

**HONG KONG TOURIST ASSOCIATION  
(AMENDMENT) ORDINANCE 2001**

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**HONG KONG SPECIAL ADMINISTRATIVE REGION**

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ORDINANCE No. 3 OF 2001

L.S.

Mrs. Anson CHAN  
Acting Chief Executive  
22 March 2001

An Ordinance to amend the Hong Kong Tourist Association Ordinance by replacing the Hong Kong Tourist Association and its board of management by a new body corporate; and to make related amendments.

[ ]

Enacted by the Legislative Council.

PART I

PRELIMINARY

**1. Short title and commencement**

(1) This Ordinance may be cited as the Hong Kong Tourist Association (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.

PART II

AMENDMENT OF HONG KONG TOURIST ASSOCIATION ORDINANCE  
AND ITS SUBSIDIARY LEGISLATION

**Hong Kong Tourist Association Ordinance**

**2. Long title substituted**

The long title to the Hong Kong Tourist Association Ordinance (Cap. 302) is repealed and the following substituted—

“To establish the Hong Kong Tourism Board as a body corporate and to provide for its objects and powers; and for related matters.”.

### 3. Short title

Section 1 is amended by repealing “Tourist Association” and substituting “Tourism Board”.

### 4. Interpretation

Section 2(1) is amended—

(a) in the definition of “Association”—

(i) by repealing “(香港旅遊協會)”;

(ii) by adding after “section 3”—

“that was in force immediately before the day appointed for the coming into operation of Part II of the Hong Kong Tourist Association (Amendment) Ordinance 2001 (3 of 2001);”;

(b) by repealing the definition of “Board” and substituting—

““Board” (發展局) means the Hong Kong Tourism Board established by section 3(1);”;

(c) by repealing the definitions of “international passenger carrier”, “recognized travel agent” and “scheduled journeys”;

(d) in the definition of “tour operator”, by repealing everything after “means” and substituting “a natural person who is engaged in a business in Hong Kong, and that business includes the organization of tours for or supplying of guides to visitors to Hong Kong.”;

(e) by adding—

““Chairman” (主席) means the Chairman of the Board appointed under section 9(5) or the person who acts in that office under section 9(7);

“Deputy Chairman” (副主席) means the Deputy Chairman of the Board appointed under section 9(5);

“Deputy Executive Director” (副總幹事) means a Deputy Executive Director of the Board appointed under section 8(1);

“Executive Director” (總幹事) means the Executive Director of the Board appointed under section 8(1);

“hotel operator” (旅館營運人) means a natural person who operates, keeps or manages a licensed hotel or who is otherwise in control of a licensed hotel;

- “licensed hotel” (持牌旅館) means a hotel within the meaning of section 2 of the Hotel and Guesthouse Accommodation Ordinance (Cap. 349) and is licensed under section 8 of that Ordinance or the licence of which is renewed under section 9 of that Ordinance;
- “licensed restaurant” (持牌食肆) means a restaurant within the meaning of section 31 of the Food Business Regulation (Cap. 132 sub. leg.) and is licensed under that section;
- “licensed travel agent” (持牌旅行代理商) means a natural person who is engaged in the business of a travel agent licensed under section 11 of the Travel Agents Ordinance (Cap. 218), and “travel agent” (旅行代理商) has the same meaning as in that Ordinance;
- “member” (成員) means a member of the Board appointed under section 9(1);
- “passenger carrier” (客運商) means a natural person who is engaged in the business of providing carriage for passengers into and out of Hong Kong;
- “restaurant operator” (食肆營運人) means a natural person who operates, keeps or manages a licensed restaurant or who is otherwise in control of a licensed restaurant;
- “retailer” (零售商) means a natural person who is engaged in a retail business in Hong Kong;”.

## **5. Section substituted**

Section 3 is repealed and the following substituted—

### **“3. Establishment of Board**

- (1) There is established by this section a body with the name “Hong Kong Tourism Board” in English and “香港旅遊發展局” in Chinese.
- (2) The Board is a body corporate and has perpetual succession.
- (3) The Board may sue and be sued either in its English name or in its Chinese name.”.

