

**Private Columbaria Bill**  
**Debate and voting arrangements**

**Object of the Bill :** To provide for the licensing of non-Government columbaria (“columbaria”) for keeping cremated human remains and the establishment of the Private Columbaria Licensing Board (“Licensing Board”).

<b>First debate</b>	: <b>Clauses with no amendment</b>	– <b>Clauses 1, 3 to 7, 9, 10, 13, 14, 16, 17, 18, 21 to 24, 28, 30 to 37, 40, 42 to 45, 47 to 50, 56, 58 to 65, 67 to 70, 73, 74, 76 to 81 and 83 to 130</b>
<b>Voting</b>	: To vote on the above clauses standing part of the Bill	
<b>Second debate</b>	: <b>Clauses with amendments proposed by the Secretary for Food and Health (“SFH”)</b>	– <b>Clauses 2, 8, 11, 12, 15, 19, 20, 25, 26, 27, 29, 38, 39, 41, 46, 51 to 55, 57, 66, 71, 72, 75, 82 and 131</b>
Joint debate on the original clauses and the amendments thereto.		
<b>Debate theme: Amendments to the above clauses on various matters</b>		
<b>Clause 2</b>		
<ul style="list-style-type: none"> <li>– To amend the definitions of “<i>approved plans</i>” and “<i>ashes</i>”; add the definitions of “<i>in force</i>”, “<i>approved management plan</i>” and “<i>endorsed register</i>”; and amend the Chinese text of the definition of “<i>inter</i>” in clause 2(1);</li> <li>– to amend clause 2(5) stipulating that a reference to occupation of land as is necessary for the operation of a columbarium includes a reference to any area other than a niche used for the interment of ashes; and</li> <li>– to amend clause 2(7) stipulating that a reference to structures necessary for the operation of a columbarium includes a reference to building or building works that are used for the interment of ashes in addition to those that contain niches used for the interment of ashes.</li> </ul>		
<b>Clauses 2, 11, 12, 19, 20, 26, 27, 29, 38, 39, 41, 46, 51 to 55, 57, 71, 72, 75, 82 and 131</b>		
<ul style="list-style-type: none"> <li>– To make textual or technical amendments to clauses 2(5)(a) and (b), 11(2)(a), 12, 19(2), 20(2)(a)(ii) and (4), 26(2) and (3), 27(1)(d), 29(c), 38, 38(2) and (6), 39(1) and 41(1), the heading of clause 46, clauses 51(1), 52(2) and (4), 53, 53(b), 54(1) and (3)(a), 55(1), (4) and (11)(a), 57(1)(c), 71(1) and (1)(b), 72(a), 75(1), 82(1), (2) and (4)(a) as well as 131.</li> </ul>		

### **Clause 8**

- To amend clause 8(2) to make it clear that Schedule 1 to the Bill includes making provisions about the administration of the Licensing Board.

### **Clause 15**

- In view of the proposed new clause 15A (Specified instrument in force despite certain events), to delete clause 15(6).

### **Clause 25**

- To amend clause 25(1)(a) to stipulate the circumstances under which the Licensing Board may still approve plans of a columbarium for the purposes of an application for a specified instrument where there are differences between the plans and the current site situation of the columbarium premises.

### **Clause 26**

- To amend clause 26(1)(c) to stipulate that if the applicant wishes the Licensing Board to apply clauses 19(2) or 20(4) for the issue of an exemption or a temporary suspension of liability concerning a pre-cut-off columbarium, the application for the specified instrument must be accompanied by the ash interment quantity as at the beginning of the enactment date.

### **Clause 39**

- To amend clause 39 by adding paragraph (2A), seeking to add additional circumstances under which the Licensing Board may exercise the power under the provision (including varying the conditions of specified instruments and imposing new conditions) in order to have better regulation, supervision and control of the columbaria.

### **Clause 52**

- To amend clause 52 by adding paragraphs (2A), (2B) and (2C), seeking to allow applicants for temporary suspension of liability to arrange for the interment of ashes after the cut-off time and before the enactment date in niches or in religious ash pagodas sold before the cut-off time.

### **Clause 66**

- To amend clause 66(2) and add paragraph (2A) thereto, and amend clause 66(3), seeking to ensure that “*the grace period*” mentioned in the Bill only apply to a columbarium that was in operation immediately before the enactment date.

**Voting** : To vote on the above amendments together, and then vote on the original clauses or the clauses as amended standing part of the Bill

**Third debate : New clauses proposed by – New clauses 15A and 40A  
SFH**

Debate on the above new clauses.

**New clause 15A (Specified instrument in force despite certain events)**

- To provide that a specified instrument would remain in force under certain circumstances.

**New clause 40A (Variation of approved plans, endorsed registers, etc.)**

- To empower the Licensing Board to vary approved plans and endorsed registers to ensure that they can reflect the latest situation of a columbarium, so as to enhance the regulation of columbaria.

