

**立法會**  
**Legislative Council**

LC Paper No. CB(2)383/15-16  
(These minutes have been seen  
by the Administration)

Ref : CB2/BC/4/14

**Bills Committee on  
Chinese Permanent Cemeteries (Amendment) Bill 2015**

**Minutes of the 1<sup>st</sup> meeting  
held on Tuesday, 27 October 2015, at 4:30 pm  
in Conference Room 3 of the Legislative Council Complex**

**Members present** : Hon Steven HO Chun-yin, BBS (Chairman)  
Hon WONG Kwok-hing, BBS, MH  
Hon Cyd HO Sau-lan, JP  
Hon IP Kwok-him, GBS, JP  
Hon YIU Si-wing, BBS  
Hon MA Fung-kwok, SBS, JP  
Hon CHAN Chi-chuen  
Dr Hon Kenneth CHAN Ka-lok  
Dr Hon Helena WONG Pik-wan  
Hon Christopher CHUNG Shu-kun, BBS, MH, JP

**Public Officers attending** : Item II

The Administration

Mr Laurie LO, JP  
Deputy Secretary for Home Affairs (1)

Miss Grace LI  
Principal Assistant Secretary for Home Affairs  
(Civic Affairs) 3 (Acting)

Mr Jonathan LUK  
Government Counsel, Law Drafting Division  
Department of Justice

The Board of Management of the Chinese Permanent Cemeteries

Ms Brenda LO  
Executive Director

**Clerk in attendance** : Miss Josephine SO  
Chief Council Secretary (2) 2

**Staff in attendance** : Ms Vanessa CHENG  
Assistant Legal Adviser 5

Ms Wendy LO  
Senior Council Secretary (2) 2

Miss Emma CHEUNG  
Legislative Assistant (2) 2

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Action

**I. Election of Chairman and Deputy Chairman**

Election of Chairman

Mr WONG Kwok-hing, the member who had the highest precedence in Council among members of the Bills Committee present, presided over the election of the Chairman. He invited nominations for the chairmanship of the Bills Committee.

2. Mr Steven HO Chun-yin was nominated by Mr IP Kwok-him and the nomination was seconded by Mr YIU Si-wing and Mr Christopher CHUNG. Mr Steven HO accepted the nomination. As there was no other nomination, Mr WONG Kwok-hing declared Mr Steven HO elected as the Chairman of the Bills Committee. Mr Steven HO then took the chair.

3. Members agreed that the election of Deputy Chairman was not necessary.

**II. Meeting with the Administration**

(File Ref: HAB/CR 1/20/15, LC Paper Nos. CB(3)802/14-15, LS87/14-15 and CB(2)110/15-16(02) to (07))

4. The Bills Committee deliberated (index of proceedings attached at **Annex A**).

Action

Follow-up actions arising from the discussion

Admin

5. The Administration was requested to provide written responses to issues raised by members as set out in **Annex B**.

**III. Any other business**

Invitation for public views

6. The Bills Committee agreed to receive public views on the Bill at the next meeting. Members also agreed that the Bills Committee would post a notice on the Legislative Council website and issue invitation letters to the 18 District Councils.

Date of next meeting

7. The Chairman asked the Clerk to check members' availability for the suggested time slots and schedule the next meeting in consultation with him.

*(Post-meeting note: Having checked members' availability and with the concurrence of the Chairman, the second and third meetings of the Bills Committee were scheduled as follows -*

- (a) 27 November 2015 (Friday) from 9:00 am to 12:00 noon;  
and
- (b) 11 December 2015 (Friday) from 10:45 am to 12:45 pm.

The notice of the above meetings was issued to members vide LC Paper No. CB(2)164/15-16 on 30 October 2015.)