## **6. Objects of Board**

Section 4 is amended—

- (a) by repealing “Association” and substituting “Board”;

- (b) in paragraph (a), by repealing “number of visitors” and substituting “contribution of tourism”;
- (c) by repealing paragraph (b) and substituting—
  - “(b) to promote Hong Kong globally as a leading international city in Asia and a world class tourist destination;”;
- (d) by repealing paragraph (d) and substituting—
  - “(d) to support the Government in promoting to the community the importance of tourism;”;
- (e) in paragraph (e), by repealing “co-ordinate” and substituting “support, as appropriate,”.

**7. Section substituted**

Section 5 is repealed and the following substituted—

**“5. Seal of Board and authentication of the seal, and instruments executed under the seal**

(1) The Board shall have a common seal, and the fixing of the seal shall be authenticated by the signatures of—

- (a) the Chairman, or a member who is authorized for that purpose by the Board either generally or specially; and
- (b) some other person authorized for that purpose by the Board, either generally or specially.

(2) Any instrument purporting to be an instrument duly executed under the seal of the Board shall be received in evidence and shall, unless the contrary is proved, be taken to be an instrument so executed.”.

**8. Section substituted**

Section 6 is repealed and the following substituted—

**“6. Certain contracts or instruments not required to be under seal**

Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal, may be entered into or executed on behalf of the Board by any person generally or specially authorized by the Board for that purpose.”.

**9. Section substituted**

Section 7 is repealed and the following substituted—

**“7. General powers of Board**

The Board may do the following—

- (a) acquire, take on lease, purchase, hold, hire and enjoy any lands, premises and other property of any kind, and dispose of the same;
- (b) subject to the restrictions on future financial commitments set out in section 14A, enter into any contract;
- (c) engage in, assist, promote and advance such activities as are conducive to the better carrying out of the objects of the Board;
- (d) with the approval of the Financial Secretary, invest money not immediately required for the purposes of the Board;
- (e) with the approval of the Financial Secretary and subject to such conditions as the Financial Secretary may determine, borrow or otherwise raise money on such security as may be necessary;
- (f) for the purpose of borrowing or otherwise raising money in accordance with paragraph (e) charge all or any part of the property of the Board;
- (g) make copyright, trade mark and other intellectual property applications;
- (h) appoint such staff, agents or contractors as the Board considers necessary to carry out its objects;
- (i) delegate to the Executive Director, Deputy Executive Director or any other employees of the Board such of its powers and duties as it may consider expedient for the efficient conduct and management of the affairs of the Board; however, this delegation does not preclude the Board from exercising or performing at any time any of the powers or duties so delegated;
- (j) enter into, accept the assignment of, and vary or rescind any contract, agreement, memorandum of understanding or obligation;
- (k) publish periodicals, booklets and other written material, and produce or sponsor the production of documentary films and other audio-visual material, and distribute the same by sale or by loan, hire or otherwise with or without charge as the Board thinks fit;
- (l) establish and maintain offices both in and outside Hong Kong;
- (m) do all such things as are calculated to facilitate, or as are incidental or conducive to, the exercising or performing of the powers or duties of the Board and the better carrying out of the objects of the Board.”.



**10. Section substituted**

Section 8 is repealed and the following substituted—

**“8. Executive Director and Deputy  
Executive Director**

- (1) The Board shall, subject to subsection (3), appoint—
  - (a) 1 Executive Director; and
  - (b) 1 or more Deputy Executive Directors.
- (2) The Executive Director is the chief administrative officer of the Board.
- (3) The appointment of the Executive Director and the Deputy Executive Director, and the determination of their remuneration and other terms of appointment, shall be subject to the approval of the Chief Executive.”.

