

For discussion  
on 1 April 2022

## **Legislative Council Panel on Security**

### **Proposed Amendments to the Births and Deaths Registration Ordinance (Cap. 174)**

#### **Introduction**

This paper consults Members on the Government's proposals to amend the Births and Deaths Registration Ordinance (Cap. 174) ("the Ordinance") in order to extend the statutory time limit for registration of deaths and provide legal backing for introduction of electronic services.

#### **Background**

2. The Immigration Department ("ImmD") is responsible for registration of births, deaths and marriages and provision of related services. The Audit Commission earlier conducted a review on ImmD's work on the management of births, deaths and marriage registration and issued the "Director of Audit's Report No. 76" ("the Audit Report") in 2021. The Audit Commission noted in the Audit Report that a certain number of deaths from natural causes was not registered within the statutory time limit prescribed in the Ordinance and recommended ImmD to critically explore measures to address the issue.

3. In response to the recommendation by the Audit Commission, the Security Bureau ("SB") and ImmD have conducted a review on the legal requirement relating to registration of deaths under the Ordinance. We have also taken the opportunity to review other provisions in the Ordinance so as to provide legal backing for the introduction of electronic services by ImmD. Upon review, the Government puts forward the following amendment proposals.

#### **Extension of the statutory time limit for registration of deaths**

4. According to section 14 of the Ordinance, deaths from natural causes shall be registered by the nearest relatives or other relevant

persons of the deceased<sup>1</sup> within 24 hours<sup>2</sup> after such deaths. Sections 25 and 28 of the Ordinance state that any person charged with the duty of registering deaths who refuses or, without reasonable excuse, omits to register any deaths of which he/she has had due notice shall be deemed to have committed a breach of the provisions of the Ordinance, and shall be liable on summary conviction to a fine at level 1 (currently at \$2,000) or to imprisonment for 6 months.

5. In response to the Audit Commission's recommendations mentioned in paragraph 2 above, SB and ImmD reviewed the cases in which deaths from natural causes was not registered within the statutory time limit in the Ordinance, and have the following observations –

- (i) among the common reasons that the statutory time limit for registration of deaths from natural causes is not strictly adhered to, it is observed that the nearest relatives or other relevant persons of the deceased might not be able to secure the supporting documents required for deaths registration<sup>3</sup> within the prescribed period for registration; or they might take time to engage undertakers to make funeral arrangements and complete the relevant procedures<sup>4</sup>; and
- (ii) the current Ordinance was enacted back in 1934 and the provision prescribing the time limit for registration of deaths from natural causes has not been reviewed since. Whilst we are unable to ascertain the specific considerations behind the statutory time limit, it is believed that a possible consideration for setting such a rather stringent requirement might have been to ensure the proper and prompt handling of the remains of a

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<sup>1</sup> According to section 14 of the Ordinance, the nearest relatives and other relevant persons of the deceased include the nearest relatives of the deceased present at the death or in attendance during the last illness, any occupier or each inmate of the house in which the death took place, or persons causing the body of the deceased to be buried.

<sup>2</sup> The calculation of the time is exclusive of the time necessary for the journey, and of any intervening hours of darkness and of general holidays as defined by the General Holidays Ordinance (Cap. 149).

<sup>3</sup> For instance, the Medical Certificate of the Cause of Death issued by the registered medical practitioner who attended the deceased person during his/her last illness (i.e. the Form 18 in the Second Schedule of the Ordinance).

<sup>4</sup> These include registration of death, application/arrangement of cremation, obtaining the certificate for burial application, etc. at the Joint Office set up by the Food and Environmental Hygiene Department, Department of Health and ImmD.

deceased for better control of environmental hygiene and prevention of diseases at the time. With the substantial improvement in the public health infrastructure, medical care and environmental hygiene over the past decades, there is room to adjust the statutory time limit taking into account the present-day context.

6. Against the abovementioned considerations, we consider that a humanistic and realistic approach should be adopted in administering the registration of deaths and thus recommend amendments to the Ordinance. Statistics from ImmD show that the around 99% of the deaths from natural causes, despite not being registered within the current prescribed period, were registered within 14 days. In the light of the above, we propose to extend the statutory time limit for registration of deaths from natural causes to within 14 days so as to accommodate the bereaved's need to cope with the grief over the loss of their loved ones and handle the after-death arrangement of their lost loved ones, while ensuring that registration of deaths could be completed within a reasonable timeframe.

