



立法會秘書處 法律事務部
LEGAL SERVICE DIVISION
LEGISLATIVE COUNCIL SECRETARIAT

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By Fax (2591 6002)

16 October 2015

Mrs WONG HO Wing Sze, Susanne
Prin AS for Civic Affairs Division (3)
Home Affairs Bureau
13/F, West Wing
Central Government Offices
2 Tim Mei Avenue, Tamar
Hong Kong

Dear Mrs WONG

Chinese Permanent Cemeteries (Amendment) Bill 2015

Thank you for your letter of 7 October 2015. We should be grateful if you could clarify the following matters:-

Clause 10(8) – Rule 3 of Cap. 1112A (definition of *relative*)

In deducing any relationship for the purpose of paragraphs (b), (c) and (e) of the definition of "*relative*", you have confirmed the policy intent in your letter of 7 October 2015 that:-

- (a) an adopted child would be treated as the child of a person or persons by whom he was adopted;
- (b) any relationship of the half-blood would be treated as a relationship of the whole blood;
- (c) a step-child of a person would be treated as the child of the person;
and

- (d) a child born out of wedlock would be treated as a legitimate child of his mother and reputed father.

As it is intended that the aforesaid persons would be treated as the relative of the relevant person, please consider spelling it out clearly in the Bill for the avoidance of doubt. Having explicit provisions is also consistent with existing provisions in similar context under other Ordinances. Reference can be made to section 51B(7) of the Bankruptcy Ordinance (Cap. 6), definition of "relative" in section 14A(4) of the Inland Revenue Ordinance (Cap. 112), definition of "near relative" in section 2(1) of the Disability Discrimination Ordinance (Cap. 487), definition of "near relative" in section 2(1) of the Family Status Discrimination Ordinance (Cap. 527), definition of "near relative" in section 2(1) of the Sex Discrimination Ordinance (Cap. 480) and definition of "near relative" in section 2(1) of the Race Discrimination Ordinance (Cap. 602).

Clause 11 – Proposed rule 4 of Cap. 1112A (Eligibility)

You have also confirmed that a child under the proposed rule 4(2)(c) is intended to cover a step-child, an adopted child and an illegitimate child. Similar to the point raised in relation to clause 10(8), please consider spelling it out clearly in the Bill.

Clause 15 – Proposed rule 14 of Cap. 1112A (Disinterment and removal of human remains and ashes from exhumable lot on expiry of the term)

Clause 16 – Proposed rule 14A of Cap. 1112A (Cremation of human remains removed from exhumable lot)

You have explained in your letter of 7 October 2015 that the Board of Management of the Chinese Permanent Cemeteries (Board) may also contact the permittee via his or her last known mailing address, telephone number, email address, etc apart from the legal requirement of publishing notice in the Gazette and two local Chinese newspapers stating that the Board intends to disinter the human remains and ashes and remove them from the exhumable lot or to cremate unclaimed human remains.

Please clarify whether such other means of contacting the permittee as mentioned in your letter have to be exhausted or in cases if it is not practicable to serve the notice on the permittee via such means before you would publish the notice in the Gazette and two local Chinese newspapers. If so,

please consider spelling it out and such other modes of service of notice clearly in the Bill. You may wish to refer to section 37E(3) and (4) of the Immigration Ordinance (Cap. 115), section 32 of the Bedspace Apartments Ordinance (Cap. 447), section 9(1) of the Electricity Networks (Statutory Easements) Ordinance (Cap. 357), section 16(7) of the Merchant Shipping (Local Vessels) (Dwelling Vessels) Regulation (Cap. 548A), sections 744 and 796 of the Companies Ordinance (Cap. 622) as reference.

I should appreciate your reply in both English and Chinese **by 23 October 2015.**

Yours sincerely,



(Vanessa CHENG)
Assistant Legal Adviser

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