

立法會
Legislative Council

LC Paper No. CB(2)748/15-16
(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 3rd meeting
held on Tuesday, 22 December 2015, at 2:30 pm
in Conference Room 2A 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 CHAN Chi-chuen
Dr Hon Kenneth CHAN Ka-lok
Dr Hon Helena WONG Pik-wan

Members absent : Hon MA Fung-kwok, SBS, JP
Hon Christopher CHUNG Shu-kun, BBS, MH, JP

Public Officers attending : Item I

The Administration

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

Miss Gloria LO
Principal Assistant Secretary for Home Affairs (Civic Affairs) 3

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

Action

I. Meeting with the Administration

(LC Paper Nos. CB(2)480/15-16(01) & (02), CB(2)365/15-16(01), CB(2)474/15-16(01), CB(3)802/14-15 and CB(2)110/15-16(02) to (06))

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

2. The Bills Committee received the Administration's briefing on its response to issues raised by members at the Bills Committee meeting held on 27 November 2015 (LC Paper Nos. CB(2)480/15-16(01) & (02)).

3. The Bills Committee noted that taking into account members' views expressed at previous meetings, the Administration would consider moving Committee stage amendments ("CSAs") to the Chinese Permanent Cemeteries (Amendment) Bill 2015 ("the Bill") as follows -

- (a) regarding the definition of "relative", to spell out clearly in rule 3 of the Chinese Permanent Cemeteries Rules (Cap. 1112A) ("the Rules") that the following relationship between two persons would be covered for the purposes of the Rules -

Action

- (i) the following was to be treated as a child of a person -
 - ❖ a child of the person born out of wedlock;
 - ❖ adopted child of the person;
 - ❖ a step-child of the person;
- (ii) a half-blood brother or sister of a person was to be treated as a brother or sister of the person; and
- (b) in relation to the Board of Management of the Chinese Permanent Cemeteries ("the Board")'s ambit of donation, to spell out clearly in section 7(2) of the Chinese Permanent Cemeteries Ordinance (Cap. 1112) that the Board might donate to any charity operating for the benefit of the community of Hong Kong or "any sector" of the community.

4. The Bills Committee continued clause-by-clause examination of the Bill (LC Paper No. CB(3)802/14-15), and completed examination of clauses 13(4) to 27 of the Bill.

Follow-up actions required of the Administration

Admin 5. The Administration was requested to provide written responses to issues/concerns raised by members and the Legal Adviser to the Bills Committee as set out in **Annex B**.

Admin 6. The Bills Committee also requested the Administration to provide its draft CSAs to the Bill for discussion at the next meeting.

II. Any other business

Date of next meeting

7. The Chairman reminded members that the next meeting of the Bills Committee would be held on Tuesday, 12 January 2016, at 8:30 am to continue clause-by-clause examination of the Bill and to consider the proposed CSAs to be moved by the Administration (if available).

8. There being no other business, the meeting ended at 4:26 pm.

**Proceedings of the 3rd meeting of the
Bills Committee on Chinese Permanent Cemeteries (Amendment) Bill 2015
on Tuesday, 22 December 2015, at 2:30 pm
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action Required
000116 - 000131	Chairman	The Chairman's opening remarks	
000132 - 000712	Chairman Admin	<p>Briefing by the Administration on its response to issues raised at the Bills Committee meeting held on 27 November 2015 [LC Paper Nos. CB(2)480/15-16(01) & (02)].</p> <p>The Administration advised that taking into account members' views expressed at previous meetings, it would consider moving Committee stage amendments ("CSAs") to the Chinese Permanent Cemeteries (Amendment) Bill 2015 ("the Bill") as follows -</p> <p>(a) regarding the definition of "relative", to spell out clearly in rule 3 of the Chinese Permanent Cemeteries Rules (Cap. 1112A) ("the Rules") that the following relationship between two persons would be covered for the purposes of the Rules -</p> <p>(i) the following was to be treated as a child of a person -</p> <ul style="list-style-type: none"> ❖ a child of the person born out of wedlock; ❖ adopted child of the person; ❖ a step-child of the person; <p>(ii) a half-blood brother or sister of a person was to be treated as a brother or sister of the person; and</p> <p>(b) in relation to the Board of Management of the Chinese Permanent Cemeteries ("the Board")'s ambit of donation, to spell out clearly in section 7(2) of the Chinese Permanent Cemeteries Ordinance (Cap. 1112) ("the Ordinance") that the Board might donate to any charity operating for the benefit of the community of Hong Kong or "any sector" of the community.</p>	

