

[Hong Kong Customs combats unfair trade practice at medicine shop](#)

â€‹Hong Kong Customs yesterday (April 16) arrested a salesman of a medicine shop suspected of applying a false trade description in the course of selling a proprietary medicine, in contravention of the Trade Descriptions Ordinance (TDO).

Customs officers conducted a test-buy operation at a medicine shop in Tsim Sha Tsui yesterday afternoon. A salesman was suspected of applying a false trade description by claiming a brand of medicine was another particular brand of medicine. Customs officers then arrested the 46-year-old salesman.

Investigation is ongoing and the arrested person has been released on bail pending further investigation.

Customs reminds traders to comply with the requirements of the TDO and consumers to procure products at reputable shops.

Under the TDO, any person who in the course of any trade or business applies a false trade description to any goods commits an offence. The maximum penalty upon conviction is a fine of \$500,000 and imprisonment for five years.

Members of the public may report any suspected violations of the TDO to the Customs' 24-hour hotline 2545 6182 or its dedicated crime-reporting email account (crimereport@customs.gov.hk).

[LCQ13: Circulation and supply of as well as demand for public niches](#)

Following is a question by the Hon Jeremy Tam and a written reply by the Secretary for Food and Health, Professor Sophia Chan, in the Legislative Council today (April 17):

Question:

To enhance the circulation of niches, the Government has introduced legislative amendments to a piece of subsidiary legislation (which will be in operation with effect from April 26 this year) to implement an extendable arrangement for public niche allocation. Under that arrangement, the initial deposit period for ashes in niches is 20 years, which upon expiry may be

extended for 10 years each time on application and payment of the prevailing prescribed fees. The Food and Environmental Hygiene Department will remove ashes from those niches whose deposit period has not been extended upon expiry. Quite a number of members of the public have expressed to me their concern over the arrangement. Some elderly people living alone have remarked that they are deeply upset that as they have no descendants to apply for extension of the deposit period for their niches, their ashes will be removed after 20 years. Regarding the circulation and supply of as well as demand for public niches, will the Government inform this Council:

(1) whether the Government will suspend the implementation of the extendable arrangement for niche allocation and comprehensively consult the public and relevant stakeholders (including elderly centres, elderly care homes and relevant non-governmental organisations (NGOs) on the arrangement, and make a further decision in the light of the consultation outcome; if so, of the details; if not, the reasons for that;

(2) as the Government has indicated that some NGOs provide assistance to members of the public in need in applying for public niches or extension of the deposit period, of the names of such NGOs and the details of such assistance;

(3) given that some elderly people have no descendants or relatives to apply for the extension of the deposit period for their niches, whether the Government will exercise discretion to waive the requirement that the deposit period for niches must be extended every 10 years; if so, of the details; if not, the reasons for that;

(4) of the number of public niches to be provided by the Government in the coming 10 years, as well as their respective commissioning dates and locations, together with a breakdown by District Council district;

(5) whether the Government will, in constructing new public columbaria, adopt designs that can accommodate more niches, so as to increase the supply of public niches; if so, of the details; if not, the reasons for that; and

(6) how the Government will, in the coming three years, step up efforts in promoting green burial so as to change the traditional public concept of burial bringing peace to the deceased, thereby reducing the demand for niches?

Reply:

President,

(1) to (3) To cope with the increasing demand for niches due to the growing and ageing population in Hong Kong, the Government introduces the extendable niche arrangement to set an initial deposit period of 20 years to newly allocated public niches, followed by extension for 10 years recurrently on application. So long as the related persons (i.e. the niche allocatee or nominated representative(s)) apply for extension of the deposit period, there

is no time limit for the use of an allocated niche. This extendable arrangement would not affect existing public niches allocated for permanent use (including ashes co-located in the same niche).

