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By fax and email

1 April 2016

Ms Shirley Chan
Clerk to Bills Committee
on Kai Tak Cruise Terminal Bill
Legislative Council Complex,
1 Legislative Council Road,
Central, Hong Kong

Dear Ms Chan,

Bills Committee on Kai Tak Cruise Terminal Bill

Follow-up to meeting on 23 March 2016

I refer to your letter of 29 March 2016 and the discussion at the Eighth Bills Committee meeting held on 23 March 2016 at which the Administration undertook to review whether there is a need to retain the term “paper” in clause 20(1)(a) of the Kai Tak Cruise Terminal Bill (the Bill).

As explained at the previous Bills Committee meetings, we have made reference to the Shipping and Port Control (Ferry Terminals) Regulations (Cap. 313H) which regulates other cross-boundary ferry terminals in Hong Kong in drafting the Bill. In particular, clause 20(1)(a) of the Bill actually models on regulation 32(1)(a) of Cap. 313H and both provisions include the term “paper”.

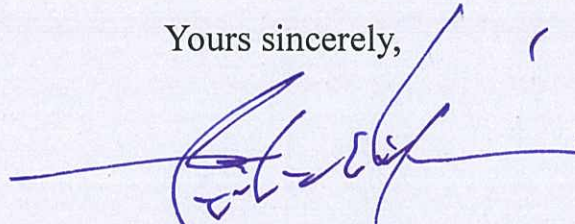
In the light of Members' specific concern on the need to include categorically the term "paper" in clause 20(1)(a) of the Bill, we have reviewed the need in the context of the operation of the Kai Tak Cruise Terminal (KTCT). We agree that the term "paper" could be omitted without compromising the efficiency in upholding the operation and security of KTCT in the regulatory regime as provided for under the Bill.

The Administration will move a committee-stage amendment (CSA) to delete the term "paper" in clause 20(1)(a) of the Bill.

In the light of the above, the revised set of CSAs to be moved by the Administration in conventional form and in mark-up form are at Annex I and Annex II respectively.

We should be grateful if you could help circulate the revised set of CSAs to all Members of the Bills Committee for information.

Yours sincerely,

A handwritten signature in blue ink, appearing to be 'George Tsoi', written over a horizontal line.

(George Tsoi)

for Commissioner for Tourism

Encl.

Kai Tak Cruise Terminal Bill

Committee Stage

Amendments to be moved by
the Secretary for Commerce and Economic Development

<u>Clause</u>	<u>Amendment Proposed</u>
2	<p>In the definition of <i>cruise ship</i>, by deleting everything after “means” and substituting—</p> <p>“—</p> <p>(a) a vessel—</p> <p>(i) carrying or intended to be used to carry passengers exclusively for sightseeing or pleasure purposes; and</p> <p>(ii) plying, along a predetermined route, on any voyage—</p> <p>(A) from a port outside Hong Kong to the same or another port outside Hong Kong, during the course of which Hong Kong is an intermediate port of call; or</p> <p>(B) which begins, ends or begins and ends within the waters of Hong Kong, whether or not the vessel calls at any port outside Hong Kong during its course; or</p> <p>(b) a vessel approved as such under section 22A;”.</p>
7	<p>By deleting the heading and substituting “Access by persons to and from Terminal Area and order to leave”.</p>
7	<p>By deleting subclause (2) and substituting—</p> <p>“(2) If the Commissioner or an authorized officer considers it necessary for the operation, safety or security of the Terminal, the Commissioner or officer may order a person to leave the Terminal Area, or any part of it.”.</p>

- 7(3) By deleting “The Commissioner or an authorized” and substituting “If the Commissioner or an authorized officer considers it necessary for the operation, safety or security of the Terminal, the Commissioner or”.
- 7(4) By deleting “or (2)”.
- 7(5) By adding “an order given under subsection (2) or” after “comply with”.
- 8 By deleting subclause (4) and substituting—
- “(4) If the Commissioner or an authorized officer considers it necessary for the operation, safety or security of the Terminal, the Commissioner or officer may—
- (a) give a direction or an order to the driver of a vehicle or the owner or master of a vessel (including an order requiring the vehicle or vessel to leave the Terminal Area, or any part of it); or
- (b) exhibit a notice or sign in a conspicuous place within or near the Terminal Area for vehicles or vessels.”.
- 8(6) By deleting “, (2) or (4)” and substituting “or (2)”.
- 8 By adding—
- “(7) If the driver of a vehicle or the owner or master of a vessel, without reasonable excuse, fails to comply with a direction or an order given, or a notice or sign exhibited, under subsection (4) while the vehicle or vessel is within, entering or leaving the Terminal Area, the driver, owner or master commits an offence and is liable on conviction to a fine at level 1.”.