8. There being no other business, the meeting ended at 6:19 pm.

**Proceedings of the 1<sup>st</sup> meeting of the  
Bills Committee on Chinese Permanent Cemeteries (Amendment) Bill 2015  
on Tuesday, 27 October 2015, at 4:30 pm  
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action Required
<i>Agenda Item I - Election of Chairman and Deputy Chairman</i>			
000100 - 000348	Mr WONG Kwok-hing Mr IP Kwok-him Mr Steven HO Mr Yiu Si-wing Mr Christopher CHUNG	Election of Chairman	
<i>Agenda Item II - Meeting with the Administration</i>			
000349 - 001024	Chairman Admin	Briefing by the Administration on the Chinese Permanent Cemeteries (Amendment) Bill 2015 ("the Bill") [Legislative Council Brief - File Ref.: HAB/CR 1/20/15]	
001025 - 001813	Chairman Mr WONG Kwok-hing Admin The Board of Management of the Chinese Permanent Cemeteries ("the Board")	<p>Mr WONG Kwok-hing's expression of support for the proposed amendments to the Chinese Permanent Cemeteries Ordinance (Cap.1112) ("the Ordinance") and the Chinese Permanent Cemeteries Rules (Cap. 1112 sub. leg. A) ("the Rules") to relax the restrictions on the use of cemetery facilities in the Chinese Permanent Cemeteries ("CPCs") operated by the Board of Management of the Chinese Permanent Cemeteries ("the Board"). He was concerned as to whether the proposals to broaden the scope of deceased persons eligible to be deposited in family niches and to remove the restriction on the maximum number of sets of ashes that could be deposited in ordinary niches and family niches in CPCs were in line with the prevailing practices of the Food and Environmental Hygiene Department ("FEHD") in restricting the use of public niches provided by FEHD.</p> <p>The Administration and the Board advised that -</p> <p>(a) there were some 190 000 ordinary niches and around 36 000 family niches in CPCs. Subsequent deposit of cremated human ashes in an ordinary niche was allowed provided that the permittee paid for such service and the ashes of the deceased first deposited in the niche were not removed from that niche;</p> <p>(b) at present, the eligibility for subsequent deposit of ashes in a family niche in CPCs was</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p>more stringent than that for a niche in a public cemetery provided by FEHD. The criterion adopted by FEHD was quite relaxed, with eligibility for subsequent deposit being governed by a board definition of "kinship". To uphold traditional values of family, shared use of a family niche in CPCs was not allowed unless the ashes were those of the "close relatives" of the first deceased deposited in the niche. The Bill proposed to remove all references to "close relative" from the existing Rules and substitute the term by "relative" which had a wider definition, so as to broaden the scope of eligible deceased persons to be deposited in family niches in CPCs; and</p> <p>(c) the ordinary niche and the family niche in CPCs were roughly equal in size to the standard and large niches provided by FEHD. Subsequent to FEHD's relaxation measure in 2014, each standard niche might accommodate more than two sets of cremated ashes, while each large niche might accommodate more than four sets, if applicants so preferred. By making reference to FEHD's arrangements, the Board proposed to remove the restriction on the maximum number of sets of ashes that could be deposited in a niche to allow each ordinary and family niche to accommodate respectively more than two and four set of ashes. The Bill proposed that the Board be empowered to determine the maximum number of sets of ashes to be deposited in a niche. This would allow better utilization of the niches provided in CPCs.</p> <p>Mr WONG's view that similar standards should be applied to the use of niches in CPCs and public niches provided by FEHD.</p>	
001814 - 002315	Chairman Mr MA Fung-kwok Admin The Board	<p>In response to Mr MA Fung-kwok's enquiries about the present situation/figure in relation to unclaimed human remains in CPCs, the Administration/the Board advised that -</p> <p>(a) out of the 14 500 exhumable lots whose term of use expired between 2008 and 2012, 35 sets of disinterred human remains were not claimed;</p> <p>(b) as at mid-2015, there were about 100 ossuary</p>	

