

立法會
Legislative Council

LC Paper No. CB(4)11/18-19
(These minutes have been seen
by the Administration)

Ref: CB4/BC/5/16

Bills Committee on Travel Industry Bill

**Minutes of the twelfth meeting held on
Wednesday, 11 April 2018, at 8:45 am
in Conference Room 3 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 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 LAU Kwok-fan, MH

Members absent : Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Hon HO Kai-ming
Hon SHIU Ka-fai

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 TAM
Chief Council Secretary (4)5 (Acting)

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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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), CB(4)767/17-18(01), CB(4)842/17-18(01) and
CB(4)852/17-18(01) to (02)]

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

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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**).

(At 10:30 am, the Chairman directed that the meeting be extended for 10 minutes.)

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) consider specifying the basis and circumstances (i.e. good cause) that the Tourism Industry Authority ("TIA") might on its own initiative authorize a person subject to a prohibition order to leave Hong Kong under clause 80(1);
- (b) whether vacancy in membership of non-trade members or their temporary absence would affect the validity of the proceedings of the disciplinary committee and the inquiry committees;
- (c) consider specifying the factors to be considered by TIA in removing a member of disciplinary committee from office in clause 89(1), having regard to similar practice adopted by the Insurance Authority ("IA") and the Securities and Futures Commission ("SFC");
- (d) consider amending clause 89(2) to include the reason(s) for removal in the written notice from TIA to the member of the disciplinary committee being removed from office;
- (e) review the drafting of clause 90 to reflect the legislative intent that the disciplinary committee was to consider cases of complaint or suspected misconduct referred by TIA from a broad perspective instead of conducting inquiries into particular cases;
- (f) the basis of requiring the disciplinary committee to act in accordance with the directions given by TIA under clause 91, and whether this would affect the independence/operation of the disciplinary committee. The Administration was requested to advise the legislation it had made reference to in drafting this clause, and address members' concern that

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TIA should duly respect the functions and decisions of the disciplinary committee;

- (g) whether a mechanism would be put in place for reviewing the decision of the chairperson of the disciplinary committee made under clause 98 that the case was trivial, frivolous, vexatious, misconceived or lacking in substance and was not to proceed further; and
- (h) a comparison of the proceedings of the inquiry committee under clause 105 with similar proceedings adopted by IA and SFC.

(Post-meeting note: The Administration's written response for the above items was issued to members vide LC Paper No. CB(4)953/17-18(02) on 26 April 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 Monday, 30 April 2018 at 2:30 pm.
- 5. There being no other business, the meeting ended at 10:34 am.

Council Business Division 4
Legislative Council Secretariat
10 October 2018

**Proceedings of the twelfth meeting of
the Bills Committee on Travel Industry Bill
on Wednesday, 11 April 2018, at 8:45 am
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
Agenda item I – Meeting with the Administration			
000805 – 000818	Chairman	Opening remarks	
000819 – 000917	Chairman	Declaration of interests [LC Paper No. CB(4)849/16-17(01)]	
000918 – 004126	Chairman Administration Mr LAU Kwok-fan Mr WU Chi-wai	<p>Discussion on the Administration's consolidated response to issues raised at the previous meeting, in the submission from Hong Kong Tourism Association dated 19 March 2018, and in the letter from Hon LAU Kwok-fan dated 28 March 2018 [LC Paper Nos. CB(4)767/17-18(01), CB(4)842/17-18(01) and CB(4)852/17-18(02)]</p> <p>Referring to the recent closure of a travel agent, Mr LAU Kwok-fan considered that the scope and operation of the Travel Industry Compensation Fund ("TICF") should be reviewed to provide better protection to outbound travellers.</p> <p>The Administration said that it was gathering views of different stakeholders on the scope and operation of TICF and would consider all relevant factors when reviewing the relevant arrangements. In fact, the Bill had also enhanced the protection for outbound travellers under TICF.</p> <p>Mr WU Chi-wai requested the Administration to specify the basis and circumstances that the Travel Industry Authority ("TIA") might on its own initiative authorize a person subject to a prohibition order to leave Hong Kong under clause 80(1).</p>	The Administration to follow up as per paragraph 3(a) of the minutes
Continuation of clause-by-clause examination			
004127 – 005907	Chairman Administration Mr WU Chi-wai	<p><u>Clause 88 – Resignation of members of disciplinary committee</u></p> <p><u>Clause 89 – Removal of members of disciplinary committee from office</u></p> <p>Given that the disciplinary committee should comprise more non-trade members than trade members under clause 87(4), the Chairman enquired whether the resignation of a non-trade member or the removal of a non-trade member from office would amount to a non-compliance by the committee with the composition requirement stated in clause 87(4).</p>	The Administration to follow up as per paragraph 3(b) of the minutes