- 16 By deleting subclause (1) and substituting—
- “(1) The Commissioner or an authorized officer may give an order, or exhibit a notice in a conspicuous place within the Terminal Area, to prohibit any person from doing any of the following within the Terminal Area—
- (a) selling anything;
 - (b) offering anything for sale, or offering any service;
 - (c) displaying or exhibiting any material for the purpose of advertisement or publicity (except where it is displayed or exhibited inside, or on the body of, a vehicle);
 - (d) distributing any material;
 - (e) making any public announcement—
 - (i) by radio or television; or
 - (ii) by video or cinematographic film.”.
- 16(2) By deleting “Subsection (1)” and substituting “The prohibition under subsection (1)”.
- 16(3) By deleting “Subsection (1)” and substituting “The prohibition under subsection (1)”.
- 16(4) By deleting “contravenes” and substituting “fails to comply with an order given, or a notice exhibited, under”.
- 17(2) By adding “reasonable” after “his or her”.
- 17(3) By adding “reasonable” after “his or her”.
- 18(2) In the English text, by deleting “Terminal Area except” and substituting “Terminal Area unless the activation is”.
- 19 By deleting the clause and substituting—
- “19. Compliance with direction, notice, etc.**

- (1) If the Commissioner or an authorized officer considers it necessary for the operation, safety or security of the Terminal, the Commissioner or officer may give a reasonable direction or order to any person.
- (2) If the Commissioner or an authorized officer considers it necessary for the operation, safety or security of the Terminal, the Commissioner or officer may exhibit a notice or sign in a conspicuous place within the Terminal Area.
- (3) If a person, without reasonable excuse, fails to comply with a direction or an order given under subsection (1), or a notice or sign exhibited under subsection (2), while the person is within the Terminal Area, the person commits an offence and is liable on conviction to a fine at level 1.”.

- 20(1)(a) By deleting “, paper”.
- 20(1)(e) By deleting “without reasonable cause” and substituting “with intent to commit an arrestable offence”.
- 21(2) By deleting “as soon as practicable” and substituting “to the extent practicable, forthwith”.
- 21(4) By adding “or a restricted area” after “Terminal Area”.
- 22(1) By deleting “Without limiting any other law, a” and substituting “A”.
- New By adding—

“22A. Commissioner may approve vessels as cruise ships

For the purposes of the definition of *cruise ship* in section 2, the Commissioner may approve a vessel not falling within paragraph (a) of that definition as a cruise ship.”.

Schedule 2 In the Chinese text, in section 4(1)(e), by deleting “ ° ” and substituting “ ’ ”.

Kai Tak Cruise Terminal Bill

Committee Stage

Proposed amendments to be moved by
the Secretary for Commerce and Economic Development

Definition of cruise ships to include other vessels

2. Interpretation

In this Ordinance—

...

cruise ship (郵輪) means—

~~(a) any~~ vessel—

~~(a)~~ carrying or intended to be used to carry passengers exclusively for sightseeing or pleasure purposes; and

~~(b)~~ plying, along a predetermined route, on any voyage—

~~(i)~~ from a port outside Hong Kong to the same or another port outside Hong Kong, during the course of which Hong Kong is an intermediate port of call; or

~~(ii)~~ which begins, ends or begins and ends within the waters of Hong Kong, whether or not the vessel calls at any port outside Hong Kong during its course; ~~;~~ **or**

(b) a vessel approved as such under section 22A;

~~and includes any other vessel approved by the Commissioner for the purposes of this Ordinance;~~

22A. Commissioner may approve vessels as cruise ships

For the purposes of the definition of *cruise ship* in section 2, the Commissioner may approve a vessel not falling within paragraph (a) of that definition as a cruise ship.

Controls on “operation, safety and security” grounds

7. Access by persons to and from ~~and remaining in~~ Terminal Area and order to leave by persons

(1) A person must not enter or leave the Terminal Area except—

(a) by an entrance or exit of the Terminal Area specified by the Commissioner or an authorized officer; or

(b) by means of a vessel.

