

**立法會**  
**Legislative Council**

LC Paper No. CB(4)803/15-16  
(These minutes have been seen  
by the Administration)

Ref: CB4/BC/3/14

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

**Minutes of the seventh meeting held on  
Tuesday, 1 March 2016, at 4:30 pm  
in Conference Room 2A 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 WONG Kwok-kin, SBS  
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  
Hon Tony TSE Wai-chuen, BBS

**Members absent** : Ir Dr Hon LO Wai-kwok, SBS, MH, JP  
Hon CHUNG Kwok-pan

**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

Miss 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 Lauren LI  
Council Secretary (4)5

Ms Zoe TONG  
Legislative Assistant (4)5

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Action

**I. Meeting with the Administration**

Continuation of clause-by-clause examination of the Bill

(LC Paper No. CB(4)658/15-16(01) — List of follow-up actions arising from the discussion at the meeting on 23 February 2016

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

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))

ActionDiscussion

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 –
  - (a) consider defining the prohibited acts under clause 20 of the Kai Tak Cruise Terminal Bill ("the Bill"), in particular, the words/terms "paper" under clause 20(1)(a), "drop anything", "capable of causing injury to a person or damage to property" under clause 20(1)(b) and "leave anything which obstructs, inconveniences...or may obstruct, inconvenience...." under clause 20(1)(d);
  - (b) consider deleting clause 20(1)(e) which specified that a person who loitered in the Terminal Area ("TA") without reasonable cause would commit an offence;
  - (c) consider amending clause 20(1)(h) to allow flexibility in providing designated smoking areas in TA in future;
  - (d) provide a list of the prohibitions provided in the Bill which would only apply in TA and would not apply in relation to anything done on board a vessel, and explain the rationale behind such an exclusion;
  - (e) provide a list of the prohibitions provided in the Bill which would apply in both TA and in relation to anything done on board a vessel, and explain the rationale behind such an imposition;
  - (f) given the variation in the seriousness of offences under clause 7, 12 or 22 of the Bill, consider amending clause 21(4) to the effect that a person suspected of having committed an offence under clause 22 would not solely be removed from TA but might be detained and taken to a police station or delivered into the custody of a police officer;
  - (g) re-consider whether law enforcement officers other than police officers, i.e. officers of the Customs and Excise Department and the Immigration Department, should be empowered to enforce clause 22(1) of the Bill;

Action

- (h) explain the reason(s) for including the phrase "Without limiting any other law" in clause 22(1) of the Bill and in particular, set out the laws to be covered by this phrase;
- (i) provide examples of other legislation under which obstructing an authorized officer in the performance of a function or pretending to be an authorized officer would constitute a criminal offence; and
- (j) provide specific circumstances that a pass holder would be considered unfit to have access to the restricted area concerned, necessitating the cancellation of his pass under section 4(1)(b) of Schedule 2 to the Bill.

*(Post-meeting note: The Administration's written response was issued to members vide LC Paper No. CB(4)745/15-16(03) on 22 March 2016.)*

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

3. The Bills Committee had completed clause-by-clause examination of the Chinese version of the Bill. Members agreed that the next meeting of the Bills Committee would be held on Wednesday, 23 March 2016 at 2:30 pm to discuss the outstanding issues arising from the meetings on 23 February 2016 and 1 March 2016, as well as the Committee stage amendments to be proposed by the Administration.

*(Post-meeting note: Notice of meeting was issued to members vide LC Paper No. CB(4)673/15-16 on 7 March 2016.)*

4. There being no other business, the meeting ended at 6:10 pm.

Council Business Division 4  
Legislative Council Secretariat  
1 April 2016

**Proceedings of the seventh meeting of  
the Bills Committee on Kai Tak Cruise Terminal Bill  
on Tuesday, 1 March 2016, at 4:30 pm  
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<b>Agenda item I – Meeting with the Administration</b>			
000226 – 000335	Chairman	Opening remarks	
<b>Continuation of Clause-by-Clause Examination of the Bill</b>			
000336 – 002324	Chairman Administration Mr James TO Mr SIN Chung-kai Assistant Legal Adviser 9 ("ALA9")	<p><b>Part 5 – General Prohibitions</b></p> <p><u>Clause 20 – Other prohibited acts</u></p> <p>Discussion on the drafting of Clause 20(1)</p> <p>Mr James TO opined that the terms/phrases such as "papers", "drop anything", "capable of causing injury to a person or damage to property", "leave anything which obstructs, inconveniences ... or may obstruct, inconvenience" in clause 20(1)(a), (b) and (d) of the Kai Tak Cruise Terminal Bill ("the Bill") should be drafted in a more concise and specific manner.</p> <p>In response, the Administration –</p> <p>(a) advised that reference had been made to regulation 32 of the Shipping and Port Control (Ferry Terminals) Regulations (Cap. 313H) in drafting clause 20(1)(a) and (b) to align the Bill with existing legislation which governed cross-boundary ferry terminals similar to the Kai Tak Cruise Terminal ("KTCT"); and</p> <p>(b) undertook to consider reviewing the clause concerned.</p> <p>ALA9 drew members' attention that there was no identical provision in Cap. 313H with clause 20(1)(d) of the Bill. Referring to section 32(1)(c) of Cap. 313H, ALA9 pointed out that the prohibition in Cap. 313H applied to more specific situations.</p> <p>Mr TO queried the necessity of clause 20(1)(e) since it was difficult to set an objective standard to assess the "reasonable cause" given by a person who loitered in the Terminal Area ("TA"). Mr SIN Chung-kai shared Mr TO's view and suggested that the clause should be deleted. The Administration advised that clause 20(1)(e) was added, instead of being adopted from Cap. 313H, for the purpose of reducing security threats, including potential terrorist attacks at KTCT.</p>	<p>The Administration to follow up as per paragraph 2(a) of the minutes</p> <p>The Administration to follow up as per paragraph 2(b) of the minutes</p>

