍”。	2.05 Please see item 3 of our response dated 9 October 2014 to ALA’s letter dated 4 September 2014. 2.06 This seeks to enhance consistency with similar expressions in the Bill.
A0006 [Govt]	2(1) [C3393]	In the definition of <i>interment right</i> , in paragraph (a), by deleting everything after “in a” and substituting “specific niche or area; and”.	在 安放權 的定義中，在(a)段中，刪除在“安放在”之後的所有字句，代以“特定龕位或範圍內；及”。	2.07 This seeks to enhance consistency with similar expressions in the Bill.
A0007 [Govt]	2(1) [C3395]	In the definition of <i>purchaser</i> , by deleting “, means a” and substituting “(except in Division 1 of Part 5 and Schedule 4), means the”.	在 買方 的定義中，在“，指”之前，加入“(除在第5部第1分部及附表4外)”。	2.08 In clause 2(1), as there is a general definition of purchaser, there should also be a general definition of seller. 2.09 Coupled with the exclusion of Division 1 of Part 5 and Schedule 4 from the definition of purchaser in clause 2, we will –
A0008 [Govt]	2(1) [C3395]	By adding after the definition of <i>sell</i> — “ <i>seller</i> (賣方), in relation to an interment right in respect	在 出售 的定義之後，加入 — “ 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	(a) keep the interpretation

		<p>of a columbarium (except in Division 1 of Part 5 and Schedule 4), means the person by whom the right is sold;”.</p>	<p>外)，指出售該權利的人；”。</p>	<p>provision in clause 40 to define purchaser (see section 41(1)) used in Division 1 of Part 5; and</p> <p>(b) add an interpretative provision in Schedule 4 to define purchaser used in that Schedule.</p> <p>2.10 Coupled with the exclusion of Division 1 of Part 5 and Schedule 4 from the definition of seller in clause 2, we will –</p> <p>(a) keep the interpretation provision in clause 40 to define seller (see section 41(1)) used in Division 1 of Part 5; and</p> <p>(b) add an interpretative provision in Schedule 4 to define seller used in that Schedule.</p> <p>2.11 With (a) and (b) in items 2.09 and 2.10, it is clear that “purchaser” and “seller” in Division 1 of Part 5 and Schedule 4 means one entering into an agreement for sale of an interment</p>
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				<p>right after enactment of the Ordinance.</p> <p>The requirements in Division 1 of Part 5 and Schedule 4 are imposed on a licensee through licensing conditions (see clause 25(b)), i.e. for sale transactions after obtaining a licence.</p> <p>2.12 Clause 56 provides that Part 7 applies to any disposal of ashes interred in a columbarium, or abandonment of a columbarium, by a person on or after the enactment date, whether or not the receipt of the ashes or the operation of the columbarium occurs before that day.</p> <p>With the general definitions of purchaser and seller in clause 2, the provisions of Part 7 (namely reference to purchaser in clause 58(2)(a)(iii)(A) and to seller in clause 69) should apply to an agreement for sale of an interment right, whether entered into before or after the enactment date.</p>
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A0009 [Govt]	2(5)(a) [C3399]	By deleting “and” and substituting “or”.	刪除“及”，代以“或”。	2.13 This seeks to enhance the clarity of the provision.
A0010 [Govt]	2(6) [C3398]	In the Chinese text, by deleting “持續” and substituting “繼續”.	在中文文本中，刪除“持續”，代以“繼續”。	2.14 This seeks to align the terminology to make it consistent with similar reference in the Town Planning Ordinance (Cap. 131).
A0011 [Govt]	2(6)(a) [C3399]	By deleting “and” and substituting “or”.	刪除“及”，代以“或”。	2.15 This seeks to enhance the clarity of the provision.
A0012 [ALA]	2(8) [C3398]	In the Chinese text, by adding “構築物的” before “違規構築物。”.	在中文文本中，在“違規構築物。”之前，加入“構築物的”。	2.16 Please see item 6 of our response dated 9 October 2014 to ALA’s letter dated 4 September 2014. 2.17 Having reviewed the provision, we propose using “構築物的違規構築物。”.
A0013 [Govt]	3(3)(b)(i) [C3403]	By adding “or” after the semicolon.	在分號之後，加入“或”。	3.01 This seeks to enhance the clarity of the provision.

A0014 [Mbr]	5(1)(a) [C3405]	By deleting “5” and substituting “10”.	刪除“5”，代以“10”。	5.01 Members have suggested that we should cater for the need of large families. We suggest keeping to the provision in the Bill as it is, as introducing the element of making reference to relationship will complicate the issue. However, we agree to raise the cap on 5 containers of ashes to 10 containers of ashes.
A0015 [Govt]	7(1)(a) [C3406]	In the Chinese text, by deleting “的的營辦和管理” and substituting “的營辦和管理”.	在中文文本中，刪除“的的營辦和管理”，代以“的營辦和管理”。	7.01 Please see the last item of our response dated 9 October 2014 to ALA’s letter dated 4 September 2014. 7.02 This is a textual amendment.
A0016 [Govt]	10 [C3413]	In the definition of <i>ash interment layout</i> , in paragraph (a), by adding “and” after the semicolon.	在 <i>骨灰安放布局</i> 的定義的 (a) 段中，在分號之後，加入“及”。	10.01 This seeks to enhance the clarity of the provision.
A0017 [Govt]	11(1)(b) [C3415]	By deleting “and” and substituting “or”.	刪除“及”，代以“或”。	11.01 This seeks to enhance the clarity of the provision.
A0018 [ALA]	11(2) [C3415]	By adding “specified” before “instrument”.	在“文書”之前，加入“指明”。	11.02 Please see item 7 of our response dated 9 October 2014 to ALA’s letter dated 4 September 2014.

A0019 [ALA]	11(3)(a), (4) and (5)(a) [C3414 and C3416]	In the Chinese text, by deleting “租期” and substituting “年期”.	在中文文本中，刪除“租期”，代以“年期”。	11.03 Please see item 8 of our response dated 9 October 2014 to ALA’s letter dated 4 September 2014.
A0020 [ALA]	13(2) [C3421]	By deleting “prepared by the applicant” and substituting “submitted by the applicant in respect of the columbarium”.	刪除“擬備”，代以“就有關骨灰安置所提交”。	13.01 Please see item 9 of our response dated 9 October 2014 to ALA’s letter dated 4 September 2014. 13.02 This seeks to enhance consistency with similar expressions in the Bill.
A0021 [ALA]	15(1) [C3424]	In the Chinese text, by adding “某” after “拒絕要求就”.	在中文文本中，在“拒絕要求就”之後，加入“某”。	15.01 Please see item 11 of our response dated 9 October 2014 to ALA’s letter dated 4 September 2014.
A0022 [ALA]	15(1)(c) [C3424]	In the Chinese text, by adding “該” before “骨灰安置所”.	在中文文本中，在“骨灰安置所”之前，加入“該”。	15.02 Please see item 12 of our response dated 9 October 2014 to ALA’s letter dated 4 September 2014.
A0023 [ALA]	16(2)(a) [C3426]	In the Chinese text, by adding “事宜” after “多於一項”.	在中文文本中，在“多於一項”之後，加入“事宜”。	16.01 Please see item 13 of our response dated 9 October 2014 to ALA’s letter dated 4 September 2014.
A0024 [ALA]	16(2)(a)(iv) [C3428]	In the Chinese text, by adding “該” before “骨灰安置所”.	在中文文本中，在“骨灰安置所”之前，加入“該”。	16.02 Please see item 14 of our response dated 9 October 2014 to ALA’s letter dated 4 September 2014.

