

立法會
Legislative Council

LC Paper No. CB(4)1042/17-18

(These minutes have been seen
by the Administration)

Ref: CB4/BC/5/16

Bills Committee on Travel Industry Bill

**Minutes of the eighth meeting held on
Monday, 15 January 2018, at 2:30 pm
in Conference Room 3 of the Legislative Council Complex**

Members present : Hon YIU Si-wing, BBS (Chairman)
Hon WONG Ting-kwong, GBS, JP
Hon Starry LEE Wai-king, SBS, JP
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon WU Chi-wai, MH
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK, JP
Hon CHAN Chi-chuen
Hon Martin LIAO Cheung-kong, SBS, JP
Hon POON Siu-ping, BBS, MH
Dr Hon CHIANG Lai-wan, JP
Hon Alvin YEUNG
Dr Hon Junius HO Kwan-yiu, JP
Hon Holden CHOW Ho-ding
Hon SHIU Ka-fai
Hon LAU Kwok-fan, MH

Members absent : Hon LUK Chung-hung (Deputy Chairman)
Hon HO Kai-ming

Public Officers attending : Agenda item I
Commerce and Economic Development Bureau

Mr Aaron LIU
Deputy Commissioner for Tourism

Mr LEE Sheung-yuen
Assistant Commissioner for Tourism (1)

Mr Nicky NG
Senior Administrative Officer (Tourism) 1

Mr Brendan AU
Registrar of Travel Agents

Department of Justice

Mr Michael LAM
Senior Assistant Law Draftsman

Mr Jonathan LUK
Senior Government Counsel (Acting)

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

Staff in attendance : Ms Clara TAM
Assistant Legal Adviser 9

Ms Shirley TAM
Senior Council Secretary (4)5

Ms Lauren LI
Council Secretary (4)5

Ms Zoe TONG
Legislative Assistant (4)5

Action

I. Meeting with the Administration

[LC Paper Nos. CB(3)393/16-17, CB(4)792/16-17(01),
CB(4)1101/16-17(02), CB(4)1578/16-17(01), CB(4)74/17-18(01),
CB(4)246/17-18(01), CB(4)346/17-18(03) and CB(4)468/17-18(01) to
(02)]

Action

Declaration of interests

The Chairman declared that he was holding a remunerated post in a travel agent. He was also the unremunerated honorary chairmen/advisers of nine tourism related associations. Details were set out in the LC Paper No. CB(4)849/16-17(01).

Discussion

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

Follow-up actions to be taken by the Administration

3. The Administration was requested to –
- (a) consider aligning the exclusion criteria (i.e. occupation of an accommodation for more than 14 days) for determining whether a person was carrying on travel agent business under clauses 4(4)(b) and 4(4)(c) of the Bill with that provided in relation to the Hotel and Guesthouse Accommodation Ordinance (Cap. 349) under which premises providing accommodation for a period of 28 consecutive days or more for each letting were excluded from the application of the Ordinance;
 - (b) consider reviewing the size of tour group (i.e. 2 or more visitors) under the definition of "Mainland inbound tour group" in clause 2(1) of the Bill; and
 - (c) advise on measures to be adopted to regulate the Mainland inbound tour groups organized by parties other than travel agents approved by a regulatory organization in the Mainland.

(Post-meeting note: The Administration's written response for the above items was issued to members vide LC Paper No. CB(4)564/17-18(02) on 5 February 2018.)

II. Any other business

Date of next meeting

4. The Chairman advised that the next meeting of the Bills Committee would be held on Friday, 9 February 2018 at 10:45 am.

