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民政事務局

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**GOVERNMENT SECRETARIAT
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來函檔號 YOUR REF. : CB2/BC/4/14
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23 November 2015

Miss Josephine So
Clerk to Bills Committee
Council Business Division 2
Legislative Council Secretariat
1 Legislative Council Road,
Central, Hong Kong

Dear Ms So,

Chinese Permanent Cemeteries (Amendment) Bill 2015 (the Bill)

Your letter dated 30 October 2015 ref CB2/BC/4/14 refers. Please find our reply as follows:

(1a) The colocation of cremated ashes in public niches provided by the Food and Environmental Hygiene Department (FEHD)

2. According to the administrative guidelines adopted by the FEHD, "kinship" is set out as follows -

"It generally refers to the spouse, parent, grandparent, grandparent-in-law, brother, sister, father-in-law, mother-in-law, daughter-in law, son-in-law or a direct descendant of either the paternal or maternal line of the deceased person whose ashes were the first to be kept in the niche. Furthermore, if the subsequent deceased was in close relationship with the first deceased, the Department will consider the application as well."

3. According to the Bill, a definition of “relative” is proposed to be set out in the Chinese Permanent Cemeteries Rules (Cap.1112A) (the Rules) as follows –

“relative (親屬), in relation to a person (relevant person) (whether deceased or not), means –

- (a) the relevant person’s spouse;*
- (b) a father, mother, grandfather, grandmother, great-grandfather or great-grandmother of the relevant person or of the relevant person’s spouse;*
- (c) a brother or sister of –*
 - (i) the relevant person;*
 - (ii) the relevant person’s spouse; or*
 - (iii) a person referred to in paragraph (b);*
- (d) a spouse of a person referred to in paragraph (c);*
- (e) a descendant of –*
 - (i) the relevant person;*
 - (ii) a person referred to in paragraph (a), (c) or (d); or*
 - (iii) a person referred to in paragraph (b), other than the relevant person; or*
- (f) a spouse of a person referred to in paragraph (e)”.*

4. A comparison of “kinship” as adopted by the FEHD and the definition of “relative” as suggested in the Bill is set out below –

Relationship with the first deceased	Kinship (FEHD)	Relative (the Bill)
Spouse	✓	✓
Parent	✓	✓
Parent-in-law	✓	✓
Grandparent	✓	✓
Grandparent-in-law	✓	✓
Great-grandparents		✓
Great-grandparents-in-law		✓
Brother/sister,	✓	✓
Brother/sister-in-law		✓
Brother/sister (and his/her spouse) of parent, Parent-in-law, grandparent, grandparent-in-law,		✓

great-grandparents, great-grandparents-in-law		
Daughter/son-in-law	✓	✓
Direct descendant	✓	✓
Descendant (and his/her spouse) of all the above-mentioned relationships		✓

(1b) Traffic impact assessment (TIA) for provision of new niches

5. Development of new niches is regarded as new building works. It is a statutory requirement to submit building plans to the Buildings Department and submit application to the FEHD, seeking their approval and consent to commence any building works. The Buildings Department will check plans for compliance with the law and refer them to other relevant Government departments for examination in their areas of concern, including any requirements on traffic.

6. Given the requirements for new building works, the Board of Management of Chinese Permanent Cemeteries (BMCPCC) will assess the traffic impact for every new development project of niches. Three new projects, namely, the third columbarium of Aberdeen Chinese Permanent Cemetery (CPC), the third columbarium of Cape Collinson CPC, and Sections 15-18 of Cape Collinson CPC will provide a total of around 30 000 new niches in the coming few years till the end of 2018. An assessment on traffic impact has been conducted for each of these new projects, and the requirements for addressing any traffic impact would have been met upon completion of these projects.

7. For impact of the proposed relaxation measures applicable to existing cemetery facilities of the BMCPCC, since only family members, or those with close relationship with the first deceased will make use of the “additional capacity”, it is expected that the relaxation measures will not generate large number of additional grave sweepers, and there should not be substantial impact on traffic.

(1c) Costs arising from the exhumation, cremation and storage of unclaimed human remains

8. As suggested in the Bill, the BMCPCC will be empowered to cremate unclaimed human remains. Proper written records will be kept so that family members may reclaim the cremated ashes afterwards. Yet, on

reclaiming the cremated ashes, the family needs to pay back any costs incurred to the BMCPC arising from exhumation and cremation of human remains, as well as the subsequent storage fee. According to the current fee schedule of the BMCPC as stipulated in the Third Schedule of the Rules, \$3,000 will be charged for exhumation. In addition, the family concerned will need to pay back BMCPC the fees charged by FEHD for applying for the "Permit to Remove/Exhume Remains" and the "Cremation of Skeletal Remains", which currently stand at \$120 and \$90 respectively.

(1d) Consideration be given to provide existing users with incentive or facilitations to encourage voluntary surrender of burial lots and niches

9. Currently, re-depository of ashes from various niches into one niche is allowed. Such arrangement is welcomed by the permittees, who could benefit from the convenience brought by the colocation arrangement, especially the convenience for grave sweeping during festive seasons. In the past years, BMCPC has also streamlined the application procedures to encourage permittees to re-group the deceased, and stepped up its effort in publicising green burial. As a result, an average of 1,500 burial lots, 460 ordinary and ossuary niches, and 60 family niches were reverted to BMCPC each year in the past three years. The BMCPC's effort is considered effective in encouraging voluntary surrender of burial lots and niches.

10. To further encourage and facilitate voluntary surrender of burial lots and niches, upon the passing of the Bill, the BMCPC will step up its efforts in publicising the option of permitted burial of ashes in ordinary lots and exhumable lots. It will also enhance the notification system to permittees of exhumable lots to facilitate the handling of ashes upon expiry of exhumable lots.

(2) Difference in fee charged by the BMCPC and FEHD

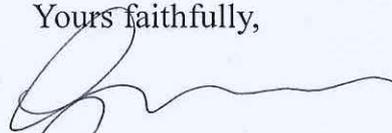
11. The fees charged by the BMCPC and the FEHD are both based on cost-recovery principle. Whilst the actual costs of managing the facilities may be different, the difference in fee schedules may also be due to the fact that they were last reviewed at different times.

12. With the principle of cost-recovery in mind, both BMCPC and FEHD will consider reviewing the fee schedules in due course.

(3) Expansion of the ambit of donation

13. It is suggested in the Bill that the BMCPC should be empowered to donate to any charity operating for “the community of Hong Kong or a particular sector of that community”, instead of donating only to charity operating for “persons of the Chinese race in Hong Kong”. The suggested amendment carries the meaning that it will be lawful for the BMCPC to donate to any charity operating for the entire community or any particular sector of that community. We will further consider the need to revise the wording for clarity sake.

Yours faithfully,



(Miss Grace Li)

for Secretary for Home Affairs