

**立法會**  
**Legislative Council**

LC Paper No. CB(4)683/15-16  
(These minutes have been seen  
by the Administration)

Ref: CB4/BC/3/14

**Bills Committee on Kai Tak Cruise Terminal Bill**

**Minutes of the fifth meeting held on  
Tuesday, 2 February 2016, at 10:45 am  
in Conference Room 1 of the Legislative Council Complex**

**Members present** : Hon CHAN Kam-lam, SBS, JP (Chairman)  
Hon James TO Kun-sun  
Hon Andrew LEUNG Kwan-yuen, GBS, JP  
Hon WONG Ting-kwong, SBS, JP  
Hon Cyd HO Sau-lan, JP  
Hon Paul TSE Wai-chun, JP  
Hon Alan LEONG Kah-kit, SC  
Hon Frankie YICK Chi-ming, JP  
Hon YIU Si-wing, BBS  
Hon SIN Chung-kai, SBS, JP  
Ir Dr Hon LO Wai-kwok, SBS, MH, JP  
Hon CHUNG Kwok-pan  
Hon Tony TSE Wai-chuen, BBS

**Members attending:** Hon WU Chi-wai, MH  
Hon Charles Peter MOK, JP

**Member absent** : Hon WONG Kwok-kin, SBS

**Public Officers  
attending** : **Agenda item I**

Commerce and Economic Development Bureau

Miss Rosanna LAW, JP  
Deputy Commissioner for Tourism

Mr George TSOI  
Assistant Commissioner for Tourism 4

Ms Carrie LEE  
Senior Administrative Officer (Tourism)4

Department of Justice

Mr Henry CHAN  
Senior Government Counsel

Miss Queenie WU  
Government Counsel

**Clerk in attendance** : Ms Shirley CHAN  
Chief Council Secretary (4)5

**Staff in attendance** : Ms Clara TAM  
Assistant Legal Adviser 9

Ms Anki NG  
Senior Council Secretary (4)5

Ms Zoe TONG  
Legislative Assistant (4)5

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Action

**I. Meeting with the Administration**

(LC Paper No. CB(4)548/15-16(01) — List of follow-up action(s)  
arising from the discussion at  
the meeting on 19 January  
2016

LC Paper No. CB(4)548/15-16(02) — Administration's response to  
issue(s) raised at the meeting  
on 19 January 2016

LC Paper No. CB(3)828/14-15 — The Bill

Action

LC Paper No. CB(4)41/15-16(01) — Marked-up copy of related amendments to existing three items of subsidiary legislation prepared by the Legal Service Division (Restricted to members only)

Discussion

The Bills Committee deliberated (Index of proceedings attached at **Annex**).

Follow-up actions to be taken by the Administration

2. The Administration was requested to provide information and response to the following –

- (a) reason(s) for including Clause 15(1)(a) in the Kai Tak Cruise Terminal Bill ("the Bill") given that the circumstances envisaged to be addressed by the said Clause appeared to have been covered by other maritime legislation;
- (b) regarding Clause 16(1) of the Bill which set out the general prohibitions against unauthorized business and advertising activities within the Terminal Area, the locations and the boundaries of such area as well as the designated commercial areas where permissions were given to carry out business and advertising activities and the terms and conditions of the permissions;
- (c) whether there was any overlap in the scope of prohibited acts set out in Clauses 16, 17 and 20 of the Bill and if so, whether the Administration would consider re-drafting the relevant Clauses;
- (d) regarding Clauses 17(2) and 17(3) of the Bill, whether the phrase "in his or her opinion" could be amended to "in his or her reasonable opinion" to bring in an objective standard, and if not, the reason(s);
- (e) factors/circumstances that would be taken into account in assessing whether any prohibited act had been committed under Clauses 17(2) and 17(3) of the Bill;
- (f) what and how enforcement actions would be taken against the prohibited acts set out in Clauses 17(2) and 17(3) of the Bill;

Action

- (g) examples of prosecution cases involving prohibited acts which amounted to commission of criminal offences provided under the Shipping and Port Control (Ferry Terminals) Regulations (Cap. 313H) as well as under other legislation and the charges laid, the reason for the choice of charges laid, and the relevant penalties imposed;
- (h) a comparison of criminal offences which had been included in the Bill and those in Cap. 313H; and
- (i) a list setting out the classes of authorized officers and delegates and the enforcement powers proposed/intended to be delegated to each class of officers and delegates under each offence provision in the Bill and the relevant qualifications and training requirements for exercising such enforcement powers.