**11. Section substituted**

Section 9 is repealed and the following substituted—

**“9. Constitution and membership of Board**

- (1) The Board shall consist of 20 members who are natural persons to be appointed by the Chief Executive.
- (2) Of the 20 members—
  - (a) 2 shall be passenger carriers;
  - (b) 2 shall be hotel operators;
  - (c) 1 shall be a licensed travel agent;
  - (d) 1 shall be a tour operator;
  - (e) 1 shall be a retailer; and
  - (f) 1 shall be a restaurant operator.
- (3) The term of a member is 3 consecutive years, or such lesser period as the Chief Executive may determine at the time of appointment.
- (4) The Chief Executive may reappoint a member on the expiry of the term of that member.
- (5) The Board shall have a Chairman and a Deputy Chairman who are to be appointed by the Chief Executive from among the members.
- (6) The Chairman and Deputy Chairman hold office so long as they continue to be members.

(7) If the Chairman is temporarily incapacitated by injury or illness, or is temporarily absent from Hong Kong, the Deputy Chairman shall act in the office of the Chairman during the period when the Chairman is incapacitated by injury or illness, or is absent from Hong Kong.

(8) If the office of Chairman is vacant as a result of resignation or removal under section 10 or otherwise, the Deputy Chairman shall act in the office of the Chairman pending the appointment of a new Chairman.

(9) If the office of Deputy Chairman is also vacant, the Chief Executive shall appoint a member to act in the office of the Chairman—

- (a) during the period when the Chairman is incapacitated by injury or illness, or is absent from Hong Kong; or
- (b) pending the appointment of a new Chairman.”.

## **12. Section substituted**

Section 10 is repealed and the following substituted—

### **“10. Resignation and removal of member, Chairman and Deputy Chairman**

(1) A member may resign by giving a notice in writing to the Chief Executive.

(2) The Chairman or Deputy Chairman may resign by giving a notice in writing to the Chief Executive.

(3) The Chief Executive may remove a person from the office of member, Chairman or Deputy Chairman if the Chief Executive is satisfied that the member, Chairman or Deputy Chairman—

- (a) has become bankrupt or made a voluntary arrangement within the meaning of the Bankruptcy Ordinance (Cap. 6) with creditors; or
- (b) is incapacitated by physical or mental illness; or
- (c) is otherwise unable or unfit to exercise or perform the powers or duties of a member, Chairman or Deputy Chairman.”.

## **13. Board to be a body corporate**

Section 11 is repealed.

## **14. Seal of the Board and authentication thereof, and instruments executed thereunder**

Section 12 is repealed.

**15. Certain contracts and instruments not required to be under seal**

Section 13 is repealed.

**16. Board to have management of Association**

Section 14 is repealed.

**17. Restriction on future financial commitments**

Section 14A is amended by repealing “理事會” wherever it appears and substituting “發展局”.

**18. Board to make recommendations to Chief Executive on certain matters**

Section 15 is repealed.

**19. General powers of Board**

Section 16 is repealed.

**20. Chief Executive in Council may give directions**

Section 16A(1) is amended—

- (a) by repealing “理事會” wherever it appears and substituting “發展局”;
- (b) by repealing “執行其職責” and substituting “履行其責任”.

**21. Power of Board to appoint committees**

Section 17 is amended—

- (a) in subsection (1)—
  - (i) by repealing “The” and substituting “Subject to subsection (3), the”;
  - (ii) by repealing the colon and the proviso after it and substituting a full stop;
- (b) in subsection (2), by repealing “理事會的理事” and substituting “發展局的成員”;
- (c) by adding—
  - “(3) A delegation under subsection (1) does not preclude the Board from exercising or performing the powers or duties that have been delegated.”.

## **22. Grants**

Section 17A is amended by repealing everything after “assisting the” and substituting “Board to carry out its objects and to exercise its functions.”.

## **23. Estimates**

Section 17B is amended by repealing “理事會” wherever it appears and substituting “發展局”.

## **24. Accounts and audit**

Section 18(1) is amended by repealing everything after “relation” and substituting “to it, and shall prepare in respect of each financial year a statement of accounts.”.

## **25. Reports**

Section 19(1) is amended by repealing “and on the activities of the Association”.