The Legislative Council Panel on Food Safety and Environmental Hygiene was consulted on the extendable arrangement in February and April 2018. Most Panel members expressed in-principle support. The Panel also invited members of the public, including the 18 District Councils (DCs), to submit written views, which we have reverted in writing. We have also consulted 18 DCs or their relevant committees, the majority of which supported in principle the extendable arrangement. We consider that it is high time to implement the extendable arrangement.

We understand that some non-governmental organisations (NGOs) are currently providing after-death care services to elderly people without descendants or close relatives. The main objective is to help them make solemn, dignified choices for peace of mind in the rest of life. Their services include counselling, funeral, cremation and final disposal of ashes by green burial, etc. Temporary storage of cremated remains and application for a niche when an allocation exercise is available are also included. Upon the implementation of the extendable niche allocation arrangement, the services currently provided by such NGOs to the elderly could continue and would not be affected.

The Food and Environmental Hygiene Department (FEHD) has touched base with some NGOs providing the above-mentioned services and encouraged them to make use of the nomination arrangement, i.e. the niche allocatee can nominate two representatives, which can be staff of NGOs, and any of them can apply for extension in future. The arrangement also allows nomination of successors or other persons to take the places of the related persons anytime when necessary. We consider it necessary to let the NGOs explore and study in detail and hence inappropriate for us to disclose their names.

(4) The Government strives to take forward the district-based columbarium development scheme to increase the supply of public niches. We received support from relevant DCs on a number of projects, which are under different planning and design stages and which will altogether provide around 590 000 new niches. We will continue to press ahead remaining projects and consult the relevant DCs when ready. If taken forward successfully, they will provide another 300 000 niches.

Projects which have gone through DC consultation and obtained funding approval are as follow –

District	Location	Number of niches	Anticipated Year of Completion
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Wan Chai	Hong Kong Cemeteries and Crematoria Office (Part) of FEHD at Wong Nai Chung Road	855	2019
Tuen Mun	Tsang Tsui	163 320	2019
North District	Wo Hop Shek Cemetery (Phase 1)	44 000	2019
Islands	Cheung Chau Columbarium Extension#	1 250	2020
Islands	Lai Chi Yuen Cemetery Extension	790	2020
Eastern District	Cape Collison Road	25 000	2022

#Not under the district-based columbarium development scheme.

Furthermore, we consulted the Panel on April 16 on the public columbarium projects located in Shek Mun, Sha Tin and Sandy Ridge Cemetery, North District, which can provide around 40 000 and 54 000 niches respectively. We will seek funding approval from the Public Works Subcommittee and Finance Committee of the Legislative Council in due course.

(5) We have to conduct various preliminary studies and assessments on the proposed sites before pursuing columbarium projects, including those relating to topography, compatibility with adjacent land uses, supporting infrastructure as well as traffic and environmental impacts. Besides, the total number of niches to be provided hinges upon several factors including the outcome of traffic impact assessment, site and planning constraints. At present, the columbarium buildings under construction in Tsang Tsui and Wo Hop Shek are multi-storey. All along, we have built as many public niches as possible where feasible, taking into account geographical conditions.

(6) The efforts of the Government made in recent years to promote green burial have begun to bear fruit. The number of green burial cases handled by FEHD in 2018 accounted for about 13.3 per cent of the total number of deaths in Hong Kong (relative to 4.6 per cent in 2010). Taking into account those cases handled by private cemeteries, the total green burial cases in 2018 accounted for about 14.8 per cent of the number of deaths in the same year.

We understand that it takes time to make green burial as the preferred choice of handling of ashes of the public. The FEHD has deployed additional resources to promote green burial, including organising more exhibitions, public seminars and talks, producing and broadcasting promotional videos, distributing publications, putting up posters and banners as well as collaboration with relevant NGOs. We will continue with our efforts to enhance the existing green burial facilities and services, including identifying more suitable sites for building Gardens of Remembrance and continuing to provide free ferry service to scatter ashes of the deceased and pay tributes at designated areas.