*(Post-meeting note: The Administration's written response was issued to members vide LC Paper No. CB(4)631/15-16(03) on 22 February 2016.)*

**II. Any other business**Date of next meeting

3. The Chairman advised that the next meeting of the Bills Committee would be held on Tuesday, 23 February 2016 at 8:30 am.
4. There being no other business, the meeting ended at 12:33 pm.

Council Business Division 4  
Legislative Council Secretariat  
7 March 2016

**Proceedings of the fifth meeting of  
the Bills Committee on Kai Tak Cruise Terminal Bill  
on Tuesday, 2 February 2016, at 10:45 am  
in Conference Room 1 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<b>Agenda item I – Meeting with the Administration</b>			
000405 – 000746	Chairman Administration	Chairman's opening remarks  Briefing by the Administration on its written response (LC Paper No. CB(4)548/15-16(02)) to issues raised at the meeting on 19 January 2016	
<b>Continuation of Clause-by-Clause Examination of the Bill</b>			
000747 – 001014	Chairman Administration	<b>Part 3 – Access to Terminal Area</b>  <u>Clause 8 – Vehicles and vessels within, entering, leaving Terminal Area etc.</u>  Following the progress of previous meetings, members started with Clause 8(2) in scrutinizing the Bill. Members raised no query on Clauses 8(2) and 8(3).	
001015 – 001257	Chairman Mr Frankie YICK Administration	<b>Part 2 – The Terminal</b>  <u>Clause 5 – Operation and management of Terminal</u>  Referring to Clause 5(3) of the Bill which empowered the Commissioner for Tourism and the terminal operator of the Kai Tak Cruise Terminal ("KTCT") to charge fees on a commercial basis, Mr Frankie YICK enquired whether a mechanism had been set up to monitor the level of berthing fees charged.  The Administration responded that bidders for operating KTCT had been required to propose a ceiling on the berthing fees to be charged during the tender exercise. Thus, the successful bidder, i.e. the current terminal operator, could only charge berthing fees that were within such prescribed ceiling as agreed by the Government.	
001258 – 001539	Chairman Administration	<b>Part 3 – Access to Terminal Area</b>  <u>Clause 8 – Vehicles and vessels within, entering, leaving Terminal Area etc.</u>  Members raised no query on Clauses 8(4) – 8(6).	

Time marker	Speaker	Subject(s)	Action required
001540 – 003016	Chairman Administration Mr Tony TSE Mr WONG Ting-kwong	<p><b>Part 4 – Restricted Areas</b></p> <p><u>Clause 9 – Permanent and non-permanent restricted areas</u></p> <p><u>Clause 10 – Temporary cessation of restricted areas</u></p> <p>Mr Tony TSE enquired about the effective dates of the notices under Clauses 9(1) and 10(1) of the Bill. He opined that to avoid confusion, users of KTCT should be timely informed of the changes in the boundaries of the permanent and non-permanent restricted areas, as well as the temporary cessation of non-permanent restricted areas.</p> <p>Mr WONG Ting-kwong was concerned about the legal effect of the "notice" under Clauses 9(1) and 10(1), in which the former was to be published in the Gazette while the latter was not.</p> <p>The Administration advised that the "notice" to be issued under both Clauses would bear legal effect. While the designation and revocation of permanent and non-permanent restricted areas should be made through gazettal under Clause 9(1), gazettal of notice was not required in the temporary cessation of restrictions for non-permanent restricted areas under Clause 10(1).</p>	
003017 – 003103	Chairman Administration	<p><u>Clause 11 – Demarcation of restricted areas</u></p> <p>Members raised no query on Clause 11.</p>	
003104 – 003839	Chairman Administration Mr WONG Ting-kwong	<p><u>Clause 12 – Prohibition of entry etc. to restricted areas</u></p> <p>Mr WONG Ting-kwong's enquiry and the Administration's response on the meaning of "authorized officer" under Clause 12(1)(b), and the accessibility to restricted areas by persons working in such areas (e.g. staff of the commercial sub-tenants).</p>	
003840 – 004058	Chairman Mr WU Chi-wai	Discussion on the use of restricted areas when no vessels were berthing at KTCT	
004059 – 004113	Chairman Administration	<p><u>Clause 13 – Passes</u></p> <p>Members raised no query on Clause 13.</p>	