A0025 [ALA]	16(2)(b)(ii) [C3428]	In the Chinese text, by adding “、當日” before “或之後”.	在中文文本中，在“或之後”之前，加入“、當日”。	16.03 Please see item 15 of our response dated 9 October 2014 to ALA’s letter dated 4 September 2014.
A0026 [ALA]	17(1) [C3430]	In the Chinese text, by deleting “要求就某骨灰安置所發出指明文書的申請作出” and substituting “某骨灰安置所的指明文書申請作出的”.	在中文文本中，刪除“要求就某骨灰安置所發出指明文書的申請作出”，代以“某骨灰安置所的指明文書申請作出的”。	17.01 Please see item 16 of our response dated 9 October 2014 to ALA’s letter dated 4 September 2014.
A0027 [Govt]	18(b)(iii) [C3431]	By deleting everything after “and other” and substituting— “documents— (A) specified in the application form; or (B) otherwise reasonably required by the Licensing Board.”.	刪除(iii)分段，代以 — “(iii) 以下資料、證明書及其他文件 — (A) 申請表格所指明的；或 (B) 發牌委員會在其他情況下合理地要求的。”。	18.01 This seeks to enhance consistency with similar expressions in the Bill. 18.02 This seeks to address the suggestion from the Office of the Privacy Commissioner for Personal Data to insert “reasonably” before “required”.
A0028 [Govt]	19(3)(d) [C3433]	By adding “and” after the semi-colon.	在分號之後，加入“及”。	19.01 This seeks to enhance the clarity of the provision.
A0029 [ALA]	19(4) [C3432]	In the Chinese text, by adding “處所的” before “場內”.	在中文文本中，在“場內”之前，加入“處所的”。	19.02 Please see item 18 of our response dated 9 October 2014 to ALA’s letter dated 4 September 2014.

A0030 [ALA]	20(1)(a) [C3434]	In the Chinese text, by adding “處所” before “以場內”.	在中文文本中，在“以場內”之前，加入“處所”。	20.01 Please see item 18 of our response dated 9 October 2014 to ALA’s letter dated 4 September 2014.
A0031 [ALA]	21(2)(b) [C3436]	In the Chinese text, by deleting “符合公義” and substituting “公平”.	在中文文本中，刪除“符合公義”，代以“公平”。	21.01 Please see item 20 of our response dated 9 October 2014 to ALA’s letter dated 4 September 2014.
A0032 [Govt]	21(4)(a) [C3438]	By adding “and” after the semicolon.	在分號之後，加入“及”。	21.02 This seeks to enhance the clarity of the provision.
A0033 [Govt]	22(1)(e) [C3441]	By deleting “and” and substituting “or”.	刪除“及”，代以“或”。	22.01 This seeks to enhance the clarity of the provision.
A0034 [Mbr]	22(2)(a)(i) and (ii) and (3) [C3442]	In the Chinese text, by deleting “有關”.	在中文文本中，刪除“有關”。	22.02 This seeks to streamline the presentation.
A0035 [ALA]	22(3) [C3442]	In the Chinese text, by adding “有關” before “骨灰安置所”.	在中文文本中，在“骨灰安置所”之前，加入“有關”。	22.03 Please see item 22 of our response dated 9 October 2014 to ALA’s letter dated 4 September 2014.

A0036 [Mbr]	22(4) and (6) [C3442 and C3444]	In the Chinese text, by deleting “有關”.	在中文文本中，刪除“有關”。	22.04 This seeks to streamline the presentation.
A0037 [ALA] [Mbr] [Govt]	22(9) [C3446]	In the Chinese text— (a) by deleting “獨有的” and substituting “獨有和”; (b) by deleting “關於有關”.	在中文文本中 — (a) 刪除“獨有的”，代以“獨有和”；及 (b) 刪除“關於有關”。	22.05 Please see item 23 of our response dated 9 October 2014 to ALA’s letter dated 4 September 2014. 22.06 This seeks to streamline the presentation.
A0038 [Mbr]	22(9) [C3446]	By deleting everything after “if” and substituting “the applicant produces evidence of probative value comparable to the evidence referred to in that subsection.”.	刪除在“，是”之後的所有字句，代以“申請人交出證明價值與該款提述的證據相若的證據。”。	22.07 With this CSA, the Private Columbaria Licensing Board may consider other evidence of notifiable particulars produced by an applicant (who has not participated in the Notification Scheme) for the purposes of an application for a specified instrument. In doing so, the Licensing Board need not be satisfied in the first place that the applicant was precluded from participating in the Notification Scheme by circumstances beyond the applicant’s control.

A0039 [Govt]	24 [C3449]	By deleting “The licence” and substituting “A licence in respect of a columbarium”.	刪除“牌照”，代以“骨灰安置所牌照”。	24.01 This seeks to enhance consistency with similar expressions in the Bill.
A0040 [Govt]	24(a) [C3449]	By deleting “specified in” and substituting “shown on”.	刪除“指明”，代以“示”。	24.02 This seeks to enhance consistency with similar expressions in the Bill.
A0041 [ALA]	29(2) [C3453]	By deleting “A” and substituting “The”.	在“暫免法律責任書”之前，加入“有關”。	29.01 Please see item 25 of our response dated 9 October 2014 to ALA’s letter dated 4 September 2014.
A0042 [ALA]	30, heading [C3455]	By adding “ steps to be taken, ” after “ conditions about ”.	在標題中，刪除“未批租土地及違規構築物”，代以“須採取的步驟、未批租土地及違規構築物的條件”。	30.01 Please see item 26 of our response dated 9 October 2014 to ALA’s letter dated 4 September 2014.
A0043 [ALA]	30(3) [C3455]	By deleting “A” and substituting “The”.	在“暫免法律責任書”之前，加入“有關”。	30.02 Please see item 27 of our response dated 9 October 2014 to ALA’s letter dated 4 September 2014.
A0044 [ALA]	31 [C3457]	By adding “pre-Bill” after “in respect of a”.	刪除“對骨灰安置所”，代以“對草案前骨灰安置所”。	31.01 Please see item 28 of our response dated 9 October 2014 to ALA’s letter dated 4 September 2014.
A0045 [ALA]	31(a) [C3457]	By deleting “fire safety and” and substituting “fire safety,”.	在英文文本中，刪除“fire safety and”，代以“fire safety,”。	31.02 Please see item 30 of our response dated 9 October 2014 to ALA’s letter dated 4 September 2014.

A0046 [ALA]	32(1)(b) [C3457]	By adding “an” before “exemption”.	在英文文本中，在“exemption”之前，加入“an”。	32.01 Please see item 31 of our response dated 9 October 2014 to ALA’s letter dated 4 September 2014.
A0047 [Govt]	32(1)(c)(i) [C3457]	By deleting “an application” and substituting “the related application”.	在“申請”之前，加入“相關”。	32.02 This seeks to enhance the clarity of the provision.
A0048 [Govt]	32(1)(c)(ii) [C3459]	By deleting “an application” and substituting “the related application”.	在“申請”之前，加入“相關”。	32.03 This seeks to enhance the clarity of the provision.
A0049 [ALA]	32(3)(a) [C3458]	In the Chinese text, by deleting “該委員會” and substituting “發牌委員會”.	在中文文本中，刪除“該委員會”，代以“發牌委員會”。	32.04 Please see item 32 of our response dated 9 October 2014 to ALA’s letter dated 4 September 2014.
A0050 [Govt]	32(3)(b) [C3459]	By adding “reasonably” after “otherwise”.	在“其他情況下”之後，加入“合理地”。	32.05 This seeks to enhance consistency with similar expressions in the Bill. 32.06 This seeks to address the suggestion from the Office of the Privacy Commissioner for Personal Data to insert “reasonably” before “required”.
A0051 [ALA]	34(1) [C3465]	By deleting “in writing to it”.	刪除“書面”。	34.01 Please see item 34 of our response dated 9 October 2014 to ALA’s letter dated 4 September 2014.