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		<p>niches in CPCs still available for storage of skeletal human remains. Based on past data, it was estimated that CPC's existing ossuary niches would be exhausted in less than 10 years; and</p> <p>(c) if the Board was empowered to make rules for cremation of unclaimed disinterred human remains in exhumable lots six years after expiry of the service term, the human ashes would be stored with proper records made to allow for any future reclaims by permittees.</p> <p>The Board's advice on how it handled unclaimed human remains disinterred from an exhumable lot of CPCs.</p>	
002316 - 002911	Chairman Mr IP Kwok-him Admin	<p>Mr IP Kwok-him's enquiry and the Administration's explanation on the rationale for replacing "his wife" by "the spouse" in the Rules for the purpose of broadening the scope of eligible deceased persons to be buried or deposited in CPCs.</p> <p>In response to Mr IP's further enquiry, the Administration advised that the costs arising from the exhumation, cremation and storage of unclaimed human remains would be recovered from the permittee when he/she claimed back the remains.</p> <p>Regarding the proposed amendment to section 7(2) of the Ordinance which sought to expand the ambit of the donations that could be made by the Board, Mr IP sought clarification about the meaning of the expression "a particular sector of that community". The Administration explained that as some charities were not operating at a large scale to benefit "the entire community of Hong Kong", the Administration proposed that the Board might also donate to any charity operating for the benefit of "a particular sector of that community", such as those servicing the elderly or people suffered from a particular type of disability/illness. Mr IP's view that the drafting of the expression should be improved to better reflect the policy intent.</p>	

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002912 - 003428	Chairman Mr CHAN Chi-chuen Admin	<p>Mr CHAN Chi-chuen's expression of support for the proposed expansion of scope of eligible deceased persons to be buried or deposited in CPCs and the removal of the restriction on the maximum number of sets of ashes that could be deposited in a niche in CPCs.</p> <p>Mr CHAN's enquiry and the Administration's response on the restriction(s) on the placing of additional cremated ashes into niches respectively managed by the Board and FEHD. Mr CHAN requested the Administration to provide, in writing, information on whether there was any restriction on the placing of additional ashes into a public niche provided by FEHD and if yes, how the restriction was stated and applied.</p> <p>Mr CHAN's views that the remains of the first deceased person's homosexual partner, "sworn brother (結拜兄弟)" or "sworn sister (金蘭姊妹)" should be allowed to be buried or deposited together with the first deceased person in the same cemetery facility for better utilization of the land in CPCs. The restrictions in relation to the term "close relative" on the use of a family niche should also be removed to allow such kind of subsequent burial/deposit.</p> <p>The Administration's response that under the existing Rules, the requirement of "relative" was not applied to subsequent deposit of cremated human ashes in ordinary niches, i.e., it was possible for the ashes of the first deceased person's homosexual partner, "sworn brother" or "sworn sister" to be deposited together with the first deceased person in the same ordinary niche in CPCs. Yet, for family niches, the Board considered that the requirement of "close relative", or "relative" upon the passage of the Bill, should still apply, so as to uphold traditional values of family.</p>	<p><b>Admin (para. 1(a) of Annex B refers)</b></p>
003429 - 004126	Chairman Ms Cyd HO ALA5 Admin	<p>Ms Cyd HO's view that in determining the eligibility for subsequent deposit in a family niche in CPCs, the first deceased person's homosexual partner should be regarded as the family member of the first deceased person. She expressed concern on how the Board ascertained a deceased person's relationship and family tie with the first deceased person.</p>	