Time marker	Speaker	Subject(s)	Action Required
000713 - 000921	Chairman Admin	The Chairman's enquiry and the Administration's response on how the Board would handle unclaimed human remains disinterred from an exhumable lot in the four Chinese Permanent Cemeteries ("CPCs") and the procedures to be followed before the Board cremated unclaimed human remains, as proposed under the amended rule 14 and the new rule 14A of the Rules.	
000922 - 000959	Chairman ALA5 Admin	In response to the enquiry of the Legal Adviser to the Bills Committee, the Administration affirmed that the six categories of persons who had acquired the permanent resident status under paragraph 2 of Schedule 1 to the Immigration Ordinance (Cap. 115) would be regarded as "permanently resident in Hong Kong" as defined under section 2 of the Ordinance and rule 3 of the Rules.	
<i>Clause-by-clause examination of the Bill</i>			
001000 - 001215	Chairman Admin	<p>The Bills Committee continued clause-by-clause examination of the Bill, with the aid of the Blue Bill and the marked-up copy of the relevant provisions to be amended by the Bill prepared by the Legal Service Division [LC Paper Nos. CB(3)802/14-15 and CB(2)110/15-16(02)].</p> <p><u>Part 3 - Amendments to the Chinese Permanent Cemeteries Rules</u></p> <p><i>Clause 13(4) to 13(8)</i></p>	
001216 - 001856	Chairman Ms Cyd HO Admin	<p><i>Clause 14 which sought to add a new rule 7A to the Rules to regulate the use of grave spaces</i></p> <p>Pointing out that there might be possibility that the human remains of a deceased person of Chinese race permanently resident in Hong Kong would not be put into a coffin for burial on grounds of culture or religion, Ms Cyd HO and the Chairman expressed concern as to whether the term "encoffined ("入殮")" in the proposed rule 7A(1) would render any deceased persons enjoying their own culture, professing and practising their own religion ineligible for burial in CPCs operated by the Board. The Administration was requested to clarify the meaning of the term "encoffined" and to consider refining the clause to address the above concern raised by members.</p>	Admin (para. 1 of Annex B refers)

Time marker	Speaker	Subject(s)	Action Required
		<p>The Administration's advice that to safeguard public hygiene and to facilitate management of cemetery facilities, the human remains of a deceased were required to be put into a coffin or stored in a container for burial in grave spaces.</p>	
<p>001857 - 003141</p>	<p>Chairman ALA5 Dr Helena WONG Admin The Board</p>	<p><i>Clause 15 which sought to provide for the Board's power to disinter and remove human remains and ashes from exhumable lot on expiry of the term</i></p> <p>Members were informed that before publishing notice in the Gazette and in at least two local Chinese newspapers stating its intention to disinter and remove the human remains and ashes from an exhumable lot (the amended rule 14(2)(b) of the Rules) or to cremate the unclaimed human remains removed from the lot (the new rule 14A(b) of the Rules to be added by Clause 16), the Board would endeavor to contact the permittee via other means including his/her last known mailing address, telephone number, email address, etc. The Legal Adviser to the Bills Committee suggested that consideration could be given to spelling out clearly in the Bill (i) such other modes of service of notice and (ii) that such other means of contacting the permittee would have to be exhausted or in cases if it was not practicable to serve the notice on the permittee via such means before notice was published in the Gazette and in two local Chinese newspapers.</p> <p>Dr Helena WONG's enquiry and the Board's advice on how permittees were notified at present of the Board's intention of disinterment and removal of human remains from exhumable lot. The disinterred human remains were stored in designated ossuary niches in Cape Collinson Chinese Permanent Cemetery in Chai Wan with proper records made to allow permittees to claim back the human remains in future.</p> <p>Dr WONG's further enquiries and the Administration's responses on the number of different types of grave spaces in CPCs and the duration of the service term for use of different types of grave spaces. Members noted that the Board might allocate an exhumable lot, either -</p> <p>(a) for an initial term of 10 years, which might be extended for one further and final term of six</p>	<p>Admin (para. 2(a) of Annex B refers)</p>

