

Measures Promulgated by the Private Columbaria Licensing Board on Speeding up the Processing of Applications for Specified Instruments

The Private Columbaria Licensing Board (PCLB) started to accept applications for specified instruments (SIs) (i.e. licence, exemption or temporary suspension of liability (TSOL)) on 30 December 2017. Having regard to the situations encountered during the processing of the applications for SIs, the PCLB has decided to implement the following measures with a view to speeding up the processing. The PCLB informed the SI applicants concerned of the relevant details by letter on 30 August 2019.

(I) Granting Exemption without Requiring Applicant to Restore the Ash Interment Quantity First

2. Under sections 20(1)(b) and (2) of the Private Columbaria Ordinance (Cap. 630) (the Ordinance), if the ash interment quantity in the columbarium is not limited to that as at the cut-off time (i.e. 8 a.m. on 18 June 2014), the PCLB may refuse the application for an exemption in respect of the columbarium unless the sets of ashes concerned were interred in the columbarium before the enactment date (i.e. 30 June 2017) and the following conditions are met:

- (i) the interment rights in respect of the niches in which the sets of ashes concerned were interred were sold before the cut-off time; or
- (ii) the ashes were interred in a religious ash pagoda (as defined by section 57(14) of the Ordinance), where no fees or other sums were paid, or are payable, for the interment of the sets of ashes concerned.

3. Under sections 54(3)(a)(ii) and 55 of the Ordinance, the ashes of a dedicated person may be interred in a niche in a pre-cut-off columbarium in respect of which an exemption is in force if:

- (i) the interment right in respect of the niche was sold before the cut-off time; and
- (ii) the name of the dedicated person has been entered into the register¹ endorsed by the PCLB.

4. The Ordinance does not prohibit the new interment of ashes in columbaria during the grace period². Therefore, it is possible that ashes were newly interred in the premises of some columbaria applying for an exemption after the commencement of the Ordinance. Considering that if the applicants are rigidly required to disinter the ashes newly interred during the grace period in niches which were sold before the cut-off time (and have been entered into the register endorsed by the PCLB), it will disturb the deceased and cause distress to their family members. Therefore, **the PCLB, having regard to the public interest as stated in section 22 of the Ordinance, may consider exercising its discretion as provided for under section 20(1) of the Ordinance to grant an exemption to a columbarium that complies with all application requirements for exemption (except that its ash interment quantity is not limited to that as at the cut-off time) without requiring the ashes which were newly interred after the cut-off time (hereinafter called “the newly interred ashes”) be disinterred from the columbarium first,** provided that the columbarium concerned falls into one of the two scenarios below:

- (i) “the newly interred ashes” started to be interred in the columbarium concerned before 30 June 2017 and the following requirements were met:
 - (a) the ashes were interred in niches sold before the cut-off time and the niches have been entered into the register endorsed by PCLB; and the names of the dedicated persons are

¹ For details on the register mentioned in this document, please refer to page 24, 25, 68 and 69 and Annex 18 and 19 of the Application Guide for Private Columbarium Licence and other Specified Instruments (Application Guide).

² A columbarium that was in operation immediately before the enactment date would have a grace period (i.e. 30 June 2017 to 29 March 2018). If the columbarium applies for a TSOL, the grace period remains valid during the processing of the application until it is finally disposed of or withdrawn.

consistent with those of the dedicated persons entered into the register endorsed by PCLB for the concerned niches; or

- (b) the ashes were interred in a religious ash pagoda (as defined by section 57(14) of the Ordinance), where no fees or other sums were paid, or are payable, for the interment of the sets of ashes concerned; or
- (ii) “the newly interred ashes” started to be interred in the columbarium concerned within the grace period and the following requirements were met:
- (a) the ashes were interred in niches sold before the cut-off time and the niches have been entered into the register endorsed by PCLB; and
 - (b) the names of the dedicated persons are consistent with those of the dedicated persons entered into the register endorsed by PCLB for the concerned niches.

(II) Deadline for Applicants’ Submission of Documents/Information in respect of Temporary Suspension of Liability (TSOL) Applications

5. The submission period of applications for SIs in respect of pre-cut-off columbaria ended on 29 March 2018. As more than a year has passed since the above application deadline, the PCLB is making efforts to determine the received applications as soon as possible. **The PCLB has set 31 December 2019 as the deadline for submission of documents/information in respect of TSOL applications.**

6. The above deadline is not applicable to (A) cases that involve columbaria situated in multi-storey buildings (especially in buildings which involve other users) or within zones of high-density residential developments; and (B) cases are suspected to be “obviously non-compliant applications”³ based on the information submitted by the applicants.

