

C043-E

A Bill to amend the Travel Agents Ordinance.

Enacted by the Legislative Council.

1. Short title and commencement

(1) This Ordinance may be cited as the Travel Agents (Amendment) Ordinance 2001.

(2) This Ordinance shall come into operation on a day to be appointed by the Secretary for Economic Services by notice published in the Gazette.

2. Long title amended

The long title to the Travel Agents Ordinance (Cap. 218) is amended by repealing "providing travel services in respect of travel outside or outward from Hong Kong".

3. Interpretation and application

Section 2 is amended---

(a) by repealing the definitions of "travel agent" and "travel service" and substituting---

"travel agent" (旅行代理商), except in Part IIIA, includes an inbound travel agent and an outbound travel agent;

"travel service" (旅行服務) includes an inbound travel service and an outbound travel service.";

(b) by adding---

"inbound travel agent" (到港旅行代理商) means a person who carries on business as an inbound travel agent within the meaning of section 4A;

"inbound travel service" (到港旅行服務) means a service provided through the carrying on of an activity described in section 4A(1)(a), (b) or (c) in respect of the provision of which a person is required to be licensed under this Ordinance;

"outbound travel agent" (外遊旅行代理商) means a person who carries on business as an outbound travel agent within the meaning of section 4;

"outbound travel service" (外遊旅行服務), except in Part IIIA, means a service provided through the carrying on of an activity described in section 4(1)(a) or (b) in respect of the provision of which a person is required to be licensed under this Ordinance;".

4. Outbound travel agents

Section 4 is amended---

(a) in subsection (1), by repealing "a travel agent if" and substituting "an outbound travel agent if, in Hong Kong,";

(b) in subsection (2)---

(i) by repealing "a travel agent" and substituting "an outbound travel agent";

(ii) in paragraph (b), by repealing "在該處佔用" and substituting "佔用該

處".

5. Section added

The following is added---

"4A. Inbound travel agents

(1) Subject to subsection (2), a person carries on business as an inbound travel agent if, in Hong Kong, he holds himself out as carrying on the business of, and carries on the business of, obtaining for another person---

(a) carriage, by any means of conveyance, on a journey the outbound portion of which is to commence outside Hong Kong and which either---

(i) terminates in Hong Kong; or

(ii) involves that other person passing through immigration controls before departing from Hong Kong;

(b) accommodation in Hong Kong for which payment is, or is to be, made to that person by or on behalf of that other person of an amount on account of the cost of that accommodation; or

(c) who is a visitor to Hong Kong, prescribed services.

(2) A person does not carry on business as an inbound travel agent---

(a) under subsection (1)(a) in respect of carriage by means of conveyance if the means of conveyance is one of which he is an operator;

(b) under subsection (1)(b) in respect of accommodation if the accommodation is intended to be occupied by the same person for a period exceeding 14 days;

(c) under subsection (1)(c) if he is the owner or operator of the service being provided to the visitor.

(3) In this section "operator" (營運人), in relation to a means of conveyance, means the person who alone or with others has for the time being the management of that means of conveyance."

6. Notice of intention to revoke

Section 20(1) is amended by repealing "19(b)" and substituting "19(1)(b)".

7. Interpretation

Section 32A(1) is amended by repealing the definition of "travel agent" and substituting---

" "travel agent" (旅行代理商) means an outbound travel agent who is the holder of a licence granted under section 11;".

8. Regulations

Section 50(1) is amended by adding---

"(fa) prescribe services obtained for persons who are visitors for the purpose of section 4A(1)(c), including the circumstances in which such services are obtained;".

Consequential Amendments

Travel Agents Regulations

9. Regulation added

The Travel Agents Regulations (Cap. 218 sub. leg.) is amended by adding---

"18. Prescribed services

For the purposes of section 4A(1)(c) of the Ordinance, the following services are prescribed---

- (a) sightseeing or visits to local places of interest;
- (b) restaurant meals or other catered meals;
- (c) shopping trips;
- (d) local transport in connection with an activity referred to in paragraph (a), (b) or (c)."

10. Second Schedule amended

The Second Schedule is amended---

(a) in Form 4, by adding---

"2A. Is it proposed that your business includes obtaining for another person--

(a) carriage, by any means of conveyance, on a journey the outbound portion of which is to commence outside Hong Kong and which either---

(i) terminates in Hong Kong; or

(ii) involves that other person passing through immigration controls before departing from Hong Kong?

Yes No

(b) accommodation in Hong Kong for which payment is, or is to be, made to that person by or on behalf of that other person of an amount on account of the cost of that accommodation?

Yes No

(c) who is a visitor services that are prescribed by regulations made under section 50(1)(fa) of the Travel Agents Ordinance?

Yes No ";

(b) in Form 5, by adding---

"1A. Is it proposed that your business includes obtaining for another person--

(a) carriage, by any means of conveyance, on a journey the outbound portion of which is to commence outside Hong Kong and which either---

(i) terminates in Hong Kong; or

(ii) involves that other person passing through immigration controls before departing from Hong Kong?

Yes No

(b) accommodation in Hong Kong for which payment is, or is to be, made to that person by or on behalf of that other person of an amount on account of the cost of that accommodation?

Yes No

(c) who is a visitor services that are prescribed by regulations made under section 50(1)(fa) of the Travel Agents Ordinance?

Yes No ".

Explanatory Memorandum

The purpose of this Bill is to make the regulatory provisions of the Travel Agents Ordinance (Cap. 218) applicable to persons who carry on business as inbound travel agents in Hong Kong.

2. The Bill---

(a) amends the long title (clause 2);

(b) adds new definitions of "inbound travel agent", "inbound travel service", "outbound travel agent" and "outbound travel service" (clause 3);

(c) makes consequential amendments to section 4 (clause 4);

(d) adds a new section describing what constitutes carrying on business as an inbound travel agent (clause 5);

(e) corrects a section cross reference in section 20 (clause 6);

(f) makes a consequential amendment to section 32A (clause 7);

(g) makes a consequential amendment to the regulation-making section (clause 8); and

(h) makes consequential amendments to the Travel Agents Regulations (Cap. 218 sub. leg.) (clauses 9 and 10).