Time marker	Speaker	Subject(s)	Action Required
		<p>years at an additional premium which the Board, in its discretion, might determine at the time of expiry of the initial period;</p> <p>(b) for an initial term of 10 years, which might be extended for an indefinite number of terms of up to 10 years each, at an additional premium which the Board, in its discretion, might determine at the time of expiry of each term; or</p> <p>(c) for a finite term of 10 years which would not be extended at its expiry.</p>	
003142 - 003815	<p>Chairman Dr Kenneth CHAN Dr Helena WONG The Board Admin</p>	<p>Pointing out that clause 57 of the Private Columbaria Bill required that "a person disposing of ashes interred in a columbarium must do so having regard to the respect for, and the dignity of, the deceased persons concerned" and sections 118(4), 119 and 119A of the Public Health and Municipal Services Ordinance (Cap. 132) also provided for the disposal of human remains "in such a decent manner as the relevant authority might think fit", Dr Kenneth CHAN suggested that the Administration should consider making reference to these provisions and moving CSAs to include similar provisions in the Bill setting out the guiding principles for the Board's disinterment and removal of human remains and ashes from exhumable lot on expiry of the term. The Administration was requested to consider Dr CHAN's suggestion and revert to the Bills Committee on whether CSAs would be introduced, although the Board had advised at the meeting that disinterment and removal of human remains and ashes would be conducted in a decent and professional manner under the supervision of cemetery staff.</p> <p>In response to Dr Kenneth CHAN, the Board advised that notices stating the Board's intention of disinterment, removal and cremation had been/ would be placed at prominent positions of Chinese newspapers. Where necessary, the Board would favorably consider the need of publishing the notices in English newspapers.</p> <p>Dr Helena WONG and the Chairman suggested that the Administration should consider making it a requirement that the Board would publish the notices also in English newspaper(s), having</p>	<p>Admin (para. 3 of Annex B refers)</p> <p>Admin (para. 2(b) of Annex B refers)</p>