³ For cases that are suspected to be “obviously non-compliant applications”, please refer to Chapter 7 of the Application Guide.

Having regard to public interest, the PCLB has determined several cases of Categories (A) and (B) above and will determine other similar cases one after another.

7. In general, the PCLB will not consider any documents or information that are submitted after 31 December 2019 and before the PCLB determines the relevant TSOL application except under very special circumstances and with sufficient justifications. The PCLB will not consider any documents or information which are submitted after it has determined the relevant application.

(III) Administrative Arrangements for “Approval-in-principle for TSOL Application

8. As some private columbaria may have newly interred ashes of the deceased in niches after the commencement of the Ordinance (i.e. 30 June 2017) during the grace period, and having regard to public interest, the PCLB has decided to implement the following administrative measures:

- For a pre-cut-off columbarium which has submitted an application for a TSOL and:
 - (a) an application for a licence at the same time, but has not submitted an application for an exemption, if it has complied with all application requirements for TSOL (except that on the ash interment quantity as stipulated in section 21(2)(a)(ii) of the Ordinance); the ashes newly interred during the grace period were only placed in niches sold before the enactment date of the Ordinance; or
 - (b) an application for an exemption at the same time, if it has complied with all application requirements for TSOL (except that on the ash interment quantity as stipulated in section 21(2)(a)(iii) of the Ordinance); the ashes newly interred during the grace period were only placed in sold niches (the interment rights were sold before the cut-off time but have not been exercised or (where more than one set of ashes may be interred in a niche) have only been exercised partially),

the PCLB may consider giving an “Approval-in-principle for TSOL Application;

- Making reference to the provisions for the validity period of TSOL stipulated in the Ordinance, the validity period of the first “Approval-in-principle for TSOL Application” is 3 years;
- When the validity period of the above “Approval-in-principle for TSOL Application” is about to expire, the PCLB will consider whether this validity period should be extended. The PCLB will take into account whether the applicant has taken, with reasonable expedition, all the necessary steps according to the action plan including the timetable (submitted by the applicant to comply with the TSOL application requirements and accepted by the PCLB) to achieve compliance with all the requirements for the licence/exemption application submitted together with the TSOL application. If the applicant cannot prove to the satisfaction of the PCLB that it has taken, with reasonable expedition, all the above necessary steps, the PCLB will not extend the validity period of the “Approval-in-principle for TSOL Application”. Instead, the PCLB will make its determination on the whole set of applications. If the applicant fails to comply with all the requirements in respect of his/her licence/exemption application submitted together with his/her TSOL application, the PCLB will refuse the whole set of applications;
- Giving “Approval-in-principle for TSOL Application” gives no indication on whether the application for a licence/an exemption in respect of the columbarium concerned will be approved eventually. If the applicant fails to comply with all the requirements for his/her licence/exemption application submitted together with his/her TSOL application by the expiry of the validity period of the “Approval-in-principle for TSOL Application”, the PCLB may refuse the whole set of applications. Under such circumstances, the columbarium concerned will have to cease operation and to dispose of the ashes interred in the

columbarium lawfully in accordance with the relevant provisions of the Ordinance;

- During the validity period of “Approval-in-principle for TSOL Application”, as the PCLB has not determined the TSOL application, the columbarium concerned is still in the grace period. If, subsequently, the applicant can comply with the requirement on the ash interment quantity, the PCLB may still consider issuing a TSOL to him/her; and
- If the applicant can comply with all the requirements in respect of his/her application for a licence/an exemption submitted together with his/her TSOL application during the validity period of “Approval-in-principle for TSOL Application”, the PCLB will consider his/her application for a licence/an exemption directly and handle the application in an open meeting.

9. To expedite the processing of applications, the PCLB will not hold open meetings to handle TSOL applications (except for those cases which are recommended to be refused). While the applicants will not be invited to attend the closed-door meetings in which such TSOL applications are handled, they will be informed that closed-door meetings will be held to handle their TSOL applications and will receive a copy of the meeting paper before the closed-door meetings are held. After the meetings have been concluded and all the required procedures completed, the Secretariat of the PCLB will inform the applicants in writing of the stance (for cases in which “Approval-in-principle for TSOL Application” is given) or the decision (for TSOL applications which are formally approved) of the PCLB. The same information will also be uploaded to the “Regulation of Private Columbaria” dedicated website (www.rpc.gov.hk).

Private Columbaria Licensing Board
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