## **26. Power of Board to make rules**

Section 20 is amended—

- (a) in paragraphs (a) and (b), by repealing “or the Association”;
- (b) by repealing paragraphs (c), (d) and (e);
- (c) in paragraph (f)—
  - (i) by repealing “執行” and substituting “履行”;
  - (ii) by repealing “職責” and substituting “責任”;
- (d) by repealing “理事會” wherever it appears and substituting “發展局”.

## **27. Meetings of Association**

Section 21 is repealed.

## **28. Section substituted**

Section 22 is repealed and the following substituted—

### **“22. Proceedings at meeting of Board**

Subject to this Ordinance, the proceedings at any meeting of the Board shall be conducted in such manner as the Board may determine.”.

**29. Section substituted**

Section 23 is repealed and the following substituted—

**“23. Validity of proceedings**

The validity of any proceedings of the Board shall not be affected by any defect in the appointment of any of its member or by any vacancy among its members.”.

**30. Prohibition of possession and use of badges or emblems**

Section 24 is repealed.

**31. Unauthorized use of the title of Board**

Section 25 is amended—

(a) in subsection (1)—

(i) by repealing everything before paragraph (a) and substituting—

“(1) Except with the written consent of the Board or other reasonable excuse, a person shall not incorporate or form, or be a director, office bearer or organizer of any company, body corporate, firm or organization which—”;

(ii) by repealing “the Association” wherever it appears and substituting “the Board”;

(iii) by repealing “thereof” where it twice appears and substituting “of the Board”;

(iv) in paragraph (b), by repealing “Tourist Association” or “香港旅遊協會” and substituting “Tourism Board” or “香港旅遊發展局”;

(b) in subsection (2), by repealing “of \$50,000” and substituting “at level 5”.

**32. Section substituted**

Section 26 is repealed and the following substituted—

**“26. Prohibition of possession and use of former badges or emblems of Association**

(1) Except with the written consent of the Board or other reasonable excuse, a person shall not use or be in possession for use a former badge or emblem.

(2) A person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine at level 5.

(3) In this section—

“former badge or emblem” (舊徽章或標記) means—

- (a) any badge of the Association, which badges are portrayed in the Schedule, or any copy or replica of the badge in any colour or size whatsoever; or
- (b) any badge, emblem or other device containing the words “Hong Kong Tourist Association” or the characters “香港旅遊協會”; or
- (c) any badge, emblem or other device that so resembles any badge, emblem or other device of the Association as to be capable of being mistaken for the badge, emblem or other device.

(4) This section expires at midnight on 31 December 2010 or such later date as the Legislative Council may by resolution determine.”.

**33. Section added**

The following is added—

**“27. Unauthorized use of title of Association**

(1) Except with the written consent of the Board or other reasonable excuse, a person shall not incorporate or form, or be a director, office bearer or organizer of any company, body corporate, firm or organization which—

- (a) purports or holds itself out to be—
  - (i) the Association or any branch or part of the Association; or
  - (ii) connected or associated with the Association in any manner; or
- (b) uses a title in any language which so resembles the title “Hong Kong Tourist Association” or “香港旅遊協會” as to deceive or mislead any person in believing that the company, body corporate, firm or organization is—

- (i) the Association or any branch or part of the Association; or
- (ii) connected or associated with the Association in any manner.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine at level 5.

(3) This section expires at midnight on 31 December 2010 or such later date as the Legislative Council may by resolution determine.”.

### **34. Schedule amended**

The Schedule is amended by repealing “[s. 24]” and substituting “[s. 26]”.

## **Hong Kong Tourist Association Rules**

### **35. Repeal**

The Hong Kong Tourist Association Rules (Cap. 302 sub. leg.) are repealed.