Time marker	Speaker	Subject(s)	Action required
004114 – 005439	Chairman Administration Assistant Legal Adviser 9 ("ALA9") Mr Frankie YICK Mr James TO	<p data-bbox="563 199 1256 271"><u>Clause 14 – Exemption for bona fide passengers and crew members</u></p> <p data-bbox="563 322 1256 427">ALA9's enquiry and the Administration's response on exemption for bona fide passengers and crew members under Clause 14(2) of the Bill.</p> <p data-bbox="563 479 1256 551">Referring to Clauses 14(1) and 14(2), the Administration advised that –</p> <ul style="list-style-type: none"> <li data-bbox="563 602 1256 745">(a) it was the general practice of the cruise industry that the travel documents of passengers and crew members on board were kept by the cruise line;</li> <li data-bbox="563 797 1256 976">(b) bona fide passengers or crew members might pass through a restricted area for joining shore excursion or other activities without a valid travel document as long as they had not checked out of the cruise; and</li> <li data-bbox="563 1028 1256 1252">(c) therefore, there could be circumstances that bona fide passengers within a restricted area would not have with them a valid travel document if they had not checked out of the cruise. In view of this, the word "or" in Clause 14(2), instead of “and”, was used.</li> </ul> <p data-bbox="563 1303 1256 1375">Mr Frankie YICK opined that it was appropriate to use the word "or" in Clause 14(2).</p> <p data-bbox="563 1426 1256 1498">Mr James TO's enquiry and the Administration's response on the meaning of "bona fide passengers".</p> <p data-bbox="563 1550 1256 1729">Mr TO's enquiry and the Administration's response on the personal information contained in the "valid document issued by the owner or master of the vessel for identifying the passengers ..... of the vessel" as stated in Clause 14(2)(b).</p>	
005440 – 005805	Chairman Mr James TO Administration	<p data-bbox="563 1783 1256 1854"><u>Clause 12 – Prohibition of entry etc. to restricted areas</u></p> <p data-bbox="563 1906 1174 1942">Discussion on the coverage of "restricted areas"</p> <p data-bbox="563 1993 1256 2065">Discussion on the designation and temporary cessation of non-permanent restricted areas</p>	

Time marker	Speaker	Subject(s)	Action required
005806 – 010726	Chairman Administration Mr James TO	<p><b>Part 5 – General Prohibitions</b></p> <p><u>Clause 15 – Embarkation and disembarkation</u></p> <p>Mr James TO's enquiry and the Administration's response on the need of including Clause 15(1)(a) in the Bill if such prohibitions had been covered by other maritime legislation.</p> <p>Mr TO's enquiry and the Administration's response on the need of Clauses 15(1)(a) and 15(1)(b).</p>	The Administration to follow up as per paragraph 2(a) of the minutes
010727 – 012237	Chairman Administration Mr James TO	<p><u>Clause 16 – Business activities and advertising</u></p> <p>Discussion on the restrictions on business activities and advertising within the Terminal Area under Clause 16(1)</p> <p>Mr James TO considered that the prohibitions against unauthorized business and advertising activities within the Terminal Area under Clause 16(1) might be too stringent. He requested the Administration to provide information on the locations and the boundaries of the Terminal Area as well as the designated commercial areas where permissions were granted to carry out business and advertising activities. He also requested the Administration to provide the terms and conditions of the permissions.</p> <p>In response to Mr TO's enquiry about the reasons for including only employees of the Hong Kong Tourism Board ("HKTB") under Clause 16(2)(b), the Administration advised that due to the nature of work and operational needs for HKTB staff stationing at KTCT to perform their duties in various locations within the Terminal Area (e.g. stationing at the visitor centre and distributing leaflets at the taxi stand), it was more appropriate to grant such permission through an exempted clause in the Bill. The Administration would, following the provisions in the Bill, consider giving permission to other organizations for conducting certain activities (e.g. distributing leaflets) within the Terminal Area if such applications were received in future.</p>	The Administration to follow up as per paragraph 2(b) of the minutes
012238 – 013134	Chairman Administration Mr James TO	<p><u>Clause 17 – Danger, nuisance, etc.</u></p> <p>Discussion on whether there was any overlap of scope in Clauses 16, 17 and 20 regarding the prohibited acts in the Terminal Area</p>	The Administration to follow up as per paragraphs