(2) ~~A person must not remain in the Terminal Area, or any part of it, after being ordered to leave the Terminal Area, or that part of it, by~~ If the Commissioner or an authorized officer considers it necessary for the operation, safety or security

of the Terminal, the Commissioner or officer may order a person to leave the Terminal Area, or any part of it.

- (3) If ~~the~~ Commissioner or an authorized officer considers it necessary for the operation, safety or security of the Terminal, the Commissioner or officer may, by notice or sign exhibited in a conspicuous place within or near the Terminal Area, prohibit access by any person or class of persons to the Terminal Area, or any part of it.
- (4) A person who, without reasonable excuse, contravenes subsection (1) ~~or (2)~~ commits an offence and is liable on conviction to a fine at level 1.
- (5) A person who, without reasonable excuse, fails to comply with an order given under subsection (2) or a notice or sign exhibited under subsection (3) commits an offence and is liable on conviction to a fine at level 1.

8. Vehicles and vessels within, entering, leaving Terminal Area etc.

- (1) A person must not drive a vehicle into or out of the Terminal Area except by an entrance or exit of the Terminal Area specified by the Commissioner or an authorized officer.
- (2) Except with the permission of the Commissioner or an authorized officer, a person must not—
 - (a) navigate a vessel into, within or out of the Terminal Area; or
 - (b) cause an object to float on, or be in, the sea within the Terminal Area.
- (3) Subsection (2) does not apply in relation to—
 - (a) the navigation of a vessel that is used by a person acting in his or her capacity as a public officer;
 - (b) the navigation of a vessel that is scheduled to be berthed or anchored within the Terminal Area; or
 - (c) the use of a life-saving appliance in an emergency.
- (4) ~~While a vehicle or vessel is within, entering or leaving the Terminal Area, the driver of the vehicle or the owner or master of the vessel must comply with~~ If the Commissioner or an authorized officer considers it necessary for the operation, safety or security of the Terminal, the Commissioner or officer may —
 - (a) give a direction or an order to the driver of a vehicle or the owner or master of a vessel given by the Commissioner or an authorized officer (including an order requiring directing the vehicle or vessel to leave the Terminal Area, or any part of it); and/or
 - (b) exhibit a notice or sign ~~exhibited~~ in a conspicuous place within or near the Terminal Area for vehicles or vessels by the Commissioner or an authorized officer.
- (5) Without limiting subsection (4)(b), the Commissioner or an authorized officer may exhibit a notice or sign under that subsection to prohibit access by—
 - (a) any vehicle or class of vehicles; or
 - (b) any vessel or class of vessels, to the Terminal Area, or any part of it.
- (6) A person who, without reasonable excuse, contravenes subsection (1), or (2) ~~or (4)~~ commits an offence and is liable on conviction to a fine at level 1.

(7) If the driver of a vehicle or the owner or master of a vessel, without reasonable excuse, fails to comply with a direction or an order given, or a notice or sign exhibited, under subsection (4) while the vehicle or vessel is within, entering or leaving the Terminal Area, the driver, owner or master commits an offence and is liable on conviction to a fine at level 1.

19. Compliance with direction, notice, etc.

~~(1) A person, while within the Terminal Area, must comply with—~~

~~(a) a reasonable direction or order given by the Commissioner or an authorized officer; or~~

~~(b) a notice or sign exhibited by the Commissioner or an authorized officer.~~

~~(2) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 1.~~

(1) If the Commissioner or an authorized officer considers it necessary for the operation, safety or security of the Terminal, the Commissioner or officer may give a reasonable direction or order to any person.

(2) If the Commissioner or an authorized officer considers it necessary for the operation, safety or security of the Terminal, the Commissioner or officer may exhibit a notice or sign in a conspicuous place within the Terminal Area.

(3) If a person, without reasonable excuse, fails to comply with a direction or an order given under subsection (1), or a notice or sign exhibited under subsection (2), while the person is within the Terminal Area, the person commits an offence and is liable on conviction to a fine at level 1.

Control on business activities and advertising

16. Business activities and advertising

~~(1) Except with the permission of the Commissioner or an authorized officer, a person must not, may give an order, or exhibit a notice in a conspicuous place within the Terminal Area, to prohibit any person from doing any of the following within the Terminal Area—~~

~~(a) selling anything;~~

~~(b) offering anything for sale, or offering any service;~~

~~(c) displaying or exhibiting any material for the purpose of advertisement or publicity (except where it is displayed or exhibited inside, or on the body of, a vehicle);~~

~~(d) distributing any material; or—~~

~~(e) making any public announcement—~~

~~(i) by radio or television; or~~

~~(ii) by video or cinematographic film.~~

(2) The prohibition under S subsection (1) does not affect the performance of a function—

(a) by a person acting in his or her capacity as a public officer; or

- (b) by a person who is an employee of the Hong Kong Tourism Board acting in the course of that employment.
- (3) The prohibition under Ssubsection (1) does not apply in relation to anything done on board a vessel.
- (4) A person who, without reasonable excuse, ~~contravenes~~ fails to comply with an order given, or a notice exhibited, under subsection (1) commits an offence and is liable on conviction to a fine at level 1.