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		<p>Ms HO enquired about the proposed amendments to the preamble to the Ordinance and the necessity to retain the preamble. The Legal Adviser to the Bills Committee advised that preamble was rarely used in Hong Kong Ordinances these days. The Administration advised that the preamble was to provide background information of the legislation and the Administration intended to retain the preamble to reflect the history of the Ordinance.</p> <p>Ms HO sought clarification as to whether the expression "a particular sector of that community" referred to persons of a particular race or a particular group. The Administration's advice that the expression sought to expand the ambit of donations that could be made by the Board to include such as organizations serving the ethnic minorities, the elderly or people suffered from a particular type of disability/illness.</p>	
004127 - 004759	Chairman Mr WONG Kwok-hing Admin The Board	<p>Noting the difference in fees charged respectively by the Board and FEHD for multiple deposits of ashes in niches (i.e. the Board and FEHD respectively charged \$200 and \$140 for placing each additional set of cremated human remains), Mr WONG Kwok-hing suggested that the Board should consider reviewing its fees and charges to align with the fee schedule for similar services of FEHD.</p> <p>The Administration's explanation that the fees were set having regard to the respective processes and staff costs involved in the provision of such services by the Board and FEHD. It should be noted that the fees had not been reviewed for years and might not reflect the prevailing costs of the services. The Administration would need to introduce legislative amendments to Schedule 3 to the Rules if the relevant fees charged by the Board were to be adjusted.</p> <p>In response to Mr WONG's enquiry, the Administration advised that permittees could arrange for the "relocation/co-location" of the urns of ashes of their deceased family members through multiple deposits of the urns in the same niche in a particular CPC, so as to save the trouble to travel to different cemeteries for paying respect to the ancestors.</p>	<b>Admin/the Board (para. 2 of Annex B refers)</b>



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004800 - 004909	Chairman Ms Cyd HO The Board	In response to Ms Cyd HO's enquiry, the Board advised that if documentary proof of the relationship of the deceased to each other was not available, the applicant could make a statutory declaration to certify the eligibility of the deceased and submit the same to the Board to apply for subsequent deposit of ashes in a family niche in CPCs.	
004910 - 005604	Chairman Dr Helena WONG Admin	<p>Dr Helena WONG's expression of support for the relaxation measures proposed in the Bill. Her views that the permittee should be provided with greater flexibility in arranging multiple burials of remains or deposits of ashes in cemetery facilities in CPCs so as to better utilize the land resources. For instance, if two non-exhumable lots in CPCs were purchased by the same permittee, the remains of the first eligible deceased buried in the grave space should be allowed to be removed from that lot and be buried together with the first deceased buried in another lot. The permittee might then flexibly arrange burials of remains of other deceased family members in the vacant lot or revert the vacant lot to the Board.</p> <p>The Administration's advice that -</p> <p>(a) in accordance with the Rules, the cemetery facilities including grave spaces, urn lots or niches in CPCs should be reverted to the Board if the skeletal human remains/ashes of the first deceased buried/deposited in that cemetery facility were removed. While the permittee concerned could arrange subsequent burials of his/her family members together in the same non-exhumable lot, he or she had to revert the other vacant lot to the Board after the removal of the remains of the deceased first buried in that lot;</p> <p>(b) if the remains/ashes of the deceased first buried/deposited in a urn lot/grave space/niche were removed, it would be difficult for the Board to determine the eligibility for subsequent burials or deposits in that lot/niche. The vacant lot/niche might be abused by some permittees for burials or deposits of ineligible deceased persons and this might give rise to speculation activities including illegal transfer of cemetery facilities. The Administration considered that a balance had to be struck</p>	