**Voting :** To vote on the above new clauses standing part of the Bill

**Fourth debate : Schedule with no – Schedule 6  
amendment**

**Voting :** To vote on the above Schedule (Fees) standing part of the Bill

**Fifth debate : Schedules with amendments – Schedules 1 to 4, relevant  
proposed by SFH sections in Schedule 5 and  
Schedule 7**

Joint debate on the above Schedules and the amendments thereto.

**Debate theme: Amendments to various Schedules**

**Schedule 1: Private Columbaria Licensing Board**

- To amend section 3(2) seeking to provide that the Licensing Board may appoint not only a member of the Licensing Board to be the Chairperson of a committee but also any person to be a member of a committee; and
- to add section 6 to provide that the Licensing Board may delegate its functions or powers to a public officer to facilitate the execution of the provisions of the Bill by the Licensing Board and its Secretariat (i.e. Food and Environmental Hygiene Department); and to specify certain non-delegable powers.

**Schedule 2: Requirements Relevant to Eligibility for Specified Instruments**

- To amend the definition of “*they are otherwise used for the interment of ashes and were so used immediately before the cut-off time*” in section 4(1) by adding the description of non-compliant structures for the interment of ashes; and
- to amend the Chinese text of sections 3(1)(a) and 4(2)(b) as well as the English text of sections 3(3)(d), 3(4) and 4(3) so as to align the relevant Chinese and English texts; and to make textual amendments to section 6(5).

**Schedule 3: Further Provisions on Applications Relating to Specified Instruments**

- To amend section 2(1), seeking to allow a person who intends to operate a columbarium to make applications relating to specified instruments; and to amend the English text of section 4(1)(a).

**Schedule 4: Prescribed Information, Recommendations and Essential Terms in Agreement for Sale of Interment Right**

- To make textual amendments to section 2(f).

**Schedule 5: Occupation Order and Ash Disposal Procedures**

- To delete section 9(7) to (13) and add section 9A (regarding the requirements for handling claims for ashes and related item) to provide that the Director of Food and Environment Hygiene (“the Director”) may invoke the interpleader proceedings in respect of ashes and/or items that came to the Director’s possession to facilitate the Director’s return of ashes to claimants, and to make corresponding amendments to section 6(1); and to add section 9B which sets out the provisions regarding a court order for the return of ashes;.
- to amend section 10(1) to specify that the authority for specifying the form and other information relating to the keeping of records on the prescribed ash disposal procedures is the Director rather than the Licensing Board;
- to delete section 14(5) and amend section 14(12), seeking to make clear the legal effect of registration of the certificate in the Land Registry as well as streamlining the presentation; and
- to make textual or technical amendments to sections 7(1)(a)(ii) and (4), 7(3)(b)(ii)(A), the heading of section 9, sections 9(1) and (2), 9(6)(a), 10(3)(a) and (4) as well as 12(4).

**Schedule 7: Transitionals**

- To amend the English text of section 1(2) so as to align the Chinese and English texts.

**Voting** : To vote on the above amendments, and then vote on the original Schedules or the Schedules as amended standing part of the Bill

**Sixth debate** : **Schedule with amendments – Sections 6(2) and 9(5) of proposed by SFH, Schedule 5**  
**Hon CHAN Chi-chuen,**  
**Hon Nathan LAW,**  
**Dr Hon Fernando CHEUNG**  
**and Hon LEUNG**  
**Kwok-hung**

Joint debate on the original Schedule and the amendments thereto.

**Debate theme: definition of “related person” and order of priority for claiming ashes in ash disposal procedures**

The following 3 groups of amendments seek to amend section 6(2) of Schedule 5 to the Bill by adding some definitions including “*related person*”.

**SFH’s 1st group of amendments**

In section 6(2) of Schedule 5 to the Bill, “*prescribed claimant*”, in relation to the ashes of a deceased person, means an authorized representative, personal representative or relative or the purchaser of the interment right.

SFH’s amendments seek to:

- (a) add “*related person*” as a new category to “*prescribed claimant*”, which, in relation to a deceased person, means a person who was living with the deceased person in the same household for **at least 2 years** immediately before the date of the death of the deceased person;
- (b) add the definitions of “*return order*”, “*court*” and “*related item*”; and
- (c) make textual amendments to the definition of “*eligible claimant*” and the English text of the definition of “*relative*”.

**Hon CHAN Chi-chuen’s 1st group of amendments**

- Mr CHAN’s amendments are similar to SFH’s 1<sup>st</sup> group of amendments in (a) and (b) above, except that “*related person*”, in relation to a deceased person, means a person who was living with the deceased person in the same household for **at least 1 year** immediately before the date of the death of the deceased person.

**Hon Nathan LAW’s 1st group of amendments**

- Mr LAW’s amendments are similar to SFH’s 1<sup>st</sup> group of amendments in (a) and (b) above, except that the definition of “*related person*” is extended to include a deceased person’s **same-sex partner** in a marriage, civil partnership or civil union in any jurisdiction outside Hong Kong.