The FEHD launched the Green Burial Central Register (GBCR) in January

2019 to encourage the public to register their wish for green burial. As at end March 2019, over 1 000 individuals have registered in the GBCR.

List of environmental impact assessments in first quarter 2019 released

The Environmental Protection Department today (April 17) released a list of completed and newly commenced statutory environmental impact assessments (EIAs) and non-statutory environmental studies for major development projects between January 1 and March 31, 2019.

Updated information related to the EIA Ordinance is available on the EIA Ordinance website at www.epd.gov.hk/eia.

Completed statutory EIAs and non-statutory environmental studies in the first quarter of 2019 include:

A. Statutory EIAs:

Nil

B. Non-statutory Environmental Studies:

Nil

Newly commenced statutory EIAs and non-statutory environmental studies include:

A. Statutory EIAs:

1. Yuen Long South Effluent Polishing Plant (EIA Study Brief no. ESB-313/2019)
(Drainage Services Department)
2. Hung Shui Kiu Effluent Polishing Plant (EIA Study Brief no. ESB-312/2019)
(Drainage Services Department)
3. A Rooftop Helipad at New Acute Hospital at Kai Tak Development Area (EIA Study Brief no. ESB-311/2019)
(Hospital Authority)

B. Non-statutory Environmental Studies:

[Speech by CE at International Dispute Resolution Conference 2019 \(English only\) \(with photos/video\)](#)

Following is the speech by the Chief Executive, Mrs Carrie Lam, at the International Dispute Resolution Conference 2019 today (April 17):

Commissioner Xie (Commissioner of the Ministry of Foreign Affairs of the People's Republic of China in the Hong Kong Special Administrative Region, Mr Xie Feng), Deputy Director General Ye (Deputy Director General of Department of Treaty and Law of the Ministry of Commerce Mr Ye Jun), Dr Law (President of the Hong Kong Mediation Centre, Dr Francis Law), the Honourable Mr Justice Poon (Justice of Appeal of the Court of Appeal of the High Court, Mr Justice Jeremy Poon), ladies and gentlemen,

Good morning. On behalf of the Hong Kong Special Administrative Region Government, I'm pleased to welcome you to today's International Dispute Resolution Conference, jointly organised by the United Nations Commission on International Trade Law, the Hong Kong Mediation Centre and the International Dispute Resolution and Risk Management Institute. Given our status as a leading international dispute resolution centre in Asia Pacific, I believe that Hong Kong is indeed the ideal location for this event, which brings together 500 professionals from various sectors to exchange ideas on the settlement of disputes.

The theme of today's conference is "New Era of Global Collaboration". It is a timely theme, for we need global collaboration more than ever to tackle the daunting challenges faced by the world. Uneven growth, diverging trade policies, financial instability and trade and investment disputes are rife worldwide. Indeed, the United Nations 2019 World Economic Situation and Prospects report notes that last year saw an upswing in trade tensions and a steep escalation in the number of disputes raised under the dispute settlement mechanism of the World Trade Organization. Beyond the more visible trade disputes, climate change and biodiversity challenges all call for global solutions.

An increase in international trade and investment disputes seems to be inevitable given the growth in cross-border economic activities and transactions, especially in Asia. Buoyed by domestic demand, Asia's GDP is expected to grow 6.1 per cent a year on average between now and 2023. Hong Kong is taking full advantage of that growth. Nine of our top 10 trading partners are from Asia, and they accounted for almost 80 per cent of our

merchandise trade in 2017. Given the Free Trade Agreement and related Investment Agreement between Hong Kong and the ASEAN, which were signed in 2017 and are expected to come into force later this year after the necessary ratification process, trade and investment in this region are bound to flourish in the years and decades to come.

