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29 January 2016

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

Dear Miss So,

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

Thank you for your letter dated 15 January 2016. I set out below our response to your questions and suggestions.

**Adoption of the term "Terrorist Act"**

We note Members' concerns. In order to be consistent with the term as defined under section 2(1) of the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575), an amendment will be made to adopt the term "terrorist act" in clause 29 of the Bill.

**Subsidence**

The Board of Management of Chinese Permanent Cemeteries (BMCP) all along makes the best endeavour to prevent subsidence within its cemeteries. Preventive measures taken by BMCP are as follows –

- (a) In general, any development project in the cemeteries is designed and carried out by qualified professionals and is subject to approval by relevant authorities in order to ensure that the facilities built by BMCP are sound and up to standard. This should effectively avoid subsidence arising from defective design or planning problem.

- (b) Relevant works on the burial lot are carried out by term contractors of BMCPC or registered stonemasons. They are required to act cautiously and provide protection to avoid damages to neighbouring lots in accordance with the contractual requirements and BMCPC's guidelines. If the appointed contractors of BMCPC or the registered stonemason appointed by permittee cause subsidence to a lot, BMCPC will hold the contractor or the registered stonemason liable and will request them to rectify the subsidence after seeking permission / consent from the permittee of the affected lot. BMCPC has also adopted a performance management system to monitor the performance of its term contractors and registered stonemasons
- (c) There has been regular patrol by cemetery staff in the cemeteries. Should there be any signs of subsidence in a lot, cemeteries staff would take photos of the subsided lot and inform the permittee to take necessary action. BMCPC will keep record of the subsidence and monitor the situation to avoid causing damages to its neighbouring lots.

According to record, there has never been any incidence of subsidence caused by negligence of BMCPC in its four cemeteries.

Though BMCPC gives no warranty against damages in the event of subsidence and shall not be liable for any compensation for the resulting disturbance to any grave under the existing Rule 23 of the Chinese Permanent Cemeteries Rules (Cap. 1112A) (the Rules), BMCPC is prepared to provide assistance to the affected permittees in the event of subsistence. A few years ago, a section of the Aberdeen Chinese Permanent Cemetery collapsed as a result of continuous heavy rain, affecting the lots in that section. BMCPC provided assistance to the affected permittees and closely worked with the permittees to relocate the deceased to another section of the cemetery. The relocation cost was borne by BMCPC.

### **Damage Liability of BMCPC**

Under the prevailing Rule 22 of the Rules, BMCPC shall not be liable to loss or damages to the items, whether movable or immovable, which is placed at any grave or urn space or niches. This is conveyed to the permittees and stated clearly in the relevant documents when they subscribe for the burial lot or urn space or niches. That said, BMCPC has always made the best endeavour to maintain order and security through regular patrol in the cemeteries. BMCPC will take immediate action should there be any irregularities. So far, there has never been any case of tomb or grave raid recorded in the four cemeteries of BMCPC.

### **Modernisation of Legislation**

The Law Drafting Division (the Division) of the Department of Justice is strongly committed to improving the readability and comprehensibility of the statute law of Hong Kong through the use of plain language. This commitment will continue under the leadership of the new Law Draftsman.

By retiring archaic expressions like “save”, “thereof” and “whatsoever”, the Bill has followed the guidelines laid down in the “Drafting Legislation in Hong Kong: A Guide to Styles and Practices”.

The Division will continue its efforts to modernize the language of the statute law whenever suitable opportunities arise, on the condition that the textual refinements would not compromise or affect the accuracy, meaning or legal effect of the legislative text.

Yours faithfully,

A handwritten signature in black ink, appearing to be 'Gloria Lo', written in a cursive style.

( Gloria Lo )  
for Secretary for Home Affairs