Time marker	Speaker	Subject(s)	Action Required
		<p>regard to the possibility that some of the descendants of the deceased persons buried in CPCs might not be able to read Chinese and hence aware of the Board's announcement in Chinese newspapers of its intention of disinterment, removal and cremation. The Administration undertook to revert to the Bills Committee on its consideration of the above suggestion.</p>	
003816 - 004048	<p>Chairman Dr Helena WONG Admin</p>	<p><i>Clause 16 which sought to add a new rule 14A to the Rules to provide for the Board's power to cremate human remains removed from exhumable lot</i></p> <p>The Administration's undertaking to consider members' suggestion to publish notices of intention to cremate unclaimed human remains removed from exhumable lot also in English newspaper(s), in addition to local Chinese newspapers.</p>	<p>Admin (para. 2(b) of Annex B refers)</p>
004049 - 004140	<p>Chairman Admin</p>	<p><i>Clauses 17 to 19</i></p>	
004141 - 004500	<p>Chairman Dr Helena WONG Admin The Board</p>	<p><i>Clause 20</i></p> <p>Dr Helena WONG's enquiry and the Administration's/the Board's advice that where subscriber lots were voluntarily surrendered, the Board would reallocate the grave spaces available as ordinary lots.</p>	
004501 - 004956	<p>Chairman Dr Helena WONG Mr YIU Si-wing Admin The Board</p>	<p><i>Clause 21 which sought to add a new rule 18A to the Rules governing the dimension, allocation and use of urn lots</i></p> <p>Members' enquiries and the Administration's/the Board's responses regarding the administrative measures put in place to ensure compliance with the requirements for the use of grave spaces/urn lots, including those concerning the dimension of grave spaces [paragraphs 7 and 8 of LC Paper No. CB(2)480/15-16(02)].</p>	
004957 - 005923	<p>Chairman Dr Helena WONG Admin The Board ALA5</p>	<p>Dr Helena WONG's enquiry and the Administration's response on subsequent interment of encoffined human remains/burial in containers of skeletal remains or ashes of other deceased persons in grave spaces of CPCs.</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p>Noting that Schedule 3 to the Rules specified the fees for, among others, multiple burial (for the second and any subsequent burial) and under which the phrases "each coffin burial" and "each burial or reburial in urn" ("每次棺材埋葬" and "每次金塔埋葬或再埋葬" in the Chinese text) were used, Dr WONG expressed concern that the existing wordings might cause ambiguity in interpretation as the number of set of human remains/skeletal remains/ashes involved in each burial/reburial was not clearly defined. Although the Administration/the Board advised that the fees were intended to cover at each time the burial/reburial of only one set of human remains/skeletal remains/ashes, the Bills Committee invited the Administration to consider improving the drafting of the phrases in order to enhance clarity and avoid future disputes between the Board and permittees.</p>	<p>Admin (para. 4 of Annex B refers)</p>
005924 - 010627	<p>Chairman Mr YIU Si-wing Admin The Board</p>	<p><i>Clause 22 which sought to amend rule 19 of the Rules governing reversion of vacant urn lot after removal</i></p> <p>In response to Mr YIU Si-wing's enquiry, the Administration and the Board advised that under the proposed amended rule 19, a previously allocated urn lot which remained vacant for a period of three months after the removal of skeletal remains or ashes from the lot should immediately be reverted to the Board for further allocation. Subsequent burial in the same lot would be allowed on the condition that the remains of the first deceased buried in the urn lot were not removed from the lot.</p>	
010628 - 013528	<p>Chairman Mr CHAN Chi-chuen Dr Helena WONG Mr YIU Si-wing Dr Kenneth CHAN Admin The Board</p>	<p><i>Clause 23 which sought to amend rule 20 of the Rules governing allocation and use of ossuary niches</i></p> <p>Dr Helena WONG's view that it was necessary to specify a limit on the sets of skeletal remains or ashes that could be deposited in niches in CPCs, instead of empowering the Board to determine the maximum number of sets of skeletal remains or ashes for deposit in the niches. The permittees should be informed of the relevant restrictions when they bought the niches so that they could plan how to make the best use of the facilities. She expressed concern that the absence of restrictions on the maximum number of sets of</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p>ashes that could be deposited in a niche might result in unlimited burial of remains or deposit of ashes in cemetery facilities in CPCs, bringing about various problems including impacting on the traffic flow in the vicinity of CPCs during annual festivals for paying respect to ancestors.</p> <p>The Chairman's views that the existing proposal of not setting a limit on the sets of skeletal remains or ashes that could be deposited in niches would give the public flexibility in using the cemetery facilities in CPCs. Mr CHAN Chi-chuen and Dr Kenneth CHAN shared the Chairman's view. Mr CHAN Chi-chuen's enquiries about the Board's considerations in approving applications for subsequent deposit of skeletal remains or ashes in niches and whether relevant guidelines would be issued. Dr Kenneth CHAN's concern that disputes might arise between the public and the Board if the latter was given the power to determine the maximum number of sets of skeletal remains or ashes to be deposited in niches. His view that the Board should make public its considerations in permitting subsequent deposit of skeletal remains or ashes in niches.</p> <p>The Administration's responses that -</p> <ul style="list-style-type: none"> (a) it was the policy intent of the Bill to remove the restrictions on the maximum number of sets of skeletal remains or ashes that could be deposited in niches in CPCs, so as to better utilize the land resources and facilitate the permittees to arrange "relocation/co-location" of the urns of skeletal remains or ashes of their deceased family members through multiple deposit of the urns in the same niche in a particular CPC if they so preferred; (b) as burial rituals might change in the future (e.g. the size of containers/urns for holding skeletal remains/ashes might become smaller), the existing proposal would give permittees flexibility in arranging multiple deposit of the skeletal remains or ashes in niches while allowing the Board to make a final decision on the maximum number of skeletal remains or ashes that could be deposited in cases of disputes; and (c) the proposal to remove the restrictions on the 	