Hong Kong, as a founding member of the World Trade Organization and a staunch supporter of free trade, would no doubt welcome trade growth. The key is to manage and settle the increasing number of disputes that come with it. In this regard, conventional litigation alone will not prove sufficient. Arbitration, given its established international conventions, rules and norms, has long been used to settle international disputes. And mediation is gradually sharing arbitration's spotlight in international dispute resolution. Mediation's attractions are many. It works to achieve an amicable resolution, given that settlements must be reached voluntarily. And that, of course, is conducive to maintaining business relationships among the parties involved.

That said, the lack of an effective method for enforcing mediated agreements has been an impediment to its international development. In that regard, I am pleased to note the approval, last year, of the Convention on International Settlement Agreements Resulting from Mediation and its subsequent adoption by the United Nations General Assembly. The Mediation Convention, with its enhanced enforceability, is expected to boost mediation, particularly investment mediation, as a global means of dispute resolution.

Hong Kong is actively preparing for that reality, providing dedicated training for investment mediators. The first Investment Law and Investor-State Mediator Training in Asia took place here last October. More than 50 dispute resolution practitioners and government officials from Asia and beyond took part.

As an international legal and dispute resolution services centre in the Asia Pacific region, Hong Kong will continue to follow closely the development on international mediation and arbitration, while embracing the immense opportunities that may emerge. Thanks to our "one country, two systems" framework, Hong Kong maintains our common law system, underpinned by an independent judiciary and a deep and varied pool of legal practitioners from all over the world. Hong Kong's judicial independence is recognised internationally and is ranked eighth among 140 economies. According to World Bank's World Governance Indicators, Hong Kong's percentile ranking in the rule of law has improved from 70 per cent in 1996 to 94 per cent in 2017, showing that the rule of law in Hong Kong has continued to improve over the years. Let me add that 14 eminent judges from other common law jurisdictions, including Australia, Canada and the United Kingdom, currently sit on our Court of Final Appeal as non-permanent judges, which in itself is a testimony to our rule of law and independent judiciary.

Our economic system is no less attractive. We maintain a free-market economy, offering a simple and low tax regime and a level playing field for companies. The Heritage Foundation has named Hong Kong the world's freest

economy for the past 25 years in a row. The Fraser Institute also ranks us consistently the first in economic freedom.

Those are our traditional strengths, and we are also developing new ones. In particular, innovation and technology is a policy priority of my Government, and Hong Kong is catching up quickly on that front. We are encouraging the application of technology in almost every aspect of our economy and society, including justice for cross-border disputes. A representative from our Department of Justice is chairing a Working Group in the Asia-Pacific Economic Cooperation (APEC), which has developed a framework for the online resolution of cross-border, business-to-business disputes. It will cut costs and overcome the geographical distance between parties involved. It will also promote the use of dispute-resolution services internationally.

To support APEC's work, non-governmental organisations here are creating an electronic Business Related Arbitration and Mediation system, or eBRAM in short. eBRAM is being developed as a secure and cost-effective deal-making and dispute-resolution online service for cross-border commercial and trade disputes, including those relating to projects under the Belt and Road Initiative. My Government is providing close to US\$20 million to support eBRAM's development and initial operation. We hope that eBRAM could facilitate business operation and achieve better access to justice by providing easily accessible and affordable dispute resolution services. We also hope that it could demonstrate Hong Kong's unique competitiveness under the "one country, two systems" principle in addressing the service need of various jurisdictions with different legal traditions.

In short, ladies and gentlemen, Hong Kong is determined, and my Government is committed, to Hong Kong's continuing rise as centre for international legal and dispute-resolution services. We look forward to your support.

Before I close, my thanks to the United Nations Commission on International Trade Law, the Hong Kong Mediation Centre and the International Dispute Resolution and Risk Management Institute for organising this important conference. I wish each and every one of you a rewarding day at the conference and here in Hong Kong, Asia's world city. Thank you very much.