A0052 [ALA]	35(2)(a) [C3466]	In the Chinese text, by adding “書” after “上訴通知”.	在中文文本中，在“上訴通知”之後，加入“書”。	35.01 Please see item 36 of our response dated 9 October 2014 to ALA’s letter dated 4 September 2014.
A0053 [ALA]	36(1)(a) [C3468]	In the Chinese text, by deleting “申請，要求發出指明文書” and substituting “指明文書申請”.	在中文文本中，刪除“申請，要求發出指明文書”，代以“指明文書申請”。	36.01 Please see item 37 of our response dated 9 October 2014 to ALA’s letter dated 4 September 2014.
A0054 [ALA]	37, heading [C3468]	In the Chinese text, by adding “的” before “申請”.	在中文文本中，在“申請”之前，加入“的”。	37.01 Please see item 18 of our response dated 27 November 2015 to ALA’s letter dated 17 April 2015.
A0055 [ALA]	37 [C3468]	In the Chinese text, by adding “的” before “申請”.	在中文文本中，在“申請”之前，加入“的”。	37.02 Please see item 18 of our response dated 27 November 2015 to ALA’s letter dated 17 April 2015.
A0056 [ALA]	38(2)(a) (iii) [C3470]	In the Chinese text, by deleting “文書的” and substituting “文書”.	在中文文本中，刪除“文書的”，代以“文書”。	38.01 Please see item 40 of our response dated 9 October 2014 to ALA’s letter dated 4 September 2014.
A0057 [ALA]	38(2)(b) [C3470]	In the Chinese text— (a) by adding “的責任” after “程序”; (b) by deleting “附表 5 條文” and substituting “附表 5”.	在中文文本中 — (a) 在“程序”之後，加入“的責任”； (b) 刪除“附表 5 條文”，代以“附表 5”。	38.02 Please see item 41 of our response dated 9 October 2014 to ALA’s letter dated 4 September 2014.

A0058 [ALA]	38(3) [C3470]	In the Chinese text, by adding “合理地” before “切實可行”.	在中文文本中，在“切實可行”之前，加入“合理地”。	38.03 Please see item 42 of our response dated 9 October 2014 to ALA’s letter dated 4 September 2014.
A0059 [ALA]	Schedule 3, heading [C3602]	In the Chinese text, by deleting “規定” and substituting “條文”.	在中文文本中，刪除“規定”，代以“條文”。	S3.01 Please see items 38 and 39 of our response dated 9 October 2014 to ALA’s letter dated 4 September 2014.

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 meeting and/or provided written submission”

Food and Health Bureau

18 December 2015

[updated on 31 December 2015]

第一批政府建議就《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(A 部分)
的標明修訂事項文本

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

中文	English
<p style="text-align: center;">第 1 部</p> <p style="text-align: center;">導言</p> <p>1. 簡稱及生效日期</p> <p>(1) 本條例可引稱為《私營骨灰安置所條例》。</p> <p>(2) 除第(3)款另有規定外，本條例自其於憲報刊登當日起實施。</p> <p>(3) 下列條文自本條例於憲報刊登當日起計的 3 個月屆滿時起實施 —</p> <p>(a) 第 4 部；</p> <p>(b) 第 5 部第 2 分部；</p> <p>(c) 第 10 部；</p> <p>(ca) 第 11 部第 1、2 及 3 分部；[A0001]</p> <p>(d) 附表 2 及 3。</p>	<p style="text-align: center;">Part 1</p> <p style="text-align: center;">Preliminary</p> <p>1. Short title and commencement</p> <p>(1) This Ordinance may be cited as the Private Columbaria Ordinance.</p> <p>(2) Subject to subsection (3), this Ordinance comes into operation on the day on which it is published in the Gazette.</p> <p>(3) The following provisions come into operation on the expiry of 3 months beginning on the day on which this Ordinance is published in the Gazette—</p> <p>(a) Part 4;</p> <p>(b) Division 2 of Part 5;</p> <p>(c) Part 10;</p> <p>(ca) Divisions 1, 2 and 3 of Part 11; [A0001]</p> <p>(d) Schedules 2 and 3.</p>

2. 釋義

(1) 在本條例中 —

出售 (sell)須按照第 3 條解釋；

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]

刊憲日期 (enactment date)指本條例於憲報刊登的日期；

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；

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；

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；

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~~

2. Interpretation

(1) In this Ordinance—

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;

ashes (骨灰)—

- (a) means ashes resulting from the cremation of human remains; ~~and~~
- (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
- (c) ~~excludes~~ includes synthetic diamonds, jewellery, ornaments ~~or~~ and any other materials transformed from human ashes; [A0002]

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

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式；

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) ~~本~~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；

Health and Municipal Services Ordinance (Cap. 132);

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

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 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

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)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；

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 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

<p>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；</p> <p>豁免書 (exemption)指根據第 11 條發出或續期的豁免書；</p> <p>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。</p>	<p>person as dedicated person; [A0007]</p> <p>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;</p> <p>Secretary (局長) means the Secretary for Food and Health;</p> <p>sell (出售) is to be construed in accordance with section 3;</p> <p>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]</p> <p>specified form (指明格式) (except in section 33(2)(f)(ii)) means in the form as specified by the Licensing Board;</p> <p>specified instrument (指明文書) means—</p> <ul style="list-style-type: none"> (a) a licence; (b) an exemption; or (c) a temporary suspension of liability; <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> <ul style="list-style-type: none"> (a) 要求發出牌照或將之續期的申請； (b) 要求發出豁免書或將之續期的申請；或 (c) 要求發出暫免法律責任書或將之延展的申請。 	<p>(2) In this Ordinance, a reference to an application for a specified instrument is a reference to—</p> <ul style="list-style-type: none"> (a) an application for the issue or renewal of a licence; (b) an application for the issue or renewal of an exemption; or (c) an application for the issue or extension of a temporary suspension of liability.

<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，指違反《土地(雜項條文)條例》(第 28 章)第 4 條的未批租土地佔用。</p>	<p>(4) In this Ordinance, a reference to unlawful occupation of unleased land means the occupation of unleased land in contravention of section 4 of the Land (Miscellaneous Provisions) Ordinance (Cap. 28).</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，指土地由下列項目佔用 —</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；及或 [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 means the occupation of land by—</p> <p>(a) any building or building works containing niches used or intended to be used for the interment of ashes; and or [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)而進行或持續 繼續的違例發展，指屬下列項目的形式的違例發展 —[A0010]</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；及或 [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 means the unauthorized development in the form of—</p> <p>(a) any building or building works containing niches used or intended to be used for the interment of ashes; and or [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，指 —</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 means—</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)款所指的對營辦該骨灰安置所屬必需(或與之配套)的構築物的違規構築物。[A0012]</p>	<p>(8) In this Ordinance, a reference to non-compliant structures necessary for, or ancillary to, the operation of a columbarium means non-compliant structures that are structures necessary for, or ancillary to, the operation of the columbarium within the meaning of subsection (7).</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>

3. 出售安放權的涵義

(1) 為施行本條例 —

出售 (sell)就安放權而言，包括 —

- (a) 將安放權要約出售；及
- (b) 訂立向另一人出售安放權的協議。

(2) 為施行本條例，出售骨灰安置所的安放權，在以下情況下包括處置安放權而轉予某人：該人在與該項處置相關的情況下，直接或間接採用以下一種或多於一種方式，作出付款(不論任何該等付款是否被描述為捐款) —

- (a) 在該安放權持續的期間，定期支付一筆款項；
- (b) 以分期付款或其他方式，支付一筆定額款項；
- (c) 以任何其他方式，作出付款。

(3) 為施行本條例 —

(a) 出售骨灰安置所的安放權 —

- (i) 包括即使在建造該骨灰安置所之前出售該安放權；
- (ii) 包括即使沒有指明有關受供奉者是何人出售該安放權；及
- (iii) 包括向某人出售該安放權，以供轉售；及

(b) 出售骨灰安置所龕位的安放權，包括出售 —

- (i) 該骨灰安置所中有待分配的某龕位或某特定龕位的安放權；
或 [A0013]
- (ii) 於骨灰安置所中的現存龕位(或有待在骨灰安置所中建造的龕位)的安放權。

3. Meaning of sale of interment right

(1) For the purposes of this Ordinance—

sell (出售), in relation to an interment right, includes—

- (a) offer the interment right for sale; and
- (b) make an agreement for the sale of the interment right to another person.

