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

Background brief prepared by the Legislative Council Secretariat

Purpose

This paper provides background information and summarizes relevant discussions of the Panel on Home Affairs ("the Panel") on the proposed amendments to the Chinese Permanent Cemeteries Ordinance (Cap. 1112) ("the Ordinance") and the Chinese Permanent Cemeteries Rules (Cap. 1112A) ("the Rules") which seek to relax the restrictions in relation to the use of grave spaces and family niches in the Chinese Permanent Cemeteries ("CPCs").

Background

2. The first CPC was established in 1913 in Aberdeen for the burial of persons of the Chinese race permanently resident in Hong Kong. In 1964, the Board of Management of the Chinese Permanent Cemeteries ("the Board")¹ became a statutory non-profit making body in accordance with the Ordinance with the purposes of providing, maintaining and administering CPCs. The Rules, made under section 8 of the Ordinance, govern the conduct of internal affairs of the Board and the management and use of any CPCs.
3. Currently, the Board manages four CPCs² providing a total of over 300 000 burial lots and niches. To tie in with the Government's efforts to encourage environmentally friendly interment, the Board established in 2011 a Garden of Remembrance ("GoR") at Junk Bay Cemetery for the scattering of cremated human ashes.
4. At present, there are restrictions under the Rules in relation to the use of cemetery facilities in CPCs. One of the restrictions is that the remains or ashes

¹ The Board is chaired by the Secretary for Home Affairs.

² The four CPCs are Aberdeen Chinese Permanent Cemetery, Tsuen Wan Chinese Permanent Cemetery, Cape Collinson Chinese Permanent Cemetery and Junk Bay Chinese Permanent Cemetery.

of the first deceased person's family members are not allowed to be buried or deposited together with the first deceased person in the same cemetery facilities, unless they are the close relatives of the first deceased person. There are two types of grave spaces namely, non-exhumable lots (無須起回骨殖墓地) and exhumable lots (須起回骨殖墓地). Only non-exhumable lots (but not exhumable lots)³ may be used for subsequent burial of close relatives' ashes. There are also restrictions on the maximum number of sets of ashes that can be deposited in a niche.

5. In order to better utilize the land of CPCs to meet the increasing community needs for burial facilities, the Board proposes, among others, to relax the restrictions in relation to the use of grave spaces and family niches, and recommends to the Administration amendments to the Ordinance and the Rules.

Proposed amendments to the Ordinance and the Rules

6. According to the Legislative Council ("LegCo") Brief (File Ref.: HAB/CR 1/20/15) issued by the Home Affairs Bureau on 24 June 2015, the Chinese Permanent Cemeteries (Amendment) Bill 2015 ("the Bill") includes the following key elements -

Broadening the scope of persons eligible to be buried or deposited in CPCs

7. Under rule 3 of the Rules, "close relative" for the purposes of rules 16, 17 and 21A means the spouse, parent, brother, sister or direct descendant (including their wives) provided that a married woman shall be deemed to be the same person as her husband and her close relatives for this purpose shall be those of her husband. Hence, a married woman (外嫁女) is not eligible to be buried or deposited in a niche, grave space or urn lot ("the facilities") with members of her paternal family. Further, the remains of the first deceased person's grandparents, great-grandparents, grandparents-in-law or great-grandparents-in-law are currently not allowed to be buried or deposited together in the facilities.

8. The Bill proposes that the term "close relative" be removed from the Rules and the eligibility for subsequent burial or deposit in cemetery facilities be governed by a single definition of "relative" instead. The definition of "relative" will be widened to include grandparents, great-grandparents, grandparents-in-law and great-grandparents-in-law as well as other family members, and any reference to "his wife" will be replaced by "the spouse". By

³ Under rule 3 of Cap. 1112A, non-exhumable lots (which are allocated for burial not subject to exhumation) are of a permanent nature whereas exhumable lots have a term of expiry.

way of the proposed amendments, more persons will be eligible for the Board's services and the facilities in CPCs will be better utilized.