Prohibition on causing of danger, nuisance, etc

17. Danger, nuisance, etc.

- (1) A person must not cause any danger, nuisance or annoyance to another person within the Terminal Area.
- (2) The Commissioner or an authorized officer may prohibit a person from entering, or order a person to leave, the Terminal Area, or any part of it, if, in his or her reasonable opinion, the person has caused, is causing or will probably cause disturbance to the operation of the Terminal.
- (3) The Commissioner or an authorized officer may prohibit a person from entering, or order a person to leave, the Terminal Area, or any part of it, if, in his or her reasonable opinion, the person—
- (a) is under the influence of alcohol, medicine or drug; and
- (b) is a probable danger or source of nuisance or annoyance to another person within the Terminal Area.
- (4) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 1.
- (5) A person who, without reasonable excuse, fails to comply with a prohibition or an order imposed on the person under subsection (2) or (3) commits an offence and is liable on conviction to a fine at level 1.
- (6) To avoid doubt, subsection (2) or (3) does not limit section 7(2) or (3).

Interference with equipment

- 18(2) Except with the permission of the Commissioner or an authorized officer or with lawful authority, a person must not activate any emergency or safety device within the Terminal Area ~~except unless the activation is~~ —
- (a) for the purpose for which the device is provided; and
- (b) in accordance with any instructions shown on the device.

Prohibitions regarding “throwing, depositing, leaving or dropping paper” and “loitering”

20. Other prohibited acts

- (1) A person must not, while within the Terminal Area—
 - (a) throw, deposit, leave or drop litter, ~~paper~~ or rubbish (other than in a bin or container provided for the purpose);
 - (b) throw, deposit, leave or drop anything capable of causing injury to a person or damage to property;
 - (c) open, remove or climb over any wall, fence, railing, barrier, gate or post constructed or erected within the Terminal Area;
 - (d) without reasonable excuse, set out or leave anything which obstructs, inconveniences or endangers, or may obstruct, inconvenience or endanger, another person or any vehicle or vessel;
 - (e) loiter in the Terminal Area ~~without reasonable cause~~ with intent to commit an arrestable offence;
 - (f) beg;
 - (g) fish; or
 - (h) smoke or carry a lighted cigarette, cigar or pipe.
- (2) Subsection (1) does not apply in relation to anything done on board a vessel.
- (3) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 1.

Power to detain (amendment to English text only)

21. Enforcement powers

- (4) If the Commissioner or an authorized officer has reasonable grounds for suspecting that a person has committed an offence under this Ordinance, the Commissioner or officer may, without warrant and if necessary by using reasonable force, detain the person.
- (5) If a person is detained under subsection (1) by the Commissioner or by an authorized officer who is not a law enforcement officer, then the Commissioner or officer must, ~~as soon as~~ to the extent practicable, forthwith after detaining the person —
 - (a) take the person to a police station to be dealt with in accordance with the Police Force Ordinance (Cap. 232); or
 - (b) deliver the person into the custody of a police officer to be dealt with in accordance with that Ordinance.

Power to remove person committing offences relating to performance of functions under this Ordinance

21. Enforcement powers

- (4) If the Commissioner or an authorized officer has reasonable grounds for suspecting that a person has committed an offence under section 7, 12 or 22, the Commissioner or officer may, without warrant and if necessary by using reasonable force, remove the person from the Terminal Area or a restricted area.

Miscellaneous

22. Offences relating to performance of functions under this Ordinance

- (1) ~~Without limiting any other law, A~~ person commits an offence if the person—
- (a) wilfully obstructs the Commissioner or an authorized officer in the performance of a function under this Ordinance; or
 - (b) falsely pretends to be a person acting under the authorization or delegation by the Commissioner under this Ordinance.

Textual

Schedule 2 In the Chinese text, in section 4(1)(e), by deleting “ ° ” and substituting “ , ”.

- ENDS -