## **PART III**

### **SAVINGS AND TRANSITIONAL PROVISIONS**

### **36. Interpretation**

In this Part, unless the context otherwise requires—

“amended Ordinance” (經修訂條例) means the Hong Kong Tourist Association Ordinance as amended by Part II;

“appointed day” (指定日期) means the day appointed for the coming into operation of Part II;

“Association” (協會) means the Hong Kong Tourist Association established by section 3 of the Hong Kong Tourist Association Ordinance;

“Hong Kong Tourist Association Ordinance” (《香港旅遊協會條例》) means the Ordinance known as the Hong Kong Tourist Association Ordinance (Cap. 302) that was in force immediately before the appointed day;

“new Board” (發展局) means the Hong Kong Tourism Board established by section 3 of the amended Ordinance;

“old Board” (理事會) means the Board of Management established by section 9 of the Hong Kong Tourist Association Ordinance, and named the Hong Kong Tourist Association Board by section 11 of the Hong Kong Tourist Association Ordinance.

**37. Vesting of property, rights and liabilities of old Board in new Board and saving of validity of old Board's acts**

(1) All property, rights and liabilities of the old Board are vested in the new Board as from the appointed day by virtue of this subsection.

(2) Nothing in this Ordinance affects the validity of anything lawfully done by or in relation to the old Board before the appointed day.

(3) Anything that immediately before the appointed day is in the process of being done by or in relation to the old Board may be continued by or in relation to the new Board to the extent that it is consistent with this Ordinance.

**38. Provisions incidental and supplemental to section 37**

(1) Any agreement, arrangement or contract made or entered into or transaction effected or other things done by, to or in relation to the old Board that is in force or effective immediately before the appointed day or that is to take effect on or after that day has effect as from that day as if made, entered into, effected or done by, to or in relation to the new Board to the extent that it is consistent with this Ordinance.

(2) Accordingly, references to the old Board—

(a) in any agreement, arrangement or contract or in any record or in any deed, bond or instrument;

(b) in any process or other document issued, prepared or employed for the purpose of any proceeding before a court, tribunal or similar body; and

(c) in any other document whatever (other than an enactment) relating to or affecting any property, right or liability of the old Board that vests in the new Board under section 37,

are taken as from the appointed day as referring to the new Board in whatever terms as may be appropriate in the circumstances and to the extent that it is consistent with this Ordinance.

(3) The new Board may be sued for the liabilities to which it is subject under section 37 and they may be recovered from the new Board.

(4) The new Board may sue on, recover or enforce a chose in action vested in it under section 37 without having to give notice of the transfer to a person bound by the chose in action.

(5) The record of property of the old Board immediately before the appointed day that is in the form of an entry in the books of a bank, company or other corporation is to be transferred in those books to the new Board on the request of the new Board, by the bank, company or other corporation.



(6) The legal claims including present, future, actual and contingent claims by or against the old Board, including any accrued right of appeal, judicial and administrative proceedings instituted by or against the old Board that existed immediately before the appointed day do not abate by reason of the commencement of Part II. They may be continued or enforced by or against the new Board.

(7) The guarantees and indemnities given by the old Board become and are the liability of the new Board, and the guarantees and indemnities given to the old Board become and are the property of the new Board.

(8) Any delegation or authorization made by the old Board under the Hong Kong Tourist Association Ordinance is to continue in force to the extent that it is consistent with this Ordinance and in so far as it is necessary to continue its effect after the appointed day.

### **39. Member or chairman of old Board taken to be the same of new Board**

(1) A person who holds office as a member or chairman of the old Board immediately before the appointed day shall be taken to have been appointed to the office in the new Board by the Chief Executive under section 9 of the amended Ordinance.

(2) Such a member or Chairman of the new Board shall hold office so long as the member or chairman would have held office in the old Board.

(3) This section does not affect the power of the Chief Executive under section 10(3) of the amended Ordinance to remove a person from the office of member or Chairman.

### **40. Officer, servant or agent of Association taken to be the same of new Board**

(1) A person who has been appointed by the old Board under section 8(2) of the Hong Kong Tourist Association Ordinance as an officer, servant, agent, Executive Director or Deputy Executive Director of the Association and holds office immediately before the appointed day shall be taken to be appointed by the new Board under section 7(*h*) or 8(1) of the amended Ordinance to the same position in the new Board without any change to that person's remuneration and other terms of appointment.