Time marker	Speaker	Subject(s)	Action required
002325 – 003716	Chairman Mr James TO Administration Mr Frankie YICK Mr Paul TSE Mr WONG Ting-kwong	<p>Clause 20 – <u>Other prohibited acts</u></p> <p>Discussion on setting up smoking areas in TA</p> <p>Noting that smoking was prohibited in TA under clause 20(1)(h) of the Bill, Mr James TO enquired if existing tobacco control legislation, for example the Smoking (Public Health) Ordinance (Cap. 371), was also applicable to TA. The Administration replied that Cap. 371 might not prohibit smoking in the whole TA, such as the podium garden which was an open area. On the other hand, smoking is prohibited in the whole TA under the Bill.</p> <p>Mr TO asked the Administration to consider setting up smoking areas in some open space in TA to avoid the need for conducting another legislative exercise to provide smoking areas within TA in future.</p> <p>Mr Paul TSE considered the drafting of the Bill unsatisfactory and opined that prohibitions as specific and detailed as clause 20(1)(h) should be included in a subsidiary legislation instead of a primary legislation to allow greater flexibility in any changes in future.</p> <p>Mr Paul TSE, Mr Frankie YICK and Mr WONG Ting-kwong considered it desirable to allow greater flexibility in providing designated smoking areas in TA in future, considering the potential future development of KTCT. Mr WONG suggested that clause 20(1)(h) could be amended by adding "except in designated areas" ("除指定地方外") to provide the flexibility.</p> <p>Mr YICK added that smoking areas had recently been set up in some open areas of the Hong Kong International Airport ("HKIA").</p> <p>In response, the Administration advised that –</p> <p>(a) provision of smoking areas within TA would be contradictory to the Government policy to discourage smoking;</p> <p>(b) regarding the setting up of smoking areas at HKIA, the airport was different from KTCT as smoking was strictly prohibited on planes while smoking was usually not banned on board a cruise ship. Clause 20(2) provided that smoking, which was prohibited within TA under clause 20(1)(h), would not constitute an offence when the action took place on board a vessel; and</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>(c) as explained at the earlier meetings, it was the Administration's original plan to make subsidiary legislation under Cap. 313 to provide the regulatory framework for KTCT. Having considered the importance of KTCT and the constraints of the regulation making powers under Cap. 313, the Administration considered it necessary to introduce a new piece of primary legislation.</p> <p>The Administration undertook to consider members' suggestion of allowing flexibility in designating smoking areas within the TA.</p>	<p>The Administration to follow up as per paragraph 2(c) of the minutes</p>
003717 – 005539	Chairman Administration Mr James TO	<p><b>Part 6 - Miscellaneous</b></p> <p><u>Clause 21 – Enforcement powers</u></p> <p>Mr James TO enquired about the reasons why removing the person suspected of having committed an offence under clause 7, 12 or 22 from TA would suffice under clause 21(4) of the Bill, while a person suspected of having committed "an offence under this Ordinance" might have to be detained under clause 21(1).</p> <p>The Chairman remarked that the seriousness of offences under clauses 7, 12 and 22 varied, with offences under clause 22 being more serious. The Administration should consider amending clause 21(4) to the effect that a person suspected of having committed an offence under clause 22 would not solely be removed from TA but might be detained and taken to a police station or delivered into the custody of a police officer.</p> <p>The Administration advised that –</p> <p>(a) clause 21(1) was a general provision which covered all the offences under the Bill in general;</p> <p>(b) taking note of members' views, it would review clause 21(4) to suitably reflect the seriousness of offences; and</p> <p>(c) considering the nature of offences under clause 7 or 12 relating to the access to TA, removal, instead of detention, of the person involved from TA would be more appropriate in handling the circumstances arisen.</p> <p>In response to Mr TO's enquiry about clause 21(5) of the Bill, the Administration advised that –</p>	<p>The Administration to follow up as per paragraph 2(f) of the minutes</p>