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		<p>between facilitating the public to use the cemetery facilities in CPCs and safeguarding the proper use of the facilities; and</p> <p>(c) the Administration reckoned that it would only be in very rare cases that the permittee wished to remove the remains of the first deceased person from a grave space/niche to vacate the facility for the burials or deposits of other deceased family members. The permittee might prefer to make use of the relaxation measures to arrange for multiple burials or deposits of other deceased family members with the first deceased person in the same facility.</p>	
005605 - 010428	Chairman Dr Kenneth CHAN Admin	<p>In response to Dr Kenneth CHAN's enquiry, the Administration advised that some vacant grave spaces might be surrendered to the Board from time to time, which after consolidation might be used by the Board for construction of columbarium facilities. It was expected that there would be more than 30 000 newly-built niches available for allocation till the end of 2018.</p> <p>Dr CHAN's further enquiry as to whether traffic impact assessment(s) had been/would be conducted to evaluate the additional traffic to be generated during traditional and annual festivals for paying respect to ancestors due to (i) the provision of new niches in the four CPCs and (ii) the implementation of the relaxation measures proposed in the Bill, and if yes, details of the findings. The Administration undertook to provide the information requested by Dr CHAN.</p> <p>Dr CHAN's concerns and the Administration's response regarding the difference in definition of "ashes" as proposed under clause 10(11) of the Bill versus that under clause 2(1) of the Private Columbaria Bill.</p>	<b>Admin (para. 1(b) of Annex B refers)</b>
010429 - 010938	Chairman Admin The Board	<p>The Chairman's enquiry and the responses from the Administration and the Board on how the Board handled/would handle unclaimed human remains. The Chairman requested the Administration to provide information on the estimated costs arising from the exhumation, cremation and storage of unclaimed human remains from an exhumable lot of CPCs and the respective costs to be recovered from the permittee when he/she claimed back the remains.</p>	<b>Admin (para. 1(c) of Annex B refers)</b>

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010939 - 011616	Chairman Dr Helena WONG Admin	<p>Dr Helena WONG's view that the restriction for subsequent/multiple burials or deposits in CPCs' cemetery facilities should be further relaxed to include such as same-sex and opposite-sex cohabitants. The Administration's reiteration of the eligibility for subsequent/multiple deposits of ashes respectively in an ordinary niche and a family niche in CPCs.</p> <p>In response to Dr WONG's enquiry, the Administration advised that the public could make enquiries with the Board to ascertain the eligibility of a deceased person for burial or deposit in a cemetery facility of CPCs.</p>	
011617 - 012119	Chairman Admin The Board	<p>The Chairman's view that the expression "a particular sector of that community" might create grey area. He suggested that the drafting of the expression should be improved to better reflect the policy intent. The Administration undertook to consider this suggestion and revert to the Bills Committee.</p> <p>The Chairman's enquiry and the Administration's response regarding the scope of persons eligible to be buried or deposited in CPCs under the relaxation proposals.</p> <p>In response to the Chairman's enquiry, the Board advised that a permittee could make a statutory declaration to certify the identity of the deceased buried/deposited in a cemetery facility of CPCs and provide the same to the Board to apply for a permit to remove/exhume the remains of the deceased in case the identity of the deceased was in doubt.</p>	<b>Admin (para. 3 of Annex B refers)</b>
012120 - 013522	Chairman Dr Helena WONG Ms Cyd HO Admin The Board	<p>While agreeing that the cemetery facilities in CPCs should not be transferable or allowed for sale after allocation, Dr Helena WONG reiterated that the public should be provided with greater flexibility in using the cemetery facilities in CPCs.</p> <p>The Board's advice that -</p> <p>(a) the Board would determine the eligibility for subsequent burials or deposits based on the relationship/family tie of the deceased to the first deceased person. If the remains/ashes of the deceased first buried in the grave space or deposited in the niche were</p>	