7. With regard to deaths from unnatural causes, the Ordinance requires such deaths (such as poison or violence) to be reported to the Coroner. The Coroner may conduct a post-mortem examination or an inquest to determine the cause of death. When the cause of death is determined by the Coroner, the Registrar of Deaths (i.e. the Director of Immigration) will be informed to register such death. The Registrar of Deaths will notify the family members of the deceased in writing after the death is registered. Upon review, we consider the present arrangement in relation to the registration of deaths from unnatural causes has worked well and no amendment thereto is necessary.

8. Before the legislative amendments are put in place, ImmD has adopted various measures to ensure better compliance with the existing legal requirement since July 2021. These measures include –

- (i) ImmD has put up notice on its website and revised the relevant pamphlets to remind members of the public the legal requirement to register deaths from natural causes within the 24-hour statutory time limit;
- (ii) ImmD has sought the assistance of all hospitals which would handle documents for the deceased to distribute pamphlets to remind the relatives of the deceased the statutory time limit for registration of deaths; and

- (iii) ImmD has implemented a new arrangement for stepping up enforcement on cases involving registration of deaths from natural causes beyond the statutory time limit. For instance, if the informant has registered the deaths beyond 24-hour of the death of the deceased but within 7 days, the informant would be required to provide the reasons of delay on the supplementary form; if the informant has registered the death of the deceased over 7 days, the informant would be inquired and asked to provide explanation as well as supplementary information, if any, on the reasons of delay. Upon registration, ImmD would review each case and take enforcement actions on doubtful cases involving registration of deaths from natural causes with undue delay.

### **Introduction of electronic services**

9. ImmD has been making extensive use of information technology to further enhance its business performance and to provide more convenient services to the public. Since the outbreak of the Coronavirus Disease 2019, ImmD has been actively exploring the feasibility of introducing more electronic services to spare the need for members of the public to go through the application procedures at ImmD's offices, in support of the Government's public health policy and addressing public concerns about anti-epidemic measures. Upon review, SB and ImmD propose to amend certain provisions in the Ordinance to provide legal backing for introduction of the following new electronic services by ImmD –

#### **(a) Registration of births by electronic means**

10. Section 7 of the Ordinance requires parents to register their new-born baby within 42 days after birth in person at births registries. Sections 25 and 28 of the Ordinance state that any person charged with the duty of registering births who refuses or, without reasonable excuse, omits to register any births of which he/she has had due notice shall be deemed to have committed a breach of the provisions of the Ordinance, and shall be liable on summary conviction to a fine at level 1 (currently at \$2,000) or to imprisonment for 6 months.

11. To facilitate parents with newborn babies in registering births, parents can make appointment booking through the Internet or the telephone booking system, and submit in advance the required information for registration of births online. Thereafter, the parents would still need to appear in person at births registries to complete the application procedures as required under the law.

12. Having considered the parents' need to take care of their newborn babies, the Government proposes to amend the requirement of having the parents to appear in person at births registries for registering births. Parents will be able to submit the application for births registration through electronic means and there is no longer a need for them to do the registration at births registries in person. Upon registration of births by ImmD, applicants can choose to collect the certified copy of a birth entry (commonly known as the birth certificate) by post or in person at births registries.

(b) Registration of deaths by electronic means

13. As mentioned in paragraph 4 above, the Ordinance requires the nearest relatives or other relevant persons of the deceased to register the deaths from natural causes in person at death registries within 24 hours after such deaths.

14. Having considered the bereaved's need to handle the after-death arrangement of their lost loved ones, apart from the proposal to extend the statutory time limit for registration of deaths from natural causes, the Government also proposes to amend the requirement of having the nearest relatives or other relevant persons of the deceased to appear in person at deaths registries for registering deaths. Nearest relatives or other relevant persons of the deceased will be able to submit the application for deaths registration through electronic means and there is no longer a need for them to do the registration at deaths registries in person. Upon registration of deaths by ImmD, applicants can choose to collect the certified copy of a death entry (commonly known as the death certificate) by post or in person at deaths registries.

15. Introduction of the registration of births and deaths through electronic means would not only spare the need for the members of the public to appear in person, bringing more convenience and time-saving for them, but it would also reduce unnecessary social contacts and crowd gatherings for protecting public health.

## **Advice Sought**

16. Members are invited to comment on the proposed amendments. Subject to the Members' views and the progress of drafting, the Government targets to submit the amendment bill into the Legislative Council in the first half of the 2022 legislative year.

**Security Bureau**  
**Immigration Department**  
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