

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

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

1. Members noted that clause 10(8) of the Chinese Permanent Cemeteries (Amendment) Bill 2015 ("the Bill") proposed to expand the eligibility for subsequent burial or deposit in cemetery facilities by removing all references to "close relative" as defined under rule 3 of the Chinese Permanent Cemeteries Rules (Cap. 1112A) ("the Rules") and substituting it by "relative". Regarding the definition of "relative", although the Administration confirmed the policy intent that a step child of a person would be treated as the child of a person, an adopted child would be treated as the child of a person by whom he was adopted and a child born out of wedlock would be treated as a legitimate child and any relationship of the half-blood would be treated as a relationship of the whole blood in deducing the relationship of "relative", there were concerns about the clarity of the relevant provisions under the Rules. A member considered that the term "descendant" under clause 10(8)(e) is unclear. The Administration was requested to consider the following suggestions of members/the Legal Adviser to the Bills Committee and revert to the Bills Committee on whether Committee stage amendments would be proposed to the Bill -

- (a) to spell out clearly in the amended rule 3 that in deducing any relationship for the purposes of paragraphs (b), (c) and (e) of the definition of "relative" under clause 10(8) of the Bill, an adopted child would be treated as the child of a person by whom he was adopted; a step-child of a person would be treated as the child of a person; a child born out of wedlock would be treated as a legitimate child and any relationship of the half-blood would be treated as a relationship of the whole blood for the avoidance of doubt; and
- (b) if an exhaustive definition of the term "descendant" was not to be provided in the Rules, the Administration should make reference to how the term "kinship" was defined in the relevant administrative guidelines adopted by the Food and Environmental Hygiene Department and consider empowering the Board of Management of the Chinese Permanent Cemeteries ("the Board") to determine whether the subsequent deceased was

in close relationship with the first deceased, so as to allow the Board more flexibility in considering applications for subsequent burials or deposits in the Chinese Permanent Cemeteries ("CPCs").

2. Regarding the first eligible deceased (in relation to the eligibility for the first interment, burial or deposit in CPCs) who was a child under the proposed amended rule 4(2)(c) of the Rules (clause 11), the Administration confirmed that a child was intended to cover a step-child, adopted child and an illegitimate child. In a similar vein to clause 10(8), the Administration was also requested to consider whether it would spell out clearly in the Bill that a child under the proposed amended rule 4(2)(c) would include a step-child, adopted child and an illegitimate child.

3. The Legal Adviser to the Bills Committee pointed out that six categories of persons were specified as permanent residents of the Hong Kong Special Administrative Region under paragraph 2 of Schedule 1 to the Immigration Ordinance (Cap. 115) ("IO") whereas "permanently resident in Hong Kong" under section 2 of the Chinese Permanent Cemeteries Ordinance (Cap. 1112) ("the Ordinance") and rule 3 of the Rules referred to the continuous residency requirement for a total of not less than seven years or the right to land and to remain free of conditions of stay in Hong Kong. The Administration was requested to clarify the following issues in relation to the eligibility for the first interment, burial or deposit in CPCs -

- (a) whether those persons who had acquired the permanent resident status under paragraph 2 of Schedule 1 to IO would be regarded as "permanently resident in Hong Kong" under section 2 of the Ordinance and rule 3 of the Rules;
- (b) for the sake of clarity, whether the definition of "permanently resident in Hong Kong" under section 2 of the Ordinance and rule 3 of the Rules needed to be amended having regard to section 2A(1) of IO concerning the right of abode in Hong Kong enjoyed by Hong Kong permanent residents; and
- (c) to what extent the scope of persons who were "permanently resident in Hong Kong" under section 2 of the Ordinance and rule 3 of the Rules was wider than "Hong Kong permanent resident" under section 2(1) and paragraph 2 of Schedule 1 to IO, with examples of the circumstances under which certain categories of persons who had not acquired permanent resident

status under IO but could be regarded as "permanently resident in Hong Kong" under section 2 of the Ordinance and rule 3 of the Rules.

4. Regarding the proposed amendment to section 7(2) of the Ordinance which sought to expand the ambit of donations that could be made by the Board, the Administration had indicated its willingness to take on board members' suggestion of improving the drafting of the expression "a particular sector of that community" for clarity sake. The Administration undertook to provide the revised wording of the proposed amended section 7(2) for members' consideration.

5. Members noted that an amendment was proposed to rule 7(2) of the Rules which stipulated the dimension of grave spaces in CPCs. The Administration was requested to provide (i) the rationale for proposing the amendment; (ii) pictures or pictograms illustrating how the revised dimension was to be applied; (iii) information on the actions to be taken by the Board if the requirement concerning the dimension of grave spaces was not complied with.