(2) For the purposes of this Ordinance, a sale of an interment right in respect of a columbarium includes a disposition of the interment right to a person if the person, directly or indirectly, in connection with the disposition makes payments (whether or not any of the payments are described as donations) in one or more of the following manners—

- (a) pays a sum periodically during the period for which the interment right lasts;
- (b) pays a fixed sum, by instalment or otherwise;
- (c) makes payments in any other manner.

(3) For the purposes of this Ordinance—

(a) a sale of an interment right in respect of a columbarium includes—

- (i) such a sale, even before the columbarium is constructed;
- (ii) such a sale, even if no dedicated person is named; and
- (iii) such a sale to a person for resale; and

(b) a sale of an interment right in respect of a niche in a columbarium includes a sale of an interment right in respect of—

- (i) a particular niche, or a niche to be allocated, in the columbarium; or [A0013]
- (ii) a niche in existence, or a niche to be constructed, in the columbarium.

5. 條例不適用於在住宅存放骨灰

- (1) 在以下情況下，本條例不適用於在任何住宅存放骨灰 —
- (a) 在該住宅內存放的裝載骨灰的容器，不多於 510 個；而 [A0014]
 - (b) 在每個容器內，只裝載 1 名人士的骨灰。
- (2) 在本條中 —
- 住宅** (domestic premises)指符合以下說明的處所：純粹或主要用作居住用途，並且是自成一戶的家居單位。

5. Ordinance not applicable to domestic keeping of ashes

- (1) This Ordinance does not apply to the keeping of ashes in any domestic premises if—
- (a) no more than 510 containers of ashes are kept in the premises; and [A0014]
 - (b) each container contains the ashes of only 1 person.
- (2) In this section—
- domestic premises** (住宅) means premises used solely or principally for residential purposes and constituting a separate household unit.

第 2 部

私營骨灰安置所發牌委員會

6. 設立發牌委員會

- (1) 現設立一個中文名稱為“私營骨灰安置所發牌委員會”而英文名稱為“Private Columbaria Licensing Board”的委員會。
- (2) 就發牌委員會的組成及程序訂定條文的附表 1，具有效力。

7. 發牌委員會的職能及權力

- (1) 發牌委員會的主要職能是 —
 - (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]
 - (i) 考慮根據本條例向該委員會提出的申請，並作出定奪；
 - (ii) 發出關於營辦和管理骨灰安置所的指引及實務守則；及
 - (iii) 處理針對骨灰安置所營辦者的投訴，並調查骨灰安置所營辦者的不當行為；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
 - (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。
- (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。

Part 2

Private Columbaria Licensing Board

6. Establishment of Licensing Board

- (1) A board is established with the name “Private Columbaria Licensing Board” in English and “私營骨灰安置所發牌委員會” in Chinese.
- (2) Schedule 1 (which makes provisions about the constitution and proceedings of the Licensing Board) has effect.

7. Functions and powers of Licensing Board

- (1) The principal functions of the Licensing Board are—
 - (a) to regulate the operation and management of columbaria and, in particular—
 - (i) to consider and determine applications made to it under this Ordinance;
 - (ii) to issue guidelines and codes of practice about the operation and management of columbaria; and
 - (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
 - (b) to do any other things that the Licensing Board is required or authorized to do by this Ordinance.
- (2) The Licensing Board has all ancillary powers that may be necessary to enable it to perform its functions.

第 4 部

營辦骨灰安置所所需的文書

第 1 分部 — 一般條文

10. 第 4 部的釋義

在本部中 —

骨灰安放布局 (ash interment layout)就骨灰安置所而言，指以下詳情 —

- (a) 該骨灰安置所內的龕位的位置及編號；及 [A0016]
- (b) (如有人就該骨灰安置所申請牌照，或有牌照就該骨灰安置所發出)可在該骨灰安置所內並非龕位的位置安放骨灰的範圍；

骨灰安放容量 (ash interment capacity)在有人就某骨灰安置所申請牌照或有牌照就某骨灰安置所發出的情況下，就該骨灰安置所而言，指以下詳情 —

- (a) 該骨灰安置所內每個龕位可安放的裝載骨灰的容器的最高數目，以及總共最多可在該等龕位內安放多少份骨灰；
- (b) 總共最多可在該骨灰安置所內並非龕位的範圍內，安放多少份骨灰；及
- (c) 總共最多可在該骨灰安置所內，安放多少份骨灰；

骨灰安放數量 (ash interment quantity)就骨灰安置所而言，指以下詳情 —

- (a) 該骨灰安置所內每個龕位內安放骨灰的容器的數目、在該等龕位內總共安放多少份骨灰，以及受供奉者的姓名；
- (b) (如有人就該骨灰安置所申請牌照，或有牌照就該骨灰安置所發出)在該骨灰安置所內並非龕位的範圍內安放多少份骨灰，以及受供奉者的姓名；及
- (c) 在該骨灰安置所內，總共安放多少份骨灰。

Part 4

Instruments Required for Operating Columbaria

Division 1—General Provisions

10. Interpretation of Part 4

In this Part—

ash interment capacity (骨灰安放容量), in relation to a columbarium in respect of which a licence is applied for or is issued, means the following particulars—

- (a) the maximum number of containers of ashes that may be interred in each niche in the columbarium, and the total maximum number of sets of ashes that may be interred in the niches;
- (b) the total maximum number of sets of ashes that may be interred otherwise than in niches in any area in the columbarium; and
- (c) the total maximum number of sets of ashes that may be interred in the columbarium;

ash interment layout (骨灰安放布局), in relation to a columbarium, means the following particulars—

- (a) the location and serial numbering of niches in the columbarium; and [A0016]
- (b) (if a licence is applied for or is issued in respect of the columbarium) any area in the columbarium in which ashes may be interred otherwise than in niches;

ash interment quantity (骨灰安放數量), in relation to a columbarium, means the following particulars—

- (a) the number of containers of ashes interred in each niche in the columbarium, the total number of sets of ashes interred in the niches and the names of the dedicated persons;
- (b) (if a licence is applied for or is issued in respect of the columbarium) the number of sets of ashes that are interred otherwise than in niches in any area in the columbarium and the

	<p>names of the dedicated persons; and</p> <p>(c) the total number of sets of ashes that are interred in the columbarium.</p>
<p>11. 牌照、豁免書及暫免法律責任書</p> <p>(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 —</p> <p>(a) 就某骨灰安置所發出牌照，或將之續期；</p> <p>(b) 就某草案前骨灰安置所發出豁免書，或將之續期；及或 [A0017]</p> <p>(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。</p> <p>(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]</p> <p>(3) 牌照的有效期，不得超逾以下兩者中的較短者 —</p> <p>(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]</p> <p>(b) 10 年。</p> <p>(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。 [A0019]</p> <p>(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 —</p> <p>(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]</p> <p>(b) 3 年。</p>	<p>11. Licence, exemption and temporary suspension of liability</p> <p>(1) The Licensing Board may, on application and subject to any conditions that the Licensing Board thinks fit to impose—</p> <p>(a) issue or renew a licence in respect of a columbarium;</p> <p>(b) issue or renew an exemption in respect of a pre-Bill columbarium; and/or [A0017]</p> <p>(c) issue or extend a temporary suspension of liability in respect of a pre-Bill columbarium.</p> <p>(2) The Licensing Board may, in its discretion, determine the term for which the specified instrument is issued, renewed or extended (validity period). [A0018]</p> <p>(3) The validity period of a licence must not exceed the shorter of the following—</p> <p>(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;</p> <p>(b) 10 years.</p> <p>(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.</p> <p>(5) The validity period of a temporary suspension of liability must not exceed the shorter of the following—</p> <p>(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;</p> <p>(b) 3 years.</p>

