

Annex

Policy on Earth Burial at Gallant Garden

This note informs Members of the policy on earth burial at Gallant Garden.

Gallant Garden

2. To provide burial spaces for civil servants who died on duty, an area of approximately 1 600 square metres in Wo Hop Shek Public Cemetery, named “Gallant Garden”, was set aside by the Government in November 1996. A civil servant is considered to have died on duty if he dies as a result of injuries sustained in the actual discharge of his duty; without his own serious and wilful misconduct; and on account of circumstances attributable to the nature of his duty.

3. Gallant Garden has 110 earth burial spaces, 165 urn spaces and a columbarium consisting of 120 niches. As at January 2017, 36 earth burial spaces, 15 urn spaces and 13 niches had been taken up.

The Six-Year Exhumation Policy

4. To conserve land, all earth burials in public cemeteries are subject to the six-year exhumation policy. As Gallant Garden forms part of the Wo Hop Shek Public Cemetery, the earth burials therein are also subject to this policy. Hence, the remains of the deceased civil servants buried in Gallant Garden should be exhumed after six years for re-interment in permanent urn spaces or in niches (after cremation) in Gallant Garden.

5. From time to time, we have received requests from the Staff Sides urging us to consider allowing permanent earth burial for civil servants in Gallant Garden. We have explained to them that this is not feasible for legal considerations. We have been advised by the Department of Justice that, to allow permanent earth burials in Gallant Garden for civil servants who died on duty but not for the same in public cemeteries for non-civil servants who also died whilst on duty is likely to constitute discrimination within the meaning of

the Hong Kong Bill of Rights Ordinance (HKBRO) which incorporates the provisions of the International Covenant on Civil Political Rights (ICCPR). Article 26 of the ICCPR prohibits and protects against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Thus, any differential treatment in respect of earth burials in public cemeteries on the basis of a deceased person's employment status whilst alive is likely to constitute discrimination and to offend Article 26 of the ICCPR. Article 39 of the Basic Law states that the provisions of the ICCPR shall remain in force in Hong Kong.

Exemption for the Six-Year Exhumation Policy

6. On 12 September 2000, the Executive Council advised and the Chief Executive ordered that, on request from family members of the deceased, permanent earth burials in Gallant Garden should be given to those civil servants who died whilst performing exceptional bravery acts in their final duties. Similarly, also on the request from family members of the deceased, permanent earth burial in public cemeteries should be given to members of the public who died whilst performing exceptional acts of bravery. As this arrangement ensures even-handed treatment for all persons (i.e. civil servants and non-civil servants) who died whilst on duty and performing acts of bravery, it is in compliance with the HKBRO and the ICCPR.

7. As to what constitutes an exceptional act of bravery, it is normally expected that the act should be recognisable by the award of a bravery medal granted by the Chief Executive on the recommendation of the Honours and Non-official Justices of the Peace Selection Committee. Since 2000, a total of 19 officers have been posthumously awarded the bravery medals and are permanently buried in Gallant Garden.

8. We consider that the present policy on earth burials at Gallant Garden has struck the right balance between all the relevant considerations, including giving due respect to civil servants who died on duty, drawing distinction between civil servants who died on duty and those who died on duty whilst performing exceptional acts of bravery, recognising the scarcity of land in Hong Kong, and complying with the law.

Improvement Works

9. In response to a proposal by the Staff Sides, we completed improvement works in Gallant Garden in September 2016 for upkeeping the conditions and strengthening the commemorative elements of Gallant Garden in honour of the deceased officers. The improvement works included reconstructing the memorial plaque, repaving the access road and pavement, improving the greeneries and implementing some minor renovation works. The response of the Staff Sides to the works was positive.

Civil Service Bureau
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