Time marker	Speaker	Subject(s)	Action Required
		<p>maximum number of sets of ashes that could be deposited in ordinary niches and family niches in CPCs was in line with the prevailing practices of the Food and Environmental Hygiene Department ("FEHD") in restricting the use of public niches provided by FEHD. The Administration considered that the present proposal could strike a balance between facilitating the public to use the cemetery facilities in CPCs and safeguarding the proper use of the facilities.</p> <p>In response to Mr YIU Si-wing's and Dr Helena WONG's enquiries, the Board advised that -</p> <p>(a) a permittee would be required to confirm with the Board that he/she had obtained the consent of other family members to arrange subsequent deposit of skeletal remains or ashes of other deceased persons in the niche; and</p> <p>(b) a permittee could arrange multiple burial of human remains/deposit of ashes in the same grave space/niche in CPCs in one go provided that he/she paid for such services.</p>	
013529 - 013939	Chairman Dr Kenneth CHAN Admin The Board	Dr Kenneth CHAN's enquiry and the Administration's/the Board's response on the number of ossuary niches available for allocation to permittees of exhumable lots, free of charge, should they apply for reversion to the Board of vacant urn lots after the removal of skeletal remains from the lots.	
013940 - 014423	Chairman Mr YIU Si-wing Admin The Board	<p><i>Clause 24</i></p> <p>Mr YIU Si-wing's enquiries and the Administration's/the Board's responses on the respective size of ordinary and family niches and the proposed relaxation measures on the use of these niches in CPCs.</p>	
014424 - 014854	Chairman Mr CHAN Chi-chuen Admin	<p><i>Clauses 25 and 26</i></p> <p>In response to Mr CHAN Chi-chuen's enquiry about the proportion between ordinary niches and family niches in CPCs, the Administration advised that there were about 197 000 ordinary niches and 38 000 family niches in the four CPCs. To uphold traditional values of family, the Board</p>	

Time marker	Speaker	Subject(s)	Action Required
		would continue to provide family niches if new columbarium facilities were built in future. The ratio of ordinary niches to family niches in CPCs' new individual columbarium facilities would be affected by the constraints and characteristics of the sites.	
014855 - 015056	Chairman Mr YIU Si-wing Admin The Board	Mr YIU Si-wing's enquiry and the Board's advice on the public demand for niches provided by CPCs. Generally speaking, the public demand for columbarium facilities was great, as it often exceeded the supply by folds. At present, all the niches within CPCs had been allocated. The Board had recorded an over-subscription rate by almost three-folds in its recent allocation exercise of newly-built niches provided in Tsuen Wan Chinese Permanent Cemetery.	
015057 - 015331	Chairman Mr CHAN Chi-chuen Admin The Board	<i>Clause 27(1)</i> In response to Mr CHAN Chi-chuen's enquiry, the Board advised that the permittee could inform the Board in advance if he/she had any difficulties in arranging deposit of ashes within three months after allocation of a niche. The Board would consider each case on its own merits.	
015332 - 015449	Chairman Admin	<i>Clause 27(2) to 27(7)</i>	
015450 - 015656	Chairman Dr Kenneth CHAN	Date of next meeting. The Chairman's closing remarks.	