第 2 分部 — 資格準則

第 1 次分部 — 營辦骨灰安置所(包括出售安放權)的牌照

13. 牌照 — 資格基於符合法規、持有從政府取得的處所及管理方案

- (1) 凡有人提出申請，要求就某骨灰安置所發出牌照，如 —
 - (a) 申請人未能證明致使發牌委員會信納，該骨灰安置所符合以下所有規定 —
 - (i) 關乎土地的規定；
 - (ii) 關乎規劃的規定；
 - (iii) 關乎建築物的規定；或
 - (b) 申請人未能證明致使發牌委員會信納，該人持有(不論是以租契、許可證或其他方式)直接從政府取得的有關骨灰安置所處所，則該委員會可拒絕該申請。
- (2) 儘管有第 11(1)條的規定，發牌委員會須先行批准一份管理方案(由申請人擬備就有關骨灰安置所提交並涵蓋第 85 條所規定的事宜者)，方可批准要求就該骨灰安置所發出牌照的申請。 [A0020]

Division 2—Eligibility Criteria

Subdivision 1—Licence for Operating Columbaria (Including Selling Interment Rights)

13. Licence—eligibility based on legal compliance, premises held from Government and management plan

- (1) The Licensing Board may refuse an application for the issue of a licence in respect of a columbarium if—
 - (a) the applicant fails to prove to the satisfaction of the Licensing Board that the columbarium complies with all of the following—
 - (i) the land-related requirements;
 - (ii) the planning-related requirements;
 - (iii) the building-related requirements; or
 - (b) the applicant fails to prove to the satisfaction of the Licensing Board that the applicant holds the columbarium premises directly from the Government, whether under a lease, licence or otherwise.
- (2) Despite section 11(1), the Licensing Board may grant an application for the issue of a licence in respect of a columbarium only if a management plan, ~~prepared by the applicant~~ submitted by the applicant in respect of the columbarium and covering matters required under section 85, has been approved by the Licensing Board. [A0020]

第 2 次分部 — 使草案前骨灰安置所繼續營辦(而不出售安放權)的文書

15. 草案前骨灰安置所的豁免書 — 資格基於年代久遠、符合法規及持有從政府取得的處所或佔用權

- (1) 只要以下一項或多於一項事宜，未獲申請人證明致使發牌委員會信納，該委員會可拒絕要求就某草案前骨灰安置所發出豁免書的申請 — [A0021]
- (a) 骨灰安放布局，限於其在以草案公布時間狀況為準的範圍；
 - (b) 骨灰安放數量，限於其在以草案公布時間狀況為準的數量；
 - (c) 對營辦該骨灰安置所屬必需(或與之配套)的土地佔用範圍，限於以草案公布時間狀況為準的對其營辦屬必需(或與之配套)的範圍； [A0022]
 - (d) 該骨灰安置所，於 1990 年 1 月 1 日之前開始營辦；
 - (e) 自草案公布時間起，再不出售該骨灰安置所的安放權；
 - (f) 該骨灰安置所符合關乎土地的規定；

Subdivision 2—Instruments for Pre-Bill Columbaria to Continue Operation, without Selling Interment Rights

15. Exemption for pre-Bill columbarium—eligibility based on datedness, legal compliance and premises held from Government or right to occupation

- (1) The Licensing Board may refuse an application for the issue of an exemption in respect of a pre-Bill columbarium if the applicant fails to prove to the satisfaction of the Licensing Board one or more of the following—
- (a) that the ash interment layout is limited in extent to that as at the Bill announcement time;
 - (b) that the ash interment quantity is limited to that as at the Bill announcement time;
 - (c) that the extent of occupation of land as is necessary for, or ancillary to, the operation of the columbarium is limited to that as was necessary for, or ancillary to, its operation as at the Bill announcement time;
 - (d) that the columbarium commenced operation before 1 January 1990;
 - (e) that no interment right in respect of the columbarium has been sold since the Bill announcement time;
 - (f) the columbarium complies with the land-related requirements;

16. 草案前骨灰安置所的暫免法律責任書 — 資格基於隨附的牌照申請或豁免書申請等

- (1) 凡有要求就某草案前骨灰安置所發出暫免法律責任書的申請，除非申請人亦有就該骨灰安置所提出以下兩項或任何一項申請 —
- (a) 要求發出牌照的申請；
 - (b) 要求發出豁免書的申請，
- 否則發牌委員會可拒絕要求發出暫免法律責任書的申請。
- (2) 凡有要求就某草案前骨灰安置所發出暫免法律責任書的申請，如 —
- (a) 申請人未能證明致使發牌委員會信納以下一項或多於一項事宜 —[A0023]
 - (i) 骨灰安放布局，限於其在以草案公布時間狀況為準的範圍；
 - (ii) 如申請人亦申請就該骨灰安置所發出牌照 — 骨灰安放容量，限於其在以草案公布時間狀況為準的容量；
 - (iii) 如申請人亦申請就該骨灰安置所發出豁免書 — 骨灰安放數量，限於其在以草案公布時間狀況為準的數量；
 - (iv) 對營辦該骨灰安置所屬必需(或與之配套)的土地佔用範圍，限於以草案公布時間狀況為準的對其營辦屬必需(或與之配套)的範圍；或 [A0024]
 - (b) 地政總署署長認為，對營辦該骨灰安置所屬必需(或與之配套)的土地佔用，包括不合法佔用未批租土地；但申請人 —
 - (i) 沒有向地政總署署長申請合法權限，以佔用該未批租土地；或
 - (ii) 沒有向地政總署署長提供書面聲明，述明申請人對該未批租土地沒有申索權(不論是基於在申請日期之前、當日或之後管有該土地，或任何其他理由)， [A0025]
- 發牌委員會可拒絕該申請。

16. Temporary suspension of liability for pre-Bill columbarium—eligibility based on accompanying application for licence or exemption, etc.

- (1) The Licensing Board may refuse an application for the issue of a temporary suspension of liability in respect of a pre-Bill columbarium unless the applicant has also made in respect of the columbarium either or both of the following—
- (a) an application for the issue of a licence;
 - (b) an application for the issue of an exemption.
- (2) The Licensing Board may refuse an application for the issue of a temporary suspension of liability in respect of a pre-Bill columbarium if—
- (a) the applicant fails to prove to the satisfaction of the Licensing Board one or more of the following—
 - (i) that the ash interment layout is limited in extent to that as at the Bill announcement time;
 - (ii) if the applicant also applies for the issue of a licence in respect of the columbarium—that the ash interment capacity is limited to that as at the Bill announcement time;
 - (iii) if the applicant also applies for the issue of an exemption in respect of the columbarium—that the ash interment quantity is limited to that as at the Bill announcement time;
 - (iv) that the extent of occupation of land as is necessary for, or ancillary to, the operation of the columbarium is limited to that as was necessary for, or ancillary to, its operation as at the Bill announcement time; or
 - (b) the Director of Lands considers that the occupation of land as is necessary for, or ancillary to, the operation of the columbarium includes unlawful occupation of unleased land but the applicant—
 - (i) does not apply to the Director of Lands for lawful authority to occupy the unleased land; or
 - (ii) 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 style="text-align: center;">第 3 次分部 — 雜項條文</p> <p>17. 攸關定奪申請的因素</p> <p>(1) 本條適用於發牌委員會就要求就某骨灰安置所發出指明文書的申請作出某骨灰安置所的指明文書申請作出的定奪。 [A0026]</p> <p>(2) 發牌委員會 —</p> <p>(a) 須顧及公眾利益；及</p> <p>(b) 可顧及任何其他相關因素。</p>	<p style="text-align: center;">Subdivision 3—Miscellaneous</p> <p>17. Considerations relevant to determination of applications</p> <p>(1) This section applies to the determination by the Licensing Board of an application for a specified instrument in respect of a columbarium.</p> <p>(2) The Licensing Board—</p> <p>(a) must have regard to the public interest; and</p> <p>(b) may have regard to any other relevant considerations.</p>