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		<p>removed, there would be no basis for the Board to determine the eligibility for subsequent burials or deposits; and</p> <p>(b) while the permittee would be given the right to use the grave space/niche purchased from the Board and could arrange multiple burials or deposits of the remains/ashes of their deceased family members in the same cemetery facility of CPC, he or she had to revert the vacated lot/niche to the Board for further allocation to other applicants.</p> <p>The Administration's reiteration of the rationale for maintaining the requirement that the remains/ashes of the first deceased should not be removed from the allocated grave space/niche for the purpose of governing the subsequent/multiple burials or deposits in that same grave space/niche.</p> <p>Ms Cyd HO's enquiry as to whether consideration would be given to providing existing users with financial incentive, and whether there were other measures available, to encourage voluntary surrender of vacant lots/niches. The Board's advice that it was required under the Rules that a lot/niche should be reverted to the Board unconditionally for further allocation if the remains/ashes of the deceased first buried in that lot or deposited in that niche were removed. All permittees were informed of such requirement which had been effectively adopted for many years.</p>	<p><b>Admin (para. 1(d) of Annex B refers)</b></p>
013523 - 014042	Chairman Mr YIU Si-wing Admin	<p>Mr YIU Si-wing expressed support for the adoption of relaxation measures to better utilize the land of CPCs. In response to his enquiries, the Administration advised that the proposed relaxation in relation to the placing of additional human remains/ashes would be applicable to the existing 80 000 grave spaces and 240 000 niches in CPCs. The Administration however had not estimated the potential impact arising from the relaxation measure. As the removal of the first deceased person from a grave space/niche to vacate the facility for the burials/deposits of other deceased members' remains was not allowed at the moment, the Administration had not made any estimation on this aspect.</p>	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action Required</b>
014043 - 014729	Chairman Mr CHAN Chi-chuen Admin The Board	<p>In response to Mr CHAN Chi-chuen's enquiries, the Administration advised that as vacant grave spaces/niches had to be reverted to the Board in accordance with the Rules, there was no record on illegal transfer of vacant grave spaces/niches after the removal of the remains/ashes of the first deceased from the facilities. The Board's advice that the staff of the Board would monitor the entire process of the burial or deposit of the deceased (e.g. the mounting of plaque) in a grave space or niche, and the Board would also conduct random checks to ensure the proper use of the cemetery facilities in CPCs.</p> <p>Discussion on the need to uphold the requirement that the remains/ashes of the first deceased should not be removed from the allocated grave space/niche for the purpose of monitoring subsequent/multiple burials or deposits in the same grave space/niche.</p>	
014730 - 015007	Chairman Dr Helena WONG Ms Cyd HO	<p>Invitation for public views and date of the next meeting.</p> <p>The Chairman's closing remarks.</p>	

**Bills Committee on  
Chinese Permanent Cemeteries (Amendment) Bill 2015**

**List of follow-up actions arising from the discussion  
at the meeting on 27 October 2015**

1. The Administration was requested to provide information on -
  - (a) regarding public niches provided by the Food and Environmental Hygiene Department ("FEHD"), whether there was any restriction on the placing of additional cremated ashes into a niche (such as the eligibility for subsequent deposit being governed by the definition of "relative") and if the answer was positive, how the restriction was stated and applied;
  - (b) whether traffic impact assessment(s) had been/would be conducted to evaluate the additional traffic to be generated during traditional and annual festivals for paying respect to ancestors due to (i) the provision of new niches in the four Chinese Permanent Cemeteries ("CPCs") operated by the Board of Management of the Chinese Permanent Cemeteries ("the Board") and (ii) the implementation of the relaxation measures proposed in the Bill, and if yes, details of the findings;
  - (c) the estimated costs arising from the exhumation, cremation and storage of unclaimed human remains from an exhumable lot of CPCs and the respective costs to be recovered from the permittee when he/she claimed back the remains; and
  - (d) whether consideration would be given to providing existing users with financial incentive and whether there were other means available to encourage voluntary surrender of vacant lots/niches.
  
2. Noting the difference in fees charged respectively by the Board and FEHD for multiple deposits of cremated human remains in niches, a suggestion was raised that the Board should review its fees and charges to align with the fee schedule for similar services of FEHD. The Administration/Board was requested to consider this suggestion and revert to the Bills Committee.

3. Regarding the proposed amendment to section 7(2) of the Chinese Permanent Cemeteries Ordinance (Cap. 1112) which sought to expand the ambit of donations that could be made by the Board, there was a suggestion that the drafting of the expression "a particular sector of that community" should be improved to better reflect the policy intent. The Administration was requested to consider this suggestion and revert to the Bills Committee.

Council Business Division 2  
Legislative Council Secretariat  
2 December 2015