(2) For the purposes of determining the right to a pension, gratuity or other benefits ("the benefits"), if any, or for computing the amount of any such benefits of a person who is taken to be appointed by the new Board under subsection (1), the period of employment of that person under the old Board is to be taken into account and the commencement of Part II is not to be taken as having broken the continuity of that person's employment.

(3) The appointment, remuneration and other terms of appointment of the Executive Director and Deputy Executive Director in subsection (1) shall be taken to have been approved by the Chief Executive under section 8(3) of the amended Ordinance.

**41. Ordinance to be construed as continuing only valid and lawful acts**

This Part shall not be construed as giving validity, continuing in force or giving effect to any or all of the following—

- (a) anything that could not have validly been done or given effect to under an enactment amended or repealed by this Ordinance;
- (b) anything done otherwise than in the lawful exercise of a power or performance of a duty.

**42. Provisions of this Part not to derogate from section 23 of Interpretation and General Clauses Ordinance**

The provisions of this Part are in addition to and not in derogation from section 23 of the Interpretation and General Clauses Ordinance (Cap. 1).

PART IV

CONSEQUENTIAL AMENDMENTS

**Specification of Public Offices**

**43. Schedule amended**

The Schedule to the Specification of Public Offices (Cap. 1 sub. leg.) is amended by repealing—

- |                      |   |
|----------------------|---|
| “Financial Secretary | Hong Kong Tourist Association Ordinance (Chapter 302), section 16( <i>da</i> ).       |
| Financial Secretary  | Hong Kong Tourist Association Rules (Chapter 302 subsidiary legislation), rule 3(1).” |

and substituting—

- |                      |   |
|----------------------|---|
| “Financial Secretary | Hong Kong Tourism Board Ordinance (Chapter 302), section 7( <i>d</i> ).”. |
|----------------------|---|

### **Specification of Public Office**

#### **44. Schedule amended**

The Schedule to the Specification of Public Office (L.N. 324 of 1999) (Cap. 1 sub. leg.) is amended by repealing—

“Chief Secretary for Administration Hong Kong Tourist Association Ordinance (Chapter 302), section 19(2).”

and substituting—

“Chief Secretary for Administration Hong Kong Tourism Board Ordinance (Chapter 302), section 19(2).”.

### **Prevention of Bribery Ordinance**

#### **45. Public bodies**

Schedule 1 to the Prevention of Bribery Ordinance (Cap. 201) is amended by repealing item 22 and substituting—

“22. Hong Kong Tourism Board.”.

### **Travel Agents Regulations**

#### **46. Schedule 2 amended**

Schedule 2 to the Travel Agents Regulations (Cap. 218 sub. leg.) is amended—

(a) in Form 4, in paragraph 3—

(i) by repealing subparagraph (a);

(ii) in subparagraph (c), by repealing “(b)” and substituting “(a)”;

(iii) by renumbering subparagraphs (b) and (c) as subparagraphs (a) and (b) respectively;

(b) in Form 5, in paragraph 2—

(i) by repealing subparagraph (a);

(ii) in subparagraph (c), by repealing “(b)” and substituting “(a)”;

(iii) by renumbering subparagraphs (b) and (c) as subparagraphs (a) and (b) respectively.

## **Protection of Investors Ordinance**

### **47. Schedule amended**

The Schedule to the Protection of Investors Ordinance (Cap. 335) is amended in Part IV by repealing item 4 and substituting—

“4. Hong Kong Tourism Board.”.

## **Legislative Council Ordinance**

### **48. Composition of the tourism functional constituency**

Section 20O(a) of the Legislative Council Ordinance (Cap. 542) is repealed.

## **Hong Kong Trade Development Council Ordinance**

### **49. Membership of the Council**

Section 11(1)(b)(iv) of the Hong Kong Trade Development Council Ordinance (Cap. 1114) is repealed and the following substituted—

“(iv) the Chairman of the Hong Kong Tourism Board.”.