LCQ19: Regulation of money lenders

Following is a question by the Hon Kenneth Leung and a written reply by the Secretary for Financial Services and the Treasury, Mr James Lau, in the Legislative Council today (April 17):

Question:

According to the Money Lenders Ordinance (Cap 163), no person shall carry on business as a money lender without a licence, except the persons specified in Part 1 of Schedule 1 (e.g. a bank) and the persons who make a loan as specified in Part 2 of Schedule 1. On regulating money lenders, will the Government inform this Council:

(1) of the number of licensed money lenders in each of the past five years, with a breakdown by type of business (e.g. vehicle financing and corporate/business lending); if such a breakdown is not available, of the reasons for that;

(2) as it is stipulated in section 24 of Cap. 163 that no person shall lend money at an effective rate of interest which exceeds 60 per cent per annum, whether the Government has studied if there is any room for adjusting downward the interest rate ceiling; if it has studied and the outcome is in the affirmative, of the details; if the study outcome is in the negative, the reasons for that;

(3) whether it will set up an independent institution to regulate money lenders and regulate money lenders on an ongoing basis under a risk-based approach; if so, of the details; if not, the reasons for that; and

(4) whether it will tighten the licensing conditions for money lenders to require that money lenders must, before approving a personal loan, conduct a test on the repayment ability of the loan applicant, so as to reduce the risk of over-borrowing on the part of the borrower; if so, of the details; if not, the reasons for that?

Reply:

President,

A consolidated reply to the question raised by the Hon Kenneth Leung is as follows:

(1) The number of licensed money lenders in each of the past five years is set out below:

As at	Number of licensed money lenders
December 31, 2018	2 153
December 31, 2017	1 994
December 31, 2016	1 848
December 31, 2015	1 605
December 31, 2014	1 309

Since the money lender licences granted by the Licensing Court do not restrict the types of money lending business to be conducted by the licensees, the Money Lenders Unit (MLU) of the Companies Registry does not have the relevant breakdown.

(2) and (3) Currently, the Licensing Court, the Police and the MLU have respective roles to play under the regulatory regime for money lenders. The Licensing Court is responsible for the determination of applications for and granting of money lender licences as well as the imposition of licensing conditions. The Police is responsible for enforcing the Money Lenders Ordinance (MLO), including examination of applications for money lender licences and renewal of licences, and investigating complaints against money lenders. As for the MLU, it is responsible for processing applications for money lender licences, maintaining a register of money lenders for public inspection, as well as adopting risk-based supervisory measures to monitor licensed money lenders' compliance with the MLO and the conditions imposed by the Licensing Court when carrying on their money lending business. The MLU also conducts site inspections to ensure licensed money lenders have appropriate systems and measures in place for their business operation.

Section 24 of the MLO provides that if any person lends at an effective rate of interest exceeding 60 per cent per annum, he shall commit an offence punishable on conviction by a fine and/or imprisonment, and the relevant loan agreement shall also be unenforceable. Section 25 of the MLO provides that where proceedings are taken in any court by any person for the recovery of any money lent, or on application by a debtor, the court may, if satisfied that the loan transaction is extortionate, reopen the transaction and substitute just terms. A transaction where the effective rate of interest exceeds 48 per cent per annum is presumed prima facie to be extortionate.

The regulatory regime for money lenders and the statutory provisions pertaining to money lending transactions have been operating smoothly and are effective in curbing loansharking activities in Hong Kong. The Government will continue to keep in view the operation of the regulatory regime.

(4) Money lenders, which are outside the banking system, provide an

alternative source of finance for individuals and enterprises which need to borrow money. Money lenders will conduct risk assessments on the repayment ability of borrowers in deciding whether to approve the loan applications and the relevant terms and conditions. To alert the public of the risk of over-borrowing, more stringent licensing conditions have been imposed on all money lenders since 2016. Licensed money lenders are required to include a warning statement in their advertisements, namely, "Warning: You have to repay your loans. Don't pay any intermediaries". The Government has also rolled out public education and publicity activities, including collaborations with the Investor and Financial Education Council and the Consumer Council to remind the public of issues requiring attention when borrowing and to promote the message of prudent borrowing.