

立法會
Legislative Council

LC Paper No. CB(4)1043/17-18

(These minutes have been seen
by the Administration)

Ref: CB4/BC/5/16

Bills Committee on Travel Industry Bill

**Minutes of the ninth meeting held on
Friday, 9 February 2018, at 10:45 am
in Conference Room 2 of the Legislative Council Complex**

Members present : Hon YIU Si-wing, BBS (Chairman)
Hon LUK Chung-hung (Deputy Chairman)
Hon WONG Ting-kwong, GBS, JP
Hon Starry LEE Wai-king, SBS, JP
Hon Paul TSE Wai-chun, JP
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
Hon HO Kai-ming
Hon Holden CHOW Ho-ding
Hon SHIU Ka-fai
Hon LAU Kwok-fan, MH

Members absent : Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Hon WU Chi-wai, MH
Dr Hon Junius HO Kwan-yiu, JP

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), CB(4)491/17-18(01),
CB(4)551/17-18(01) and CB(4)564/17-18(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 provide a written response in respect of the following issues –

- (a) according to clauses 22 and 23 of the Bill, the Travel Industry Authority might require a travel agent with a valid licence immediately before the full commencement of the Bill to deposit guarantee money if the aggregated amount of financial penalties imposed on the travel agent or the frequency of the travel agent's misconduct exceeded the specified levels, the detailed arrangements in this regard, including the grace period for depositing the guarantee money;
- (b) differences between the authorized representative and the licensee of a travel agent in terms of their respective duties and liabilities in relation to a suspected criminal offence under the Bill; and
- (c) its review on the suitability and qualification requirements of authorized representatives of travel agents, in particular whether the company secretary of a travel agent would be suitable to serve as the authorized representative of that travel agent, and whether the requirement on the minimum years of management experience in the travel industry for authorized representatives of travel agents as specified in clause 1(1) in Schedule 7 of the Bill could be relaxed to facilitate persons without such experience to enter into the travel industry.

(Post-meeting note: The Administration's written response for the above items was issued to members vide LC Paper No. CB(4)638/17-18(02) on 28 February 2018.)

Action

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, 2 March 2018 at 8:30 am.
5. There being no other business, the meeting ended at 12:46 pm.

Council Business Division 4
Legislative Council Secretariat
8 May 2018

**Proceedings of the ninth meeting of
the Bills Committee on Travel Industry Bill
on Friday, 9 February 2018, at 10:45 am
in Conference Room 2 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
Agenda item I – Meeting with the Administration			
000751 – 000811	Chairman	Opening remarks	
000812 – 000901	Chairman	Declaration of interests [LC Paper No. CB(4)849/16-17(01)]	
000902 – 001854	Chairman Administration	Discussion on administration's response to issues raised at the previous meeting [LC Paper No. CB(4)564/17-18(02)] The Chairman did not subscribe to the Administration's explanation in response to his suggestion of aligning the exclusion criteria under clause 4(4)(b) and (c) with that provided in relation to the Hotel and Guesthouse Accommodation Ordinance (Cap. 349). To avoid unnecessary confusion, he called on the Administration to reconsider his suggestion. He might consider proposing amendments to the Bill to this effect if the Administration did not do so.	
001855 – 002050	Chairman Deputy Chairman Administration	Discussion on matters relating to co-operation relationship between travel agents and frontline practitioners, and protection for tourist guides and tour escorts	
002051 – 002343	Chairman Assistant Legal Adviser 9 ("ALA9") Administration	In response to ALA9's enquiry on measures to facilitate travel agents in Hong Kong to comply with the requirement under Clause 6(3), the Administration advised that the China National Tourism Administration ("CNTA") set out on its website a list of Mainland travel agents approved to carry on the business of organizing Mainland inbound tour groups. The Administration and, in future, the Travel Industry Authority ("TIA") would maintain close dialogue with CNTA, and travel agents in Hong Kong could refer to such information or consult CNTA in case of doubt.	
Continuation of clause-by-clause examination			
002344 – 002954	Chairman Administration	<u>Division 5 – Capital Requirement (Clause 19)</u> The Administration advised that while the capital requirement in clause 19 was currently imposed by the Travel Industry Council of Hong Kong administratively, the Administration would remove the requirement of branch capital from the Bill.	

Time marker	Speaker	Subject(s)	Action required
002955 – 003716	Chairman Administration ALA9	<p><u>Division 6 – Guarantee Money Requirement (Clauses 20-23)</u></p> <p>Discussion on the arrangements for a travel agent with a valid licence immediately before the full commencement of the Bill to deposit guarantee money if the aggregated amount of financial penalties imposed on the travel agent or the frequency of the travel agent's misconduct exceeded the specified levels. The Administration agreed to provide a written response on this matter.</p> <p>In response to ALA9, the Administration added that any online travel agent applicant might deposit the money in the form of a bank guarantee from any of the authorized institutions that fell within the meaning of section 2(1) of the Banking Ordinance (Cap. 155).</p>	The Administration to follow up as per paragraph 3(a) of the minutes
003717 – 013609	Chairman Deputy Chairman Mr WONG Ting-kwong Mr Holden CHOW Administration	<p><u>Division 7 – Authorized Representative Requirement and Other Provisions (Clauses 24-31)</u></p> <p>Discussion on suitability and qualification requirements of authorized representatives ("AR") of travel agents</p> <p>The Deputy Chairman raised concern whether the company secretary of a travel agent would be suitable to serve as the AR of that travel agent. Mr WONG Ting-kwong considered the requirement on the minimum years of management experience in the travel industry for AR could be relaxed to facilitate the entry of persons without such experience into the travel industry. He proposed removing such a requirement from the Bill. The Administration was requested to provide a written response on these matters.</p> <p>In response to Mr WONG Ting-kwong's enquiry about the length of the "prescribed period" as specified in clause 25(2), the Administration said that TIA would prescribe it by subsidiary legislation after the enactment of the Bill.</p> <p>Mr Holden CHOW considered that TIA should take appropriate actions in dealing with the misconduct committed by a travel agent instead of requiring the travel agent to change its AR, who might be a scapegoat to bear the responsibility. The Administration was requested to provide a written response on differences between the AR and the licensee of a travel agent in terms of their respective duties and liabilities in relation to a suspected criminal offence under the Bill.</p>	<p>The Administration to follow up as per paragraph 3(c) of the minutes</p> <p>The Administration to follow up as per paragraph 3(b) of the minutes</p>

Time marker	Speaker	Subject(s)	Action required
013610 – 014807	Chairman Administration	In response to the Chairman, the Administration advised that existing licensed travel agents would be required to appoint an AR upon renewing their licences. When there was a need to change its AR, the travel agent concerned should apply to TIA within 14 days, or a longer period TIA might permit.	
014808 – 020450	Chairman Mr Holden CHOW Dr CHIANG Lai-wan Administration	<p><u>Division 8-Staffing Requirement (Clause 32)</u></p> <p>Dr CHIANG Lai-wan raised concern about the Administration's proposal to remove clause 32. Mr Holden CHOW considered it necessary to impose certain staffing requirements through administrative guidelines.</p> <p>The Administration pointed out that to cater for travel agents' different modes of operation, the Administration had proposed removal of the suitable premises, staffing and branch capital requirements imposed on travel agent licence applicants. Under the proposed new arrangement, travel agents were still required to fulfill the suitability, basic capital, guarantee money and AR requirements. TIA would consider encouraging travel agents to maintain sufficient staffing at their business locations that were open to the public through administrative measures.</p>	
Agenda item II – Any other business			
020451 – 020526	Chairman	Date of next meeting Closing remarks	