

立法會
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**Paper for the House Committee Meeting
of the Legislative Council
on 5 October 2001**

**Legal Service Division Report on
Travel Agents (Amendment) Bill 2001**

Object of the Bill

To amend the Travel Agents Ordinance (Cap. 218) (the Ordinance) so as to establish a licensing scheme for regulating inbound travel agents in Hong Kong.

LegCo Brief Reference

2. ESB CR 21/2091/00 issued by the Economic Services Bureau dated 22 June 2001.

Date of First Reading

3. 11 July 2001.

Comments

4. The Ordinance which was enacted in 1985 regulates only outbound travel agents. In this Amendment Bill, by amending the definition of "travel agent" to include both inbound travel agent and outbound travel agent and making some other consequential amendments, the inbound travel agent comes under the purview of the Ordinance (except Part IIIA which is on the Travel Industry Compensation Fund).

5. An inbound travel agent is defined as a person who carries on the business of, in Hong Kong, obtaining for another person carriage on a journey which is to commence outside Hong Kong and terminates in Hong Kong, accommodation in Hong Kong or obtaining for a visitor prescribed services (Clause 5). The prescribed services are set out in the Travel Agents Regulations (see Clause 9) as -

- (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 (a), (b) or (c).

6. If this Bill is enacted, a person who wishes to carry on a business as an inbound travel agent will have to -

- (a) apply for a licence from the Registrar of Travel Agents (section 10 of the Ordinance);
(In order to be qualified for a licence, he has to be a fit and proper person, have a place of business in Hong Kong and be a member of the Travel Industry Council (TIC). To be a member of TIC, he has to comply with the TIC's Codes of Conduct and pay a membership fee.)
- (b) pay annual licence fee to the Registrar;
- (c) keep proper books of records for inspection (section 45); and
- (d) subject to the investigation by the Registrar (section 21). The Registrar can suspend or revoke his licence.

7. If a person carries on a business as an inbound travel agent without a licence, he commits an offence under section 48 and on conviction upon indictment, he is liable to a fine of \$100,000 and to imprisonment for 2 years. On summary conviction, he is liable to a fine of \$10,000 and to imprisonment for 6 months.

8. An inbound travel agent is excluded from the application of Part IIIA of the Ordinance. This means that the agent is not required to contribute to the Travel Industry Compensation Fund. Ex gratia payments from the Fund will therefore only be made in respect of outbound travellers and not inbound travellers.

Public Consultation

9. According to paragraph 13 of the LegCo Brief, the Administration has consulted the Advisory Committee on Travel Agents, and key industry bodies including the TIC, the Hong Kong Tourism Board, the Consumer Council, the Hong Kong Hotels Association, the Federation of Hong Kong Hotel Owners Ltd., the Hong Kong Association of Registered Tour Co-ordinators and the Hong Kong Inbound Tour Operator Association Ltd. on the proposed amendments. They generally welcomed the proposals.

Consultation with the LegCo Panel

10. The Administration briefed the LegCo Panel on Economic Services on the policy aspects of the Amendment Bill on 19 December 2000 (please refer to LC Paper No. CB(1)320/00-01(03) and Minutes of that meeting (LC Paper No. CB(1)461/00-01). Quite a number of members expressed views on the proposed Bill. Their concerns included -

- (a) the proposed definition of "inbound travel agents";
- (b) the proposed licensing requirements for inbound travel agents;
- (c) the mal-practices of inbound travel agents;
- (d) the complaints from tourists against inbound travel agents and tour co-ordinators or frontline service providers;
- (e) the composition of the Board of Directors of TIC;
- (f) the regulatory function of TIC;
- (g) the funding arrangements for TIC to take care of inbound visitors found unattended;
- (h) the draft Code of Conduct by TIC for inbound travel agents; and
- (i) the resource requirements of the Registry of Travel Agents.

The Chairman of the Panel concluded that members were generally in support of the legislative proposals covered by the Bill.

Conclusion

11. This Bill is to provide a legal framework to regulate inbound travel agents. We are seeking clarifications from the Administration on some drafting aspects of the Bill. It is recommended that a Bills Committee be set up to scrutinize the policy aspects of the Bill in detail.

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