Action

5. There being no other business, the meeting ended at 4:24 pm.

Council Business Division 4
Legislative Council Secretariat
8 May 2018

**Proceedings of the eighth meeting of
the Bills Committee on Travel Industry Bill
on Monday, 15 January 2018, at 2:30 pm
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
Agenda item I – Meeting with the Administration			
000527 – 000655	Chairman	Opening remarks Declaration of interests [LC Paper No. CB(4)849/16-17(01)]	
000656 – 001140	Chairman Administration	Briefing by the Administration on its response to issues raised at the previous meeting, which included, inter alia, its proposed revised arrangements regarding the removal of the existing premises, staffing and branch capital requirements imposed on travel agent licence applicants ("the revised arrangements") to cater for travel agents' different modes of operation. Relevant provisions in the Bill would be amended accordingly. [LC Paper No. CB(4)468/17-18(02)]	
001141 – 001732	Chairman Administration	In response to the Chairman's enquiry, the Administration advised that under the revised arrangements, a travel agent licence applicant could choose whether to carry on travel agent business at a local business location that was open to the public ("open business location"), and must inform the Travel Industry Authority ("TIA") in the application. Irrespective of whether to plan to carry on business at a local open business location, each applicant must fulfill the suitability, basic capital, guarantee money and authorized representative requirements as stipulated in clause 8(2)(a)(iii), (iv), (v) and (vi)). If a travel agent licence applicant intended to carry on travel agent business at a local business location that was not open to the public, the applicant must provide a correspondence address in the application for the purposes of identification and communication.	
001733 – 001943	Chairman Mr POON Siu-ping Administration	Mr POON Siu-ping's enquiry and the Administration's explanation on the existing staffing requirement of the Travel Industry Council of Hong Kong ("TICCHK"). The Administration advised that the requirement would be relaxed under the new ordinance.	
001944 – 002212	Chairman Mr WU Chi-wai Administration	Mr WU Chi-wai welcomed the revised arrangements and said that they would benefit the future development of the travel industry.	

Time marker	Speaker	Subject(s)	Action required
002213 – 003333	Chairman Administration Assistant Legal Adviser 9 ("ALA9")	<p>Discussion on the meaning of carrying on travel agent business and matters relating to levy payment</p> <p>Noting that all the subsidiary legislation to be made by the Secretary for Commerce and Economic Development and TIA after the passage of the Bill would be subject to negative vetting procedure, the Chairman raised concern if there would be enough time for the Legislative Council ("LegCo") Members to scrutinize the related subsidiary legislation.</p> <p>The Administration said that the travel trade and relevant Panel would be consulted, as appropriate, on the proposed subsidiary legislation before it was introduced into LegCo.</p> <p>ALA9 advised that if the proposed subsidiary legislation was of wide public concern, the relevant Panel might consider conducting a public hearing to facilitate members' consideration.</p> <p>In response to the Chairman's further enquiry on the ex gratia payment, the Administration said that according to clause 150(4), ex gratia payment might be made to any person who had incurred relevant expenses in respect of an outbound traveller if there was proper authorization, even though the traveller had died or was mentally incapacitated. Details would be set out in the subsidiary legislation.</p>	
003334 – 004322	Chairman Mr WU Chi-wai Administration	<p>In response to Mr WU Chi-wai's enquiry on the existing premises requirement of TICHK for carrying on travel agent business, the Administration said that such premises could be within commercial buildings, or non-commercial buildings if the internal layout of the premises indicated that they were purely for commercial use and were considered to be suitable for conducting travel-related and tourism business. Under the revised arrangements, the requirement that travel agent business could only be carried on at the premises specified in the licence would not be applicable to those travel agents that carried on travel agent business by means of websites or other electronic means. However, they would still be required to display their licence numbers on the websites or other electronic means concerned.</p> <p>In response to Mr WU's further enquiry, the Administration advised that travel agents were allowed under the existing and new regulatory regimes to enter into business cooperation with other companies.</p>	