The following 4 groups of amendments seek to amend section 9(5) of Schedule 5, stipulating the priority of claims of a related person among “*prescribed claimants*” for the ashes of a deceased person

SFH’s 2 <sup>nd</sup> group of amendments	to seek to provide that the priority of claim of a “ <i>related person</i> ” is lower than that of an authorized representative and personal representative or relative, but higher than that of a purchaser of interment right.
Hon CHAN Chi-chuen’s 2 <sup>nd</sup> group of amendments	The amendments of the 3 Members are identical in essence, which seek to provide that the priority of claim of a “ <i>related person</i> ” is lower than that of an authorized representative, but is equal to that of a personal representative or relative, and higher than that of a purchaser of interment right.
Hon Nathan LAW’s 2 <sup>nd</sup> group of amendments	
Hon LEUNG Kwok-hung’s amendment	

**Dr Hon Fernando CHEUNG's amendment: Section 6(2)**

Section 6(2) of Schedule 5 to the Bill provides for a definition of “*relative*” to facilitate the return of a deceased person’s ashes by ash handlers to eligible claimants under the prescribed ash disposal procedures in Part 2 of Schedule 5.

Dr CHEUNG’s amendment seeks to extend the definition of “*relative*” to the effect that a deceased person’s same-sex partner in a marriage, civil partnership or civil union in any jurisdiction outside Hong Kong would become a relative and therefore eligible to claim for the return of the deceased person’s ashes.

Mover	Voting	Remarks	Amendment(s)
SFH	SFH’s 1st group of amendments	If SFH’s 1st group of amendments is <b>passed</b> , Hon CHAN Chi-chuen and Hon Nathan LAW <b>may not</b> move their 1st group of amendments.  Irrespective of whether SFH’s 1st group of amendments is passed or not, Dr Hon Fernando CHEUNG <b>may</b> move his amendment.	LC Paper No. <u>CB(3) 470/16-17</u>
Hon CHAN Chi-chuen	<u>If SFH’s 1st group of amendments is negated</u> , vote on Mr CHAN’s 1st group of amendments	If Mr CHAN’s 1st group of amendments is <b>passed</b> , Mr LAW <b>may not</b> move his 1st group of amendments.  Irrespective of whether Mr CHAN’s 1st group of amendments is passed or not, Dr CHEUNG <b>may</b> move his amendment.	LC Paper No. <u>CB(3) 473/16-17</u>
Hon Nathan LAW	<u>If Mr CHAN’s 1st group of amendments is negated</u> , vote on Mr LAW’s 1st group of amendments	If Mr LAW’s 1st group of amendments is <b>passed</b> , Dr CHEUNG <b>may not</b> move his amendment.	LC Paper No. <u>CB(3) 473/16-17</u>

Dr Hon Fernando CHEUNG	<u>If SFH's or Mr CHAN's (but not including Mr LAW's) 1<sup>st</sup> group of amendments is passed,</u> vote on Dr CHEUNG's amendment	If all the 1st group of amendments are <b><u>negated</u></b> , SFH, Mr CHAN and Mr LAW <b><u>may not</u></b> move their 2nd group of amendments, and Hon LEUNG Kwok-hung <b><u>may not</u></b> move his amendment.  Irrespective of whether Dr CHEUNG's amendment is passed or not, SFH <b><u>may move</u></b> his 2 <sup>nd</sup> group of amendments.	LC Paper No. <b><u>CB(3) 473/16-17</u></b>
SFH	<u>If SFH's, Mr CHAN's or Mr LAW's 1st group of amendments is passed,</u> vote on SFH's 2nd group of amendments	If SFH's 2nd group of amendments is <b><u>passed</u></b> , Mr CHAN and Mr LAW <b><u>may not</u></b> move his 2nd group of amendments, and Mr LEUNG <b><u>may not</u></b> move his amendment.	LC Paper No. <b><u>CB(3) 470/16-17</u></b>
Hon CHAN Chi-chuen	<u>If SFH's 2nd group of amendments is negated,</u> vote on Mr CHAN's 2nd group of amendments	Irrespective of whether Mr CHAN's 2nd group of amendments is passed or not, Mr LAW <b><u>may not</u></b> move his 2 <sup>nd</sup> group of amendments and Mr LEUNG <b><u>may not</u></b> move his amendment as their amendments are in essence the same as Mr CHAN's 2 <sup>nd</sup> group of amendments.	LC Paper No. <b><u>CB(3) 473/16-17</u></b>

### **Secretary for Food and Health's amendments**

(printed in LC Paper No. CB(3) 470/16-17 issued on 10 April 2017)

### **Hon CHAN Chi-chuen's amendments**

(printed in LC Paper No. CB(3) 473/16-17 issued on 13 April 2017)

**Dr Hon Fernando CHEUNG's amendment**

(printed in LC Paper No. CB(3) 473/16-17 issued on 13 April 2017)

**Hon Nathan LAW's amendments**

(printed in LC Paper No. CB(3) 473/16-17 issued on 13 April 2017)

**Hon LEUNG Kwok-hung's amendment**

(printed in LC Paper No. CB(3) 473/16-17 issued on 13 April 2017)

Council Business Division 3

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