Time marker	Speaker	Subject(s)	Action required
		<p>Sharing similar concern, Mr WU Chi-wai enquired about the validity of the proceedings and decisions of the disciplinary committee and the inquiry committees under such situations.</p> <p>Mr Paul TSE considered that the validity of the proceedings and decisions of these committees should not be affected by any temporary vacancy in the membership.</p> <p>The Administration agreed to provide a written response on this matter.</p>	
005908 – 010500	<p>Chairman Mr WU Chi-wai Administration Mr Paul TSE Assistant Legal Adviser 9 ("ALA9")</p>	<p>Noting that clause 89(1) empowered TIA to remove a member of the disciplinary committee from office if it considered that the removal was "desirable" for the committee to effectively perform its functions, Mr WU Chi-wai requested the Administration to specify in the Bill the factors to be considered by TIA in exercising such power.</p> <p>Mr Paul TSE considered that the Administration should formulate guidelines on the removal of a member of the disciplinary committee from office to ensure that the power under clause 89(1) would be properly exercised.</p> <p>The Chairman opined that the Administration could make reference to the practice adopted by the Insurance Authority ("IA") and the Securities and Futures Commission ("SFC") in this regard.</p> <p>ALA9 suggested that consideration be given to amending clause 89(2) to include the reason(s) for removal in the written notice from TIA to the member of the disciplinary committee being removed from office.</p> <p>The Administration agreed to provide a written response on these matters.</p>	<p>The Administration to follow up as per paragraphs 3(c) and (d) of the minutes</p>
010501 – 010644	<p>Chairman Administration</p>	<p>The Chairman requested the Administration to provide a comparison of the proceedings of the inquiry committee under clause 105 with similar proceedings adopted by IA and SFC.</p>	<p>The Administration to follow up as per paragraph 3(h) of the minutes</p>
010645 – 010959	<p>Chairman Mr Paul TSE Administration Mr WU Chi-wai</p>	<p><u>Clause 90 – Functions of disciplinary committee</u></p> <p>Mr Paul TSE considered that the drafting of clause 90 did not reflect the legislative intent that the disciplinary committee was to consider cases of</p>	<p>The Administration to follow up as per paragraph 3(e) of the minutes</p>

Time marker	Speaker	Subject(s)	Action required
		<p>complaint or suspected misconduct from a broad perspective.</p> <p>Mr WU Chi-wai requested the Administration to improve the clarity of the provision in this respect.</p>	
011000 – 011919	<p>Chairman Mr Paul TSE Administration The Deputy Chairman Mr WU Chi-wai</p>	<p><u>Clause 91 – Authority may give directions to disciplinary committee</u></p> <p>Mr Paul TSE enquired about the basis of requiring the disciplinary committee to act in accordance with the directions given by TIA under clause 91, and whether this requirement would affect the independence/operation of the disciplinary committee. He also enquired about the legislation that the Administration had made reference to in drafting this clause.</p> <p>The Chairman considered that TIA should duly respect the functions and decisions of the disciplinary committee.</p> <p>The Deputy Chairman requested the Administration to clarify the legislative intent of this provision.</p> <p>Mr WU Chi-wai stressed that the Administration should ensure that the disciplinary committee would not become a rubber stamp of TIA.</p> <p>The Administration was requested to provide a written response to address members' concerns.</p>	<p>The Administration to follow up as per paragraph 3(f) of the minutes</p>
011920 – 012257	<p>Chairman ALA9 Administration</p>	<p><u>Clause 92 – General procedure for meeting of disciplinary committee</u></p> <p>In response to ALA9's enquiry about the meeting procedures of the disciplinary committee that would be prescribed by subsidiary legislation under clause 164 and those be decided by the committee under clause 92(1), the Administration advised that this matter would be decided by TIA upon its establishment.</p>	
012258 – 013217	<p>Chairman Mr WU Chi-wai Administration</p>	<p><u>Clause 95 – Minutes</u></p> <p>In response to Mr WU Chi-wai's concern about the channels for the public to inspect the minutes of the disciplinary committee, the Administration advised that while TIA would decide the arrangement in this regard, one of the common practices adopted by statutory bodies was to disclose this kind of information through the internet as long as the</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>information concerned was not sensitive.</p> <p>The Chairman considered it important for TIA to make public its documents and records for public monitoring as appropriate.</p>	
013218 – 015349	Chairman Administration	<p><u>Clause 98 – Chairperson of disciplinary committee may decide case not to proceed</u></p> <p>The Chairman noted that if the chairperson of the disciplinary committee was satisfied that a complaint case was trivial, frivolous, vexatious, misconceived or lacking in substance, the chairperson might decide that the case was not to proceed further under clause 98(2). He enquired if there was any mechanism to review such a decision to ensure the proper handling of the case.</p> <p>Mr WU Chi-wai suggested that a mechanism should be provided for the disciplinary committee to review the complaint cases turned down by the chairperson of the disciplinary committee.</p> <p>Mr Martin LIAO was of the view that the complainants concerned could file judicial reviews against the decisions of the chairperson of the disciplinary committee. Instead of requiring the disciplinary committee to review the chairperson's decisions, TIA might consider forming a working group to review the chairperson's decisions.</p> <p>The Administration agreed to provide a written response on this matter.</p>	The Administration to follow up as per paragraph 3(g) of the minutes
Agenda item II – Any other business			
015350 – 015420	Chairman	<p>Date of next meeting</p> <p>Closing remarks</p>	