第 3 分部 — 申請指明文書

第 1 次分部 — 一般條文

18. 申請的格式及所需資料

骨灰安置所的指明文書申請 —

- (a) 須符合指明格式，並按發牌委員會決定的方式，以書面向該委員會提出；及
- (b) 須附有 —
 - (i) 如屬要求發出牌照的申請 — 一份供發牌委員會為施行第 13(2)條而批准的管理方案；
 - (ii) 有關骨灰安置所的圖則；及
 - ~~(iii) 申請表格所指明的資料、證明書及其他文件，或發牌委員會在其他情況下要求的資料、證明書及其他文件。~~
 - (iii) 以下資料、證明書及其他文件文件 —
 - (A) 申請表格所指明的；或
 - (B) 發牌委員會在其他情況下合理地要求的。 [A0027]

Division 3—Application for Specified Instrument

Subdivision 1—General Provisions

18. Form of, and information required for, application

An application for a specified instrument in respect of a columbarium—

- (a) must be made, in writing, to the Licensing Board in the specified form and in the manner determined by it; and
- (b) must be accompanied by—
 - (i) for an application for the issue of a licence—a management plan for the Licensing Board’s approval for the purposes of section 13(2);
 - (ii) the plans of the columbarium; and
 - (iii) the information, certificates and other ~~documents specified in the application form or otherwise required by the Licensing Board.~~ documents —
 - (A) specified in the application form; or
 - (B) otherwise reasonably required by the Licensing Board. [A0027]

19. 關於申請所附圖則的規定

- (1) 為施行第 18(b)(ii)條，就骨灰安置所的指明文書申請所須附有的圖則，須符合本條的規定。
- (2) 上述圖則須包括場地平面圖、布局圖及樓面平面圖，以上各項圖則的複本數目，須達發牌委員會所要求的數目，並須按該委員會所要求的比例繪製。
- (3) 有待申請中的指明文書授權或准許的以下詳情，須在上述圖則中展示 —
 - (a) 骨灰安放布局；
 - (b) (就要求發出牌照或將之續期的申請而言)骨灰安放容量；
 - (c) (就要求就草案前骨灰安置所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)骨灰安放數量；
 - (d) 對營辦該骨灰安置所屬必需(或與之配套)的土地佔用範圍；及 [A0028]
 - (e) 對營辦該骨灰安置所屬必需(或與之配套)的構築物。
- (4) 有關骨灰安置所處所的場內實況，須由合資格專業人士證明為在所有方面，均與有關圖則相符。 [A0029]

19. Requirements about plans accompanying application

- (1) For the purposes of section 18(b)(ii), the plans of a columbarium that are to accompany an application for a specified instrument in respect of a columbarium must comply with the requirements in this section.
- (2) The plans must include a site plan, layout plan and floor plans, each of which must be in the number of copies, and drawn to the scale, that the Licensing Board requires.
- (3) The plans must show the following particulars to be authorized or permitted by the specified instrument under application—
 - (a) the ash interment layout;
 - (b) (for an application for the issue or renewal of a licence) the ash interment capacity;
 - (c) (for an application for the issue or renewal of an exemption, or for the issue or extension of a temporary suspension of liability, in respect of a pre-Bill columbarium) the ash interment quantity;
 - (d) the extent of occupation of land as is necessary for, or ancillary to, the operation of the columbarium; and [A0028]
 - (e) the structures necessary for, or ancillary to, the operation of the columbarium.
- (4) A qualified professional must certify that the current site situation of the columbarium premises conforms to the plans in all respects.

20. 經批准圖則須予批註

- (1) 凡有指明文書申請，只有在以下情況下，發牌委員會方可為該申請的目的，批准骨灰安置所的圖則 —
 - (a) 該委員會信納，該骨灰安置所處所以場內實況而論，在包括第(2)款指明的詳情的所有方面，均與該等圖則相符；及 [A0030]
 - (b) 經考慮第 12、13、14、15 及 16 條，該委員會決定批准該申請，並授權或准許該等圖則所示的、第(2)款指明的詳情。
- (2) 有關詳情是 —
 - (a) 骨灰安放布局；
 - (b) (就要求發出牌照或將之續期的申請而言)骨灰安放容量；
 - (c) (就要求就草案前骨灰安置所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)骨灰安放數量；
 - (d) 對營辦該骨灰安置所屬必需(或與之配套)的土地佔用範圍；及
 - (e) 對營辦該骨灰安置所屬必需(或與之配套)的構築物。
- (3) 在批准圖則時，發牌委員會 —
 - (a) 須將該項批准，批註於每套圖則內的每份圖則之上，說明圖則已獲批准；
 - (b) 須將 1 套圖則交還申請人；及
 - (c) 可保留餘下的各套圖則。

20. Approved plans to be endorsed

- (1) The Licensing Board may approve plans of a columbarium for the purposes of an application for a specified instrument only if—
 - (a) it is satisfied that the current site situation of the columbarium premises conforms to the plans in all respects including the particulars specified in subsection (2); and
 - (b) having regard to sections 12, 13, 14, 15 and 16, the Licensing Board decides to grant the application and authorize or permit the particulars specified in subsection (2) as shown in the plans.
- (2) The particulars are—
 - (a) the ash interment layout;
 - (b) (for an application for the issue or renewal of a licence) the ash interment capacity;
 - (c) (for an application for the issue or renewal of an exemption, or for the issue or extension of a temporary suspension of liability, in respect of a pre-Bill columbarium) the ash interment quantity;
 - (d) the extent of occupation of land as is necessary for, or ancillary to, the operation of the columbarium; and
 - (e) the structures necessary for, or ancillary to, the operation of the columbarium.
- (3) On approving the plans, the Licensing Board—
 - (a) must endorse the approval on each plan in each set of the plans to that effect;
 - (b) must return 1 set of the plans to the applicant; and
 - (c) may retain the remaining sets of plans.