Time marker	Speaker	Subject(s)	Action required
		<p>(a) apart from a police officer, the "law enforcement officer" in clause 21(5) could also include authorized officers from the Customs and Excise Department ("C&amp;ED") and the Immigration Department ("ImmD"); and</p> <p>(b) there had been thorough discussion with the Hong Kong Police Force, C&amp;ED and ImmD in the process of preparing the Bill. Authorized officers in the departments concerned would be well versed with the relevant provisions of the Bill, including clause 21(5) which conferred them the power to enforce clauses 12 and 22.</p>	
005540 – 010841	Chairman Administration Mr James TO	<p><u>Clause 22 – Offences relating to performance of functions under this Ordinance</u></p> <p>Mr James TO queried whether law enforcement officers other than police officers, i.e. officers of C&amp;ED and ImmD, should be empowered to enforce clause 22(1) of the Bill. Mr TO opined that these enforcement officers should be equipped with the necessary knowledge and training if they were to enforce the provision. He also expressed concern that the enforcement actions against the offences under clause 22(1) might fall outside the ambit of the law enforcement duties of the officers of C&amp;ED and ImmD.</p> <p>Mr TO also enquired about the reason(s) for including the phrase "Without limiting any other law" in clause 22(1).</p> <p>The Administration advised that the acts that constituted offences under clause 22(1), for example the offence of falsely pretending to be a person acting under the authorization or delegation by the Commissioner under the Bill, might also constitute criminal offences under other legislation. In this regard, the phrase aimed to make it clear that enforcement of and/or prosecution under other legislation regarding the same criminal act would still be possible.</p> <p>Mr TO enquired if clause 22(1) would be too stringent as a person would commit a criminal offence if he had obstructed an authorized officer in the performance of a function or falsely pretended to be an authorized officer, in which the "authorized officer" mentioned included those who were not law enforcement officers. The Administration replied that the provision was necessary for preventing possible safety risks to KTCT arising from the impersonation of an authorized officer.</p>	<p>The Administration to follow up as per paragraphs 2(g) of the minutes</p> <p>The Administration to follow up as per paragraph 2(h) of the minutes</p> <p>The Administration to follow up as per paragraph 2(i) of the minutes</p>



Time marker	Speaker	Subject(s)	Action required
010842 – 011327	Chairman Administration Mr James TO	<p><u>Clause 23 – Commissioner may amend Schedules 1 and 2</u></p> <p>Noting that the Kai Tak Cruise Terminal Park ("the Park") on the roof top of the terminal building did not form part of TA, Mr James TO enquired if a passage, which was not part of TA, to the Park was available. The Administration replied that a person would need to pass through TA to gain access to the Park under normal circumstances.</p>	
011328 – 011358	Chairman Administration	<p><u>Clause 24 – Public inspection of plans</u></p> <p>Members raised no query on the above clause.</p>	
011359 – 011505	Chairman Administration	<p><u>Clause 25 – Evidence by documents</u></p> <p>Members raised no query on the above clause.</p>	
011506 – 011539	Chairman Administration	<p><u>Clause 26 – Saving</u></p> <p>Members raised no query on the above clause.</p>	
011540 – 011627	Chairman Administration	<p><u>Clause 27 – Related amendments</u></p> <p>Members raised no query on the above clause.</p>	
011628 – 012324	Chairman Administration Mr James TO	<p><b>Schedule 1 – Terminal Area</b></p> <p>Noting that TA included an area at sea, Mr James TO was concerned if the prohibitions set out under clauses 16(1) and 20(1) also applied to the acts done on board a vessel within TA.</p> <p>By referring to clauses 16(3) and 20(2) of the Bill, the Administration replied that the prohibitions under clauses 16(1) and 20(1) did not apply in relation to anything done on board a vessel. In this connection, Mr TO requested for information regarding the prohibitions provided in the Bill which would apply to TA but not in relation to anything done on board a vessel; and information on the prohibitions which were applicable to both TA and on board a vessel. Mr TO also asked the reasons behind the different applicability of the relevant prohibitions in the Bill.</p>	The Administration to follow up as per paragraphs 2(d) and 2(e) of the minutes
012325 – 013756	Chairman Administration Mr James TO	<p><b>Schedule 2 – Passes</b></p> <p>In response to Mr James TO's request, the Administration undertook to provide examples of circumstances that a pass holder would be considered "unfit to have access to the restricted area concerned" and hence necessitated the cancellation of his pass under section 4(1)(b) of Schedule 2 to the Bill.</p>	The Administration to follow up as per paragraph 2(j) of the minutes

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
		Mr TO's enquiry about and the Administration's response on the handling of situation where a pass holder had contravened a condition subject to which the pass was issued.	
013757 – 013918	Chairman Administration Mr James TO	<b>Schedule 3 – Related Amendments</b>  Members raised no query on Schedule 3.	
<b>Agenda item II –Any other business</b>			
013919 – 014039	Chairman Administration Mr James TO	Date of next meeting	

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1 April 2016