Time marker	Speaker	Subject(s)	Action required
		<p>Mr James TO's suggestion of and the Administration's response to amending the phrase "in his or her opinion" to "in his or her reasonable opinion" under Clauses 17(2) and 17(3).</p> <p>Mr TO's enquiry and the Administration's response on the factors to be taken into account when assessing whether a prohibited act under Clauses 17(2) and 17(3) had been/ would be committed.</p>	2(c) – (e) of the minutes
013135 – 013738	Chairman Mr Alan LEONG Administration	<p>Discussion on the criminal offences under the Bill and the Shipping and Port Control (Ferry Terminals) Regulations (Cap. 313H)</p> <p>Mr Alan LEONG was concerned about the criteria adopted in considering what criminal offences were to be included in the Bill.</p> <p>The Administration advised that in drafting the Bill –</p> <ul style="list-style-type: none"> <li>(a) due regard had been paid to the use, operation, management and control of KTCT. Relevant government departments had also been consulted;</li> <li>(b) reference had been drawn mostly from Cap. 313H governing cross-boundary piers, the operation of which was similar to KTCT;</li> <li>(c) factors of counter-terrorist activities had been considered; and</li> <li>(d) major criminal offences, for example, smuggling, drug trafficking would continue to be governed by relevant legislation instead of being regulated under the Bill.</li> </ul> <p>Upon the enquiry and request of Mr LEONG, the Administration undertook to provide the following information for members' reference –</p> <ul style="list-style-type: none"> <li>(a) examples of prosecution cases which involved criminal offences under both Cap. 313H and other legislation together with details of the charges laid; and</li> <li>(b) a list comparing the criminal offences under the Bill and Cap. 313H.</li> </ul>	The Administration to follow up as per paragraphs 2(g) and (h) of the minutes

Time marker	Speaker	Subject(s)	Action required
013739 – 014207	Chairman Mr James TO Administration	<p>Clause 17 – Danger, nuisance, etc.</p> <p>Mr James TO's enquiry and the Administration's response on under what circumstances could a person outside the Terminal Area be considered as causing disturbance to the operation of KTCT, and hence might be prohibited from entering the Terminal Area as stated under Clause 17(2).</p> <p>Mr TO expressed concern about the enforcement actions to be taken against the prohibited acts set out in Clauses 17(2) and 17(3) and requested the Administration to provide further information.</p>	The Administration to follow up as per paragraph 2(f) of the minutes
014208 – 014852	Chairman Mr Alan LEONG Administration	<p>Discussion on the delegation of powers</p> <p>Mr Alan LEONG's enquiry and the Administration's response on the requirements of persons other than public officers who would be delegated/sub-delegated to exercise the enforcement powers under the Bill.</p> <p>Upon the request of Mr LEONG, the Administration undertook to provide a list setting out details of the delegation of powers and the relevant qualifications and training requirements to each class of officers and delegates for exercising the enforcement powers under the Bill.</p>	The Administration to follow up as per paragraph 2(i) of the minutes
<b>Agenda item II –Any other business</b>			
014853 – 014944	Chairman	Date of next meeting	