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，以及圖則

- (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) 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**)所攸關的、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 —
 - (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；
 - (f) (就要求發出豁免書的申請而言)首次在該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，亦須附有一套符合以下規定的圖則 —

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 and plans

- (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 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**) is relevant, must be accompanied by evidence of the following particulars (each is called an **eligibility-related particular**)—
 - (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 announcement time;

<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</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>(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</p> <p>(b) structures certifiable for a pre-Bill columbarium in, on or at the columbarium as are covered by the specified instrument.</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；
 - (b) 資格相關條文的涵義，與第 21(3)條中該詞的涵義相同；
 - (c) 須通報詳情指第 1 組詳情或第 2 組詳情；
 - (d) 第 1 組詳情，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；
 - (e) 第 2 組詳情，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(e)條所提述的資格相關詳情； [A0033]
 - (f) 通報計劃，即於草案公布時間由局長公布的、符合以下說明的行政計劃 —
 - (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 [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 —
 - (i) (如屬第 1 組詳情)於草案公布時間開始，並於 2014 年 6 月

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

- (1) In this section—
- (a) operator, in relation to a columbarium, means a person who operated, kept, managed or in any other way had control of the columbarium;
 - (b) eligibility-related provision has the same meaning as in section 21(3);
 - (c) notifiable particulars mean batch 1 particulars or batch 2 particulars;
 - (d) batch 1 particulars mean 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;
 - (e) batch 2 particulars mean 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 (e); [A0033]
 - (f) the notification scheme is the administrative scheme that was announced by the Secretary at the Bill announcement time—
 - (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 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

<p>30 日完結的期間；及</p> <p>(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。</p> <p>(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]</p> <p>(4) 在編製上述紀錄後，計劃人員如有此意願，可為 —</p> <p>(a) 關於有關須通報詳情的陳述； [A0036]</p> <p>(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]</p> <p>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]</p> <p>(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。</p> <p>(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]</p> <p>(7) 為免生疑問，為施行第 21(3)(d)及(e)條 —</p> <p>(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，以及該等設施在該時間佔用土地；及</p> <p>(b) 發牌委員會對該等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 —</p> <p>(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</p> <p>(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。</p> <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，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。</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</p>	<p>(ii) any other records relating to the notifiable particulars as the scheme officer determined; and</p> <p>(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—</p> <p>(i) for batch 1 particulars, the period beginning at the Bill announcement time and ending on 30 June 2014; and</p> <p>(ii) for batch 2 particulars, the period beginning at the Bill announcement time and ending on 31 August 2014.</p> <p>(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.</p> <p>(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—</p> <p>(a) a statement of the notifiable particulars;</p> <p>(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).</p> <p>(5) Subsections (6), (7), (8) and (9) apply to an application for a specified instrument in respect of a pre-Bill columbarium.</p> <p>(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> <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 facilities as at that time; and</p> <p>(b) subsection (6) does not affect the Licensing Board's determination of whether the facilities fall within the essential</p>
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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——

~~(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~~

~~(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]~~

ancillary facilities referred to in—

(i) section 2(1) (definition of *columbarium*) or section 2(5)(b), (6)(b) or (7)(b); or

(ii) paragraph (a)(ii) of the definition of *structures certifiable for a pre-Bill columbarium* in section 4(1) of Schedule 2.

(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).

(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——

~~(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~~

~~(b) the applicant produces evidence of probative value comparable to the evidence referred to in that subsection (4). [A0038]~~

24. 牌照 — 關於安放骨灰、違規構築物及管理方案的條件

~~牌照~~骨灰安置所牌照受以下條件規限 — [A0039]

- (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；
- (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。

24. Licence—conditions about ash interment, non-compliant structures and management plan

~~The licensee~~A licence in respect of a columbarium is subject to the following conditions— [A0039]

- (a) that the number of sets of ashes kept in the columbarium must be limited to the ash interment capacity ~~specified in~~shown 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;
- (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.

<p style="text-align: center;">第 3 次分部 — 暫免法律責任書</p> <p>29. 暫免法律責任書 — 格式</p> <p>(1) 草案前骨灰安置所的暫免法律責任書 —</p> <p>(a) 須符合指明格式；及</p> <p>(b) 須有一套有關經批准圖則作為附錄。</p> <p>(2) 有關暫免法律責任書須述明 — [A0041]</p> <p>(a) 獲發該暫免法律責任書的人持續根據第 8 條被禁止出售有關骨灰安置所的安放權；及</p> <p>(b) 在不抵觸(a)段提述的禁止的原則下，該人須為在沒有牌照的情況下營辦、維持、管理或以其他方式控制有關骨灰安置所而在該條之下所負的法律責任，獲暫時免除。</p> <p>(3) 暫免法律責任書須指明 —</p> <p>(a) 規限該暫免法律責任書的條件；及</p> <p>(b) 該暫免法律責任書的有效期限。</p>	<p style="text-align: center;">Subdivision 3—Temporary Suspension of Liability</p> <p>29. Temporary suspension of liability—form</p> <p>(1) A temporary suspension of liability in respect of a pre-Bill columbarium—</p> <p>(a) must be in the specified form; and</p> <p>(b) must have annexed to it a set of the approved plans.</p> <p>(2) AThe temporary suspension of liability must state— [A0041]</p> <p>(a) that the person to whom it is issued remains prohibited under section 8 from selling any interment right in respect of the columbarium; and</p> <p>(b) that, subject to the prohibition referred to in paragraph (a), the person's liability under that section for operating, keeping, managing or in any other way having control of the columbarium without a licence is suspended temporarily.</p> <p>(3) The temporary suspension of liability must specify—</p> <p>(a) the conditions to which it is subject; and</p> <p>(b) its validity period.</p>
<p>30. 暫免法律責任書 — 關於未批租土地及違規構築物須採取的步驟、未批租土地及違規構築物的條件 [A0042]</p> <p>(1) 凡有要求就某草案前骨灰安置所發出牌照的申請仍然待決，關於該骨灰安置所的暫免法律責任書，受以下條件規限：其持有人須合理地盡速採取所有必需的步驟，以 —</p> <p>(a) 符合第 13 條(不論有否根據第 14 條變通)提述的規定；及</p> <p>(b) 確使在該暫免法律責任書屆滿前，獲發該牌照。</p> <p>(2) 凡有要求就某草案前骨灰安置所發出豁免書的申請仍然待決，關於該骨灰安置所的暫免法律責任書，受以下條件規限：其持有人須合理地盡速採取所有必需的步驟，以 —</p> <p>(a) 符合第 15 條提述的規定；及</p>	<p>30. Temporary suspension of liability—conditions about steps to be taken, unleased land and non-compliant structures [A0042]</p> <p>(1) A temporary suspension of liability in respect of a pre-Bill columbarium for which an application for the issue of a licence is pending is subject to the condition that its holder must take, with reasonable expedition, all necessary steps towards—</p> <p>(a) meeting the requirements referred to in section 13 (whether or not as modified under section 14); and</p> <p>(b) procuring the issue of the licence before the expiry of the temporary suspension of liability.</p> <p>(2) A temporary suspension of liability in respect of a pre-Bill columbarium for which an application for the issue of an exemption is pending is subject to the condition that its holder must take, with</p>

<p>(b) 確使在該暫免法律責任書屆滿前，獲發該豁免書。</p> <p>(3) 有關暫免法律責任書受以下所有條件規限 — [A0043]</p> <p>(a) 對營辦有關骨灰安置所屬必需(或與之配套)的不合法佔用未批租土地的範圍，須限於有關經批准圖則顯示的該範圍；</p> <p>(b) 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。</p>	<p>reasonable expedition, all necessary steps towards—</p> <p>(a) meeting the requirements referred to in section 15; and</p> <p>(b) procuring the issue of the exemption before the expiry of the temporary suspension of liability.</p> <p>(3) AThe temporary suspension of liability is subject to all of the following conditions— [A0043]</p> <p>(a) that the extent of unlawful occupation of unleased land as is necessary for, or ancillary to, the operation of the columbarium must be limited to that as shown in the approved plans;</p> <p>(b) 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.</p>
<p>31. 暫免法律責任書 — 進一步條件</p> <p>在不局限第 11(1)條的原則下，發牌委員會如認為合適，可對骨灰安置所對草案前骨灰安置所的暫免法律責任書，施加符合以下說明的條件 — [A0044]</p> <p>(a) 關乎樓宇安全、消防安全、其他安全事宜、排水及污水的措施，包括規定須定期向發牌委員會提交由合資格專業人士作出的證書或報告；及</p> <p>(b) 關乎盡量減少該骨灰安置所的營辦對鄰近社區造成的環境滋擾的措施。</p>	<p>31. Temporary suspension of liability—further conditions</p> <p>Without limiting section 11(1), the Licensing Board may as it thinks fit impose conditions on a temporary suspension of liability in respect of a pre-Bill columbarium— [A0044]</p> <p>(a) on measures relating to building safety, fire safety and fire safety, other safety matters, drainage and sewage, including requiring certificates or reports, by a qualified professional, to be submitted to the Licensing Board at regular intervals; and [A0045]</p> <p>(b) on measures for minimizing the environmental nuisance caused to the neighbourhood by the operation of the columbarium.</p>

