

For discussion
on 14 June 2016

Legislative Council Panel on Food Safety and Environmental Hygiene

Fee Proposals for Private Columbaria Bill

Purpose

This paper seeks Members' views on the Government's fee proposals in respect of the various services under the Private Columbaria Ordinance ("the Ordinance") upon its commencement.

Background

2. The Government introduced the Private Columbaria Bill ("the Bill") into the Legislative Council ("LegCo") on 25 June 2014, proposing a licensing regime for regulating private columbaria with a view to ensuring compliance with statutory and government requirements, enhancing protection of consumer interests and putting the further development of the trade on a sustainable path. The scrutiny of the Bill is nearing completion. It is hoped that the Bill could be enacted within the current term of LegCo.

3. Following commencement of the Ordinance, any person who operate, keep, manage or in any other way have control of a columbarium must obtain a specified instrument viz. licence, exemption or temporary suspension of liability ("TSOL"). A statutory licensing authority, namely the Private Columbaria Licensing Board ("the Licensing Board"), will be set up under the Ordinance to determine the applications for specified instruments from private columbaria.¹ The Food and Environmental Hygiene Department ("FEHD") will serve as the enforcement agency for the licensing regime.

¹ An Administrative Officer Staff Grade B post will be created in the Food and Environmental Hygiene Department to serve as the chairperson of the Licensing Board, which will comprise other members to be appointed by the Chief Executive.

4. Certain services in the Ordinance are fee-bearing. We propose in the Bill that the fees to be charged should be prescribed by way of a Schedule to the Bill.

Fee proposals

5. We set out below our fee proposals in respect of the various fee items in the Bill for the implementation of the proposed licensing regime for regulating private columbaria –

Item	Particular	When Payable	Fee
(i)	Issue of TSOL (for the validity period regardless of duration) Size of private columbarium by reference to ash interment quantity in approved plan (a) Not exceeding 1 000 (b) Exceeding 1 000 but not exceeding 5 000 (c) Exceeding 5 000 but not exceeding 10 000 (d) Exceeding 10 000 but not exceeding 50 000 (e) Exceeding 50 000	Upon issue of a TSOL	 \$24,000 \$48,000 \$72,000 \$96,000 \$120,000
(ii)	Issue of exemption (for the validity period regardless of duration) Size of private columbarium by reference to ash interment quantity in approved plan (a) Not exceeding 1 000 (b) Exceeding 1 000 but not exceeding 5 000 (c) Exceeding 5 000 but not exceeding 10 000 (d) Exceeding 10 000 but not exceeding 50 000 (e) Exceeding 50 000	Upon issue of an exemption	 \$50,000 \$90,000 \$130,000 \$170,000 \$210,000

Item	Particular	When Payable	Fee
(iii)	Issue of licence (for the validity period regardless of duration) Size of private columbarium by reference to ash interment capacity in approved plan (a) Not exceeding 1 000 (b) Exceeding 1 000 but not exceeding 5 000 (c) Exceeding 5 000 but not exceeding 10 000 (d) Exceeding 10 000 but not exceeding 50 000 (e) Exceeding 50 000	Upon issue of a licence	\$90,000 \$165,000 \$240,000 \$315,000 \$390,000
(iv)	Extension of TSOL	Upon extension of a TSOL	\$29,600
(v)	Renewal of exemption	Upon renewal of an exemption	\$26,450
(vi)	Renewal of licence	Upon renewal of a licence	\$28,100
(vii)	Transfer of TSOL	Upon approval for transfer of a TSOL	\$23,150
(viii)	Transfer of exemption	Upon approval for transfer of an exemption	\$25,000
(ix)	Transfer of licence	Upon approval for transfer of a licence	\$26,250
(x)	Variation of condition(s) to which a TSOL is subject	Upon approval for variation of condition(s) to which a TSOL is subject	\$7,350
(xi)	Variation of condition(s) to which an exemption is subject	Upon approval for variation of condition(s) to which an exemption is subject	\$9,860
(xii)	Variation of condition(s) to which a licence is subject	Upon approval for variation of condition(s) to which a licence is subject	\$9,860
(xiii)	Permission for alteration or addition under section 45 in respect of a TSOL	Upon permission for alteration or addition	\$30,550