Time marker	Speaker	Subject(s)	Action required
004323 – 004546	Chairman Administration	Members agreed to deal with the amendments proposed by the Deputy Chairman to the Bill after the completion of the clause-by-clause examination of the Bill.	
Continuation of clause-by-clause examination			
004547 – 005530	Chairman Administration Mr WU Chi-wai	<p><u>Clause 4 – Meaning of carrying on travel agent business</u></p> <p>Discussion on the exclusion criteria (i.e. occupation of an accommodation for more than 14 days) for determining whether a person was carrying on travel agent business under clause 4(4)(b) and (c).</p>	The Administration to follow up as per paragraph 3(a) of the minutes
005531 – 011340	Chairman Administration Mr WU Chi-wai	<p><u>Clause 5 – Meaning of carrying on Mainland inbound tour group business</u></p> <p>The Administration said that it would amend the wording of "a person in the Mainland" in clauses 5 and 6 to "a person who carries on the business of organizing Mainland inbound tour groups" to improve the clarity.</p> <p>The Administration was requested to consider reviewing the size of tour group (i.e. 2 or more visitors) under the definition of "Mainland inbound tour group" in clause 2(1).</p> <p><u>Division 2 – Prohibitions</u></p> <p><u>Clause 6 – Prohibitions</u></p> <p>The Administration said that it would propose amendments to clause 6(2) to the effect that the requirement that travel agent business could only be carried on at the premises specified in the licence would not be applicable to licensees that carry on travel agent business at locations that were not in Hong Kong and not open to the public.</p>	The Administration to follow up as per paragraph 3(b) of the minutes
011341 – 012333	Chairman Administration	<p>The Chairman raised concern about measures to be adopted to regulate the Mainland inbound tour groups organized by parties other than travel agents approved by a regulatory organization in the Mainland.</p> <p>The Administration explained that TIA would make directives and guidelines to advise the travel trade on the practicable steps to reasonably determine whether the person who organized the Mainland inbound tour group was approved to carry on the business of organizing Mainland inbound tour groups by the regulatory organization in the Mainland. The</p>	The Administration to follow up as per paragraph 3(c) of the minutes

Time marker	Speaker	Subject(s)	Action required
		Administration was requested to provide written information after the meeting.	
012334 – 013053	Chairman Administration	<p><u>Division 3 – Licensing</u></p> <p><u>Clause 8 – Issue of travel agent licence</u></p> <p><u>Clause 9 – Application for branch licence</u></p> <p><u>Clause 10 – Issue of branch licence</u></p> <p>The Administration said that provisions about the suitable premises, branch capital and staffing requirements would be removed from the Bill under the revised arrangements.</p> <p>The Chairman asked about the effect of deleting clause 10(3). The Administration advised that clause 10(3) was borrowed from TICHK's requirement for travel agents conducting travel business at exhibitions, road shows or seminars for not more than 14 days. Since the suitable premises and staffing requirements for travel agent licence applicants would be removed, clause 10(3) would be deleted.</p>	
013054 – 013409	Chairman Administration	<p><u>Clause 12 - Refusal to issue travel agent licence or branch licence</u></p> <p>In response to the Chairman, the Administration said that currently appeals against refusal to issue travel agent licences were dealt with by the Administrative Appeals Board. Under the new regulatory regime, licensing matters would be handled by TIA and appeals against TIA's decisions would be handled by an independent appeal panel comprising members independent from TIA.</p>	
013410 – 013906	Administration	<p><u>Clause 14 – Renewal of travel agent licence or branch licence</u></p> <p>The Administration said that clauses 14(2)(a)(i), 14(2)(a)(v), and 14(3)(b) would be deleted from the Bill. "訂明格式" in clause 14(4) would be amended into "指明格式" to dovetail with the English text "specified form".</p>	
013907 – 014708	Chairman Administration	<p><u>Clause 16 – No fresh application for travel agent licence etc. within prescribed period after refusal</u></p> <p><u>Clause 17 – No fresh application for travel agent licence etc. within prescribed period after revocation</u></p>	

Time marker	Speaker	Subject(s)	Action required
		<p>The Administration said that clauses 16 and 17 were made with reference to the Estate Agents Ordinance (Cap. 511). Under the new ordinance, a person would not be allowed to reapply for a travel agent licence or renewal of the licence within a prescribed period after TIA's refusal of the licence application/revocation.</p>	
<p>014709 – 015806</p>	<p>Chairman ALA9 Administration</p>	<p><u>Division 4 – Suitability Requirement</u></p> <p><u>Clause 18 - Suitability requirement for applicant for travel agent licence or renewal of travel agent licence</u></p> <p><u>Schedule 2 – Company Matters</u></p> <p>In response to the Chairman, the Administration said that in determining whether a company was suitable to hold a travel agent licence, TIA would consider all the relevant factors, including information relating to any associated company of the company.</p>	
<p>Agenda item II – Any other business</p>			
<p>015807 – 015837</p>	<p>Chairman</p>	<p>Closing remarks</p>	