第 5 分部 — 關於指明文書及相關申請的補充條文

32. 指明文書的轉讓

- (1) 除本條另有規定外，以下文書均不得轉讓 —
 - (a) 牌照；
 - (b) 豁免書；
 - (c) 連同以下兩項或其中一項申請的暫免法律責任書 —
 - (i) 要求發出牌照的相關申請； [A0047]
 - (ii) 要求發出豁免書的相關申請。 [A0048]
- (2) 在符合第(3)、(4)及(5)款的規定下，發牌委員會可應申請，批准就某人有效的第(1)款所提述的文書，由該人轉讓予另一人。該項轉讓須批註於該文書上。
- (3) 上述申請 —
 - (a) 須符合指明格式，並以書面向該委員會發牌委員會提出；及 [A0049]
 - (b) 須附有 —
 - (i) 申請表格所指明的資料、證明書及其他文件；或
 - (ii) 發牌委員會在其他情況下合理地要求的資料、證明書及其他文件。 [A0050]

Division 5—Supplementary Provisions about Specified Instruments and Related Applications

32. Transfer of specified instrument

- (1) Except as provided in this section, none of the following instruments is transferable—
 - (a) a licence;
 - (b) an exemption; [A0046]
 - (c) a temporary suspension of liability together with one or both of the following—
 - (i) ~~an application~~the related application for the issue of a licence; [A0047]
 - (ii) ~~an application~~the related application for the issue of an exemption. [A0048]
- (2) Subject to subsections (3), (4) and (5), the Licensing Board may, on application, approve the transfer from a person in respect of whom an instrument referred to in subsection (1) is in force to another person. The fact of the transfer must be endorsed on the instrument.
- (3) The application—
 - (a) must be made, in writing, to the Licensing Board in the specified form; and
 - (b) must be accompanied by the information, certificates and other documents—
 - (i) specified in the application form; or
 - (ii) otherwise reasonably required by the Licensing Board. [A0050]

<p>34. 應指明文書持有人的申請而更改條件</p> <p>(1) 如指明文書持有人提出書面申請，而該申請提出充分並令發牌委員會信納的因由，該委員會可應申請，藉在該文書上作出批註，更改規限該文書的條件。 [A0051]</p> <p>(2) 上述申請 —</p> <p>(a) 須符合指明格式，並以書面向發牌委員會提出；及</p> <p>(b) 須附有 —</p> <p>(i) 符合第 19 條及(如適用的話)第 21(4)條的規定的圖則；及</p> <p>(ii) 以下資料、證明書及其他文件 —</p> <p>(A) 申請表格所指明的資料、證明書及其他文件；或</p> <p>(B) 發牌委員會在其他情況下要求的資料、證明書及其他文件。</p> <p>(3) 發牌委員會如拒絕根據本條提出的申請，必須將其決定，以書面通知申請人，該通知須列明拒絕理由。</p>	<p>34. Variation of condition on application by holder of specified instrument</p> <p>(1) The Licensing Board may, on application by the holder of a specified instrument in writing to it showing sufficient cause to its satisfaction, vary any conditions to which the instrument is subject, by an endorsement on the instrument. [A0051]</p> <p>(2) The application—</p> <p>(a) must be made, in writing, to the Licensing Board in the specified form; and</p> <p>(b) must be accompanied by—</p> <p>(i) plans that comply with the requirements in section 19 and, if applicable, section 21(4); and</p> <p>(ii) the information, certificates and other documents—</p> <p>(A) specified in the application form; or</p> <p>(B) otherwise required by the Licensing Board.</p> <p>(3) If the Licensing Board refuses an application made under this section, the Licensing Board must notify the applicant of its decision, in writing, setting out the reasons for the refusal.</p>
<p>35. 可暫緩執行發牌委員會的決定</p> <p>(1) 如發牌委員會根據第 33(1)條，就某人作出決定，而該人根據第 72 條，針對該決定提出上訴，則該委員會 —</p> <p>(a) 可在該人提出申請下，在該上訴待決期間，暫緩執行該決定；或</p> <p>(b) 可自行決定，在該上訴待決期間，暫緩執行該決定。</p> <p>(2) 第(1)(a)款所指的申請 —</p> <p>(a) 須在該人提交上訴通知書後 7 日內，以書面向發牌委員會提出；及 [A0052]</p> <p>(b) 須列明申請理由。</p> <p>(3) 凡有人根據第(1)款，就某決定提出申請，該決定須暫緩執行，直至發牌委員會就該申請作出定奪為止。</p>	<p>35. Licensing Board's decision may be suspended from operation</p> <p>(1) If a person in respect of whom the Licensing Board made a decision under section 33(1) appeals against the decision under section 72, the Licensing Board—</p> <p>(a) may, on application by the person, suspend the operation of the decision, pending the determination of the appeal; or</p> <p>(b) may, on its volition, suspend the operation of the decision, pending the determination of the appeal.</p> <p>(2) An application under subsection (1)(a)—</p> <p>(a) must be made, in writing, to the Licensing Board within 7 days of the lodging of the notice of appeal by that person; and</p> <p>(b) must set out the grounds of the application.</p> <p>(3) The decision in respect of which an application under subsection (1) is</p>

	made is suspended in its operation until the Licensing Board determines the application.
<p>36. 改變須予通知</p> <p>(1) 如 —</p> <p>(a) 某人提出申請，要求發出指明文書指明文書申請；而 [A0053]</p> <p>(b) 有一項改變發生，而該改變對該人已在與該申請相關的情況下提供的資料的準確性，有關鍵性的影響，</p> <p>則該人須在該改變發生後 14 日內，將該改變以書面通知發牌委員會。</p> <p>(2) 第(1)(b)款所指的改變，包括(但不限於)申請人的東主、合夥人或董事的改變。</p> <p>(3) 如就骨灰安置所發出的指明文書的持有人，決定終止營辦該骨灰安置所，則該人須在作出該決定後 14 日內，將該決定以書面通知發牌委員會。</p> <p>(4) 任何人違反第(1)或(3)款，即屬犯罪，一經定罪，可處第 3 級罰款及監禁 3 個月。</p>	<p>36. Notification of changes</p> <p>(1) If—</p> <p>(a) a person has made an application for a specified instrument; and</p> <p>(b) a change occurs that materially affects the accuracy of the information that the person has provided in connection with the application,</p> <p>the person must notify the Licensing Board of the change, in writing, within 14 days of the change.</p> <p>(2) A change in subsection (1)(b) includes (but is not limited to) a change of the proprietor, partner or director of the applicant.</p> <p>(3) If the holder of a specified instrument in respect of a columbarium decides to cease operating the columbarium, the holder must notify the Licensing Board of the decision, in writing, within 14 days of the decision.</p> <p>(4) A person who contravenes subsection (1) or (3) commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 3 months.</p>
<p>37. 關乎指明文書的申請的進一步條文 [A0054]</p> <p>載有關乎本部所指的指明文書的申請的進一步條文的附表 3，具有效力。 [A0055]</p>	<p>37. Further provisions on applications relating to specified instruments</p> <p>Schedule 3 (which contains further provisions on applications relating to specified instruments under this Part) has effect.</p>

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。 [A0057]
- (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.
- (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.

關乎指明文書的申請的進一步**規定條文** [A0059]

Further Provisions on Applications Relating to Specified Instruments

食物及衛生局

二零一五年十二月三十一日

Food and Health Bureau

31 December 2015