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

**List of follow-up actions arising from the discussion
at the meeting on 22 December 2015**

1. Clause 14 of the Chinese Permanent Cemeteries (Amendment) Bill 2015 ("the Bill") would add a new rule 7A to the Chinese Permanent Cemeteries Rules (Cap. 1112A) ("the Rules") to regulate the use of grave spaces in Chinese Permanent Cemeteries ("CPCs"). Under the proposed rule 7A(1), the first interment in a grave space must only be that of the encoffined human remains of an eligible deceased. Pointing out that there might be possibility that the human remains of a deceased person of Chinese race permanently resident in Hong Kong would not be put into a coffin for burial on grounds of culture or religion, members expressed concern as to whether the term "encoffined ("入殮")" in the proposed rule 7A(1) would render any deceased persons enjoying their own culture, professing and practising their own religion ineligible for burial in CPCs operated by the Board of Management of the Chinese Permanent Cemeteries ("the Board"). The Administration was requested to clarify the meaning of the term "encoffined" and to consider refining the clause to address the above concern raised by members.

2. Clauses 15 and 16 of the Bill respectively provided for the Board's power to disinter and remove human remains and ashes from exhumable lot on expiry of the term and to cremate human remains removed from exhumable lot. Members were informed that before publishing notice in the Gazette and in at least two local Chinese newspapers stating its intention to disinter and remove the human remains and ashes from an exhumable lot (the amended rule 14(2)(b) of the Rules) or to cremate the unclaimed human remains removed from the lot (the new rule 14A(b) of the Rules), the Board would endeavor to contact the permittee via other means including his/her last known mailing address, telephone number, email address, etc. The Administration was requested to revert to the Bills Committee on its consideration of the following suggestions of members/the Legal Adviser to the Bills Committee -

- (a) to spell out clearly in the Bill (i) such other modes of service of notice and (ii) that such other means of contacting the permittee would have to be exhausted or in cases if it was not practicable to serve the notice on the permittee via such means before notice was published in the Gazette and in two local Chinese newspapers; and

- (b) to make it a requirement that the Board would publish the notice also in English newspaper(s), having regard to the possibility that some of the descendants of the deceased persons buried in CPCs might not be able to read Chinese and hence aware of the Board's announcement in Chinese newspapers of its intention of disinterment, removal and cremation.

3. Pointing out that clause 57 of the Private Columbaria Bill required that "a person disposing of ashes interred in a columbarium must do so having regard to the respect for, and the dignity of, the deceased persons concerned" and sections 118(4), 119 and 119A of the Public Health and Municipal Services Ordinance (Cap. 132) also provided for the disposal of human remains "in such a decent manner as the relevant authority might think fit", a member suggested that the Administration should consider making reference to these provisions and moving Committee stage amendments ("CSAs") to include similar provisions in the Bill setting out the guiding principles for the Board's disinterment and removal of human remains and ashes from exhumable lot on expiry of the term. The Administration was requested to consider this suggestion and revert to the Bills Committee on whether CSAs would be introduced.

4. Noting that Schedule 3 to the Rules specified the fees for, among others, multiple burial (for the second and any subsequent burial) and under which the phrases "each coffin burial" and "each burial or reburial in urn" ("每次棺材埋葬" and "每次金塔埋葬或再埋葬" in the Chinese text) were used, a concern was raised that the existing wordings might cause ambiguity in interpretation as the number of set of human remains/skeletal remains/ashes involved in each burial/reburial was not clearly defined. The Administration was invited to consider improving the drafting of the phrases in order to enhance clarity and avoid future disputes between the Board and permittees.