Item	Particular	When Payable	Fee
(xiv)	Permission for alteration or addition under section 45 in respect of an exemption	Upon permission for alteration or addition	\$46,800
(xv)	Permission for alteration or addition under section 45 in respect of a licence	Upon permission for alteration or addition	\$59,550
(xvi)	Duplicate of a TSOL	Upon issue of a duplicate of a TSOL	\$435
(xvii)	Duplicate of an exemption	Upon issue of a duplicate of an exemption	\$435
(xviii)	Duplicate of a licence	Upon issue of a duplicate of a licence	\$435

6. In line with the “user pays” principle, it is the Government’s policy to set the above fees and charges at levels sufficient to recover the full cost of providing the services.

7. As proposed in the Bill, the Secretary for Food and Health may amend the relevant Schedule by notice published in the Gazette. Such notice is a piece of subsidiary legislation and is subject to negative vetting by LegCo.

Details of fee proposal

(a) Issue of specified instruments

8. Apart from basic administrative work and process, the cost of processing an application for a specified instrument would vary with the size, ash interment capacity / quantity and the presence of ancillary facilities at the private columbarium. In order to reflect the differences in the processing cost for private columbaria of different scales, we propose five fee bandings for the issue of a specified instrument on the basis of the ash interment capacity² (for licence) or ash interment quantity³ (for exemption / TSOL). Other existing licensing regime of FEHD, notably the licensing for food businesses, also adopts

² As defined under clause 10 of the Bill.

³ As defined under clause 10 of the Bill.

the banding approach in accordance with the size (i.e. floor area) of the food premises.

9. In granting a specified instrument to a private columbarium, the Licensing Board will need to determine the validity period of the specified instrument in accordance with the provisions set out in the Bill. Under the Bill, the validity period of a specified instrument is governed by the following rules –

- (a) for a licence: it must not exceed ten years;
- (b) for an exemption: it must not exceed the remainder of the term of the lease or the tenancy (as applicable); and
- (c) for a TSOL: it must not exceed three years.

10. For fee items (i) to (iii) under paragraph 5, the fee payable upon granting of the specified instrument is for the validity period as determined by the Licensing Board, regardless of the duration involved which may vary from case to case.

(b) *Other fee items*

11. A columbarium operator granted with a specified instrument may apply for the renewal of the licence and exemption at suitable junctures, while a TSOL may be extended not more than once unless under exceptional circumstances. A person may also apply to the Licensing Board for the transfer of a specified instrument from a person in respect of whom an instrument is in force to another person.

12. Upon issue of a specified instrument, the Licensing Board may as it thinks fit impose conditions in respect of the columbarium on measures relating to building and fire safety, other safety matters, drainage and sewage, and for minimizing environmental nuisance. Besides, the instrument holder may apply for variation of condition(s) to which the specified instrument is subject, and permission under Section 45 of the Bill for alteration or addition to the columbarium premises that would result in material deviation from the approved plan of a specified instrument.

13. We propose that fees will be payable upon granting the renewal of licence or exemption, extension of TSOL, approval of transfer of licence, exemption or TSOL, approval of variation of condition(s) to which the specified instrument is subject, permission for alteration or addition, and issuance of a duplicate of a specified instrument to recover the costs incurred.

14. For fee items (iv) to (xviii) under paragraph 5, the cost of processing applications in respect of private columbaria of different sizes is more or less the same. Thus, a uniform fee is proposed regardless of the size of the premises.

Revenue Implication

15. Assuming that all applications for TSOL would be processed within two years upon receipt of application, and that applications for licence / exemption would be processed within six years upon receipt of application, we estimate that the revenue generated from the above fee proposals will be \$10.8 million per annum for the first two years, and thereafter \$5.3 million per annum from the third to sixth year.

Implementation Timetable

16. The scrutiny of the Bill by the Bills Committee is at an advanced stage. If all goes well, the Bills Committee will complete its scrutiny work in early June 2016, and will report to the House Committee within June 2016 for resumption of Second Reading in July 2016. Our target is to have the Bill enacted within the current term of LegCo which would stand prorogued on 16 July 2016.

Advice Sought

17. Members are invited to comment on the fee proposals set out in the paper.

**Food and Health Bureau
Food and Environmental Hygiene Department
June 2016**