Allowing subsequent burial of ashes in exhumable lots and paid ossuary niches

9. Under the existing provision, only non-exhumable lots may be used for subsequent burial of close relatives' ashes. As cremation is more common nowadays, in order to provide the community with greater flexibility and achieve better utilization of the land in CPCs, the Bill proposes to amend the relevant provisions in the Rules to allow subsequent burial of human remains and ashes in both exhumable and non-exhumable lots, provided that they are those of a relative of the first eligible deceased buried in the grave space. For similar considerations, it is also proposed to allow the permittee⁴ to arrange for the subsequent deposit of ashes into a paid ossuary niche.

Allowing cremation of unclaimed human remains

10. Under the current arrangements, if a permittee does not disinter and remove the human remains from an exhumable lot after the expiry of the term of use which is not extended or extendible, the Board will publish a notice in the Gazette and in at least two local newspapers, while also putting notices on the tombstones concerned, its intention to disinter. The Board may disinter and remove the skeletal human remains in the exhumable lot after a period of six months from the date of such publication⁵. The disinterred human remains will be placed in designated ossuary niches (骨殖龕位) in CPCs until the permittee claims back the human remains. The Board is not empowered to cremate the disinterred human remains. Compared with storage of human ashes, the storage of skeletal human remains in ossuary niches will take up more space. It is estimated that CPCs' existing ossuary niches will be exhausted in less than 10 years.

11. Under section 119A of the Public Health and Municipal Services Ordinance (Cap. 132), human remains in graves inside a public cemetery are subject to a six-year exhumation arrangement. After making public notification, the Food and Environmental Hygiene Department ("FEHD") is empowered to cremate unclaimed human remains and store the cremated ashes in the Communal Grave at Sandy Ridge Cemetery. Proper written records will be kept so that family members may reclaim the cremated ashes before their final disposal in the Communal Grave.

⁴ The permittee is the person to whom the Board has allocated a grave space, urn space, or niche and including the subscriber, the successor in title to the original permittee and the legal heir of the person whose remains or ashes were buried or deposited in a space.

⁵ The Board usually disinters and removes the skeletal human remains in the exhumable lots during mass exhumation exercises for the sake of efficiency.

12. The Board intends to make reference to FEHD's arrangements in handling the unclaimed remains. The Bill proposes to amend section 8 of the Ordinance to empower the Board to make rules for cremation of unclaimed disinterred human remains in exhumable lots six years after the expiry of the service term. The Board will be required to make public announcement of its intention of cremation beforehand. The human ashes will be stored with proper records made to allow for future reclaims by permittees. The aforesaid arrangements on cremating unclaimed human remains will only be applicable to exhumable lot allotted after the enactment of the Bill.

Removing the restriction on the maximum number of sets of ashes that could be deposited in a niche

13. The current provision sets the maximum sets of human ashes that can be deposited into an ordinary niche at two, and a family niche at four. By drawing reference from FEHD's recent relaxation with regard to placing additional cremated ashes into public niches⁶, the Bill proposes to remove the above restrictions and to empower the Board 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.

Expanding the ambit of the donations that could be made by the Board

14. Section 7(2) of the Ordinance stipulates that the Board may donate to any charity operating for the benefit of "persons of the Chinese race in Hong Kong". To support charitable work in Hong Kong and the advocacy of promoting social inclusion and equal opportunities, the Bill proposes to remove the restrictions on the Board's donation to only "persons of the Chinese race" so that the Board may donate to any charity operating for the benefit of "the community of Hong Kong or a particular sector of that community".

Other proposed improvements

15. The Board also proposes improvements to the Ordinance and the Rules so that they could be clearer and better reflect the changes in the operation of CPCs over the years. These include amendments to the dimensions of grave spaces and urn lots to follow the dimension requirements as adopted in the Private Cemeteries Regulation (Cap. 132BF), addition or amendments of terms in the Rules for clarity and consistency and updating the general exemption clause with regard to damage liabilities of the Board.

