

## **Bills Committee on Private Columbaria Bill**

### **Supplementary Information Requested by Members at Previous Meetings**

At previous meetings of the Bills Committee on Private Columbaria Bill (“the Bill”), Members asked the Government to provide supplementary information on a number of issues. The requested information relating to occupation of Government land is the subject of another paper. The requested information relating to the remaining issues is set out in the ensuing paragraphs.

#### **(A) Information on the provisions in other legislation which were similar to clause 23(2)(b) of the Bill**

2. Clause 22(1)(b)(ii) of the Bill stipulates that an application for the issue of an exemption in respect of a pre-cut-off columbarium must be accompanied by the registers required under clause 23. It seeks to prevent abuse of the arrangement for allowing columbaria applying for exemption to arrange interment of ashes after cut-off time in niches sold before the cut-off time, by requiring any such columbarium to properly keep the relevant records of interment for future examination by the Licensing Board and the enforcement authority. The formulation allows the Licensing Board to be able to tackle unforeseen evolvment of dubious commercial practices. Specifically, clause 23(2)(b) requires the registers to “contain the particulars specified by the [Private Columbaria] Licensing Board”. Contravention of this provision does not attract criminal liability and sanction (imprisonment or fine). At the meeting on 13 January 2017, a Member asked if there are provisions in other legislation which are similar to the requirements under clause 23(2)(b), and asked the Government to provide such information.

3. There are examples in other legislation which require a person to provide certain information “specified by” an authority together with an application, contravention of which does not attract criminal liability and sanction. For instance, section 19(4)(b) of the Electronic Health Record Sharing System Ordinance (Cap. 625) requires an application for registration

as a healthcare provider to be accompanied by “the information specified by the Commissioner”.

4. In addition, there are examples in other legislation which impose a duty on a person to record certain information “specified by” an authority, contravention of which would attract criminal liability and sanction. Some examples are provided below –

- (a) sections 2(2)(vi) and 17(2)(vi) of the Lifts and Escalators (General) Regulation (Cap. 618 sub. leg. A) require the relevant responsible person to keep a log-book which contains, among other things, “any other information and particulars specified by the Director” (contravention of which is liable to a fine); and
- (b) section 70(4) of the Insurance Companies Ordinance (Cap. 41) requires an approved body of insurance brokers to keep a register of its members in which it will record the information required by the Insurance Authority for each member of the approved body (contravention of which is liable to a fine); and

**(B) Information on its preliminary thinking on handling of enquiries from the public and operators of private columbaria after enactment of the Private Columbaria Ordinance (“the Ordinance”)**

5. At the meeting on 13 February 2017, a Member asked the Government to provide information on its preliminary thinking on handling of enquiries from members of the public and operators of private columbaria after enactment of the Ordinance.

6. To facilitate members of the public to gather information about the proposed licensing scheme under the Bill, the Food and Environmental Hygiene Department (“FEHD”) has already set up a dedicated website on the regulation of private columbaria ([www.rpc.gov.hk](http://www.rpc.gov.hk)), providing targeted information for consumers and operators respectively. The website would be updated whenever necessary with a view to providing the latest information to the public. Since December 2016, FEHD has put in place a

dedicated email address (rpc@fehd.gov.hk) and a fax number (2893 7683) for receiving enquiries relating to the regulation of private columbaria, and will respond to those leaving their contact information. Such service will continue to be made available to members of the public, purchasers and operators on an on-going basis.

7. Upon enactment of the Ordinance, FEHD will further step up its publicity and public education efforts on the licensing scheme, including broadcasting new Announcements in the Public Interest on television and radio, placing advertisements in newspapers and distributing pamphlets through various channels and at various locations specifically those relating to after-death arrangements, etc. Briefing sessions for operators would also be arranged to help facilitate their understanding of the provisions and requirements under the Ordinance. Information on the following -

- (a) for applications for specified instruments received by the Licensing Board: their status (pending determination, approved or rejected); and
- (b) for specified instruments issued: their corresponding validity period,

will be made available online for public information (read together with paragraphs 9(b) and 10). In this way, consumers can have access to data to better protect themselves from untrue claims by operators regarding whether they have been duly authorised to sell niches under a licence.

8. In response to Members' suggestion, we would explore with the parties concerned on the possibility of members of the public having access to free legal advice in respect of purchase of niches from private columbaria after enactment of the Ordinance.

**(C) Other undertakings**

9. We have been asked –

- (a) at the meeting on 20 December 2016, to keep in view the

implementation of the Ordinance, propose amendments to the Ordinance as and when necessary, and conduct a review of the Ordinance in any event around three years after enactment; and

- (b) at the meeting on 24 January 2017, to relay to the future Private Columbaria Licensing Board (“the Licensing Board”) Members’ suggestion of uploading information on applications for specified instruments (i.e. licence, exemption or temporary suspension of liability) onto the Licensing Board’s website.

10. The above is noted for action in future.

**Food and Health Bureau**  
**February 2017**