⁶ With effect from 2 January 2014, FEHD has, among others, relaxed the arrangement of placing additional sets of ashes into public niches. If applicant prefers, each standard niche may accommodate more than two sets of cremated ashes, while each large niche may accommodate more than four sets.

Deliberations by the Panel

16. The Panel was briefed on the legislative proposals at its meeting on 17 February 2014. The major views and concerns expressed by members are summarized below.

Traceability of cases

17. Members in general welcomed and supported the proposed relaxation measures including broadening the scope of persons eligible to be buried or deposited in CPCs, allowing burial of cremated human ashes in exhumable lots and allowing cremation of unclaimed human remains by the Board. Members considered that the measures could provide more flexibility in the use of existing grave spaces and family niches, thus contributing to the overall objective of better utilization of the valuable land resources of CPCs. There was a view that the new arrangement of allowing cremation of unclaimed human remains by the Board needed to be supported by an accurate and thorough computer record, so as to facilitate future tracking of cases involving cremation of unclaimed human remains by the Board and its retrieval of relevant information upon receipt of public enquiries.

18. Members were advised that the Board had engaged a computer service contractor to design and develop a computer programme called "All Round Cemeteries Operations Management Solution" ("ARCOMS") for the purpose. ARCOMS had been put to live run, and the system had proven itself highly reliable allowing centralized access to all the standalone functions of the Board that were now integrated and streamlined as well as enabling the Board's management of all activities and retrieval of relevant data with a great degree of accuracy.

Cremation of unclaimed human remains

19. Members noted that the proposed new arrangement to allow the Board's cremation of disinterred and unclaimed human remains would only apply to future users. An enquiry was raised about the considerations behind the recommendation. The Administration explained that as there were no provisions in the terms of service signed between the Board and existing users permitting the Board's cremation of disinterred human remains, it would be more prudent to apply the proposed new arrangement to future users only. To give that effect, the arrangement would be included in the terms of service to be signed by the permittees with the Board.

20. Some members were concerned that if the relatives of the buried had migrated, they might not have the chance to see the notice published in the

gazette and newspapers by the Board of its intention to cremate the disinterred and unclaimed human remains. In response to an enquiry on what further actions would be taken before the Board's cremation of unclaimed human remains, the Board advised that it would contact the relatives of the buried who were living abroad based on the correspondence address kept in its record. The Board would contact the permittee in the first place and if necessary, the relatives living abroad via the permittee.

Demand and provision of cemetery/columbarium facilities

21. Members were concerned whether the proposed amendments, in particular the one related to expanding the definition of "close relative", would result in diverting the public demand for cemetery/columbarium facilities from public columbaria managed by FEHD to the four CPCs under the Board's management. Information was sought about the number of unallocated grave spaces and niches under the Board's management and the estimated demand and supply for such facilities in the next few years. Given the increasing public demand for columbarium facilities, members also enquired whether measures would be taken to encourage public acceptance of more environmentally friendly and sustainable means of handling cremains.

22. Members were advised that the Board now managed four cemeteries with columbaria providing about 230 000 niches. Except for a few to be re-used, all of them had been allocated. To cater for the increasing public demand for columbarium facilities, the Board intended to make reference to FEHD's recent relaxation of the limit in respect of the maximum sets of cremated human ashes that could be deposited in family type niches. On the provision of new niches in CPCs, the Board advised that there would be about 30 000 newly-built niches for allocation in the coming two years.

23. The Administration further advised that to address the increasing public demand for columbarium facilities, FEHD would continue to adopt all feasible measures to increase the supply of columbarium facilities. It would also encourage the public to use alternative means of handling cremains, such as scattering cremains in GoRs or in designated Hong Kong waters.

Relevant papers

24. A list of the relevant papers on the LegCo website is in the **Appendix**.

**Relevant papers on the Chinese Permanent
Cemeteries (Amendment) Bill 2015**

Committee	Date of meeting	Paper
Panel on Home Affairs	17.2.2014 (Item VI)	Agenda Minutes

Council Business Division 2
Legislative Council Secretariat
26 October 2015