

**立法會**  
**Legislative Council**

LC Paper No. CB(4)12/18-19  
(These minutes have been seen  
by the Administration)

Ref: CB4/BC/5/16

**Bills Committee on Travel Industry Bill**

**Minutes of the thirteenth meeting held on  
Monday, 30 April 2018, at 2:30 pm  
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 SHIU Ka-fai  
Hon LAU Kwok-fan, MH

**Members absent** : Hon Mrs Regina IP LAU Suk-ye, GBS, JP  
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

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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), CB(4)842/17-18(01), CB(4)852/17-18(02),  
CB(4)904/17-18(01) and CB(4)953/17-18(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) measures to be taken by the Travel Industry Authority ("TIA") to expedite the handling of inquiry cases, in particular whether a mechanism would be put in place for requiring an inquiry committee to report to the Board of TIA if the handling time of the inquiry exceeded certain timeframe;
- (b) clause 117 requires that the legal adviser appointed by an inquiry committee under clause 105(1)(f) must give advice in the presence of every party to the inquiry or person representing each party. The Administration was requested to advise whether there was any room for an inquiry committee to seek legal advice under the common law principle of legal professional privilege which protected communications between the inquiry committee and the appointed legal adviser from being disclosed;
- (c) the criteria for determining the level of financial penalty imposed on a travel agent under clause 108(1)(c), in particular whether a heavier financial penalty would be imposed on repeated offender;
- (d) the person who would be responsible for writing the findings of an inquiry made by the inquiry committee; and

4. The Administration was also requested to consider specifying in clause 115 that the legislative intent of such clause was to protect the interests of the customers and service providers of the travel agent whose licence had been revoked or suspended under clause 113.

Action

(*Post-meeting note:* The Administration's written response for the above items was issued to members vide LC Paper No. CB(4)1063/17-18(02) on 11 May 2018.)

**II. Any other business**

Date of next meeting

5. The Chairman advised that the next meeting of the Bills Committee would be held on Wednesday, 16 May 2018 at 8:45 am.
6. There being no other business, the meeting ended at 4:27 pm.

Council Business Division 4  
Legislative Council Secretariat  
10 October 2018

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

Time marker	Speaker	Subject(s)	Action required
<b>Agenda item I – Meeting with the Administration</b>			
000559 – 000620	Chairman	Opening remarks	
000621 – 000713	Chairman	Declaration of interests [LC Paper No. CB(4)849/16-17(01)]	
000714 – 002603	Chairman Administration Mr POON Siu-ping	Briefing on the administration's consolidated response to issues raised at the previous meeting and the submission from the Travel Industry Council of Hong Kong ("TIC") dated 10 April 2018 [LC Paper No. CB(4)953/17-18(02)]  In response to Mr POON Siu-ping's enquiry, the Administration said that the Travel Industry Authority ("TIA") would determine the appointment procedure of the disciplinary committee. The "six-year rule" adopted by the Government in appointing members to statutory bodies would be applicable to TIA members, and TIA could consider adopting the same rule in appointing members to the disciplinary committee.	
<b>Continuation of clause-by-clause examination</b>			
002604 – 003136	Chairman Dr CHIANG Lai-wan Administration	Discussion on TIA's committee structure, as well as powers of the disciplinary committee, inquiry committee and appeal panel	
003137 – 003628	Chairman Deputy Chairman Administration	Discussion on the composition of an inquiry committee	
003629 – 005702	Chairman Dr CHIANG Lai-wan Dr Junius HO Administration	<u>Clause 105 – Proceedings of inquiry committee</u>  Dr Junius HO enquired about the rationale behind clause 117, which required that the legal adviser appointed by an inquiry committee under clause 105(1)(f) must give advice in the presence of every party to the inquiry or person representing each party. He asked whether there was any room for an inquiry committee to seek legal advice under the common law principle of legal professional privilege which protected confidential communications between the inquiry committee and the appointed legal adviser from being disclosed. He also enquired who would be responsible for writing the findings of an inquiry made by an inquiry committee.  The Chairman enquired whether the requirement	The Administration to follow up as per paragraphs 3(b) and 3(d) of the minutes

Time marker	Speaker	Subject(s)	Action required
		<p>under clause 105(1)(f) was common in other statutory bodies and requested the Administration to provide a written response after the meeting.</p> <p>In response to the Chairman's further enquiry, the Administration advised that an inquiry committee would be empowered by the Bill to formulate and decide on the procedure for the conduct of business of its meetings. Relevant practices currently adopted by TIC could be considered for reference.</p>	
005703 – 012038	Chairman Dr CHIANG Lai-wan Administration	<p>Dr CHIANG Lai-wan enquired whether TIA would adopt any measures to expedite the handling of inquiry cases. She considered that there should be a mechanism requiring an inquiry committee to report to the Board of TIA if the handling time of an inquiry case exceeded a certain timeframe.</p> <p>The Chairman said that it might be difficult to fix a timeframe. TIA should explore measures to ensure the efficient handling of inquiry cases.</p> <p>The Administration agreed to provide a written response after the meeting in response to members' suggestions.</p>	The Administration to follow up as per paragraph 3(a) of the minutes
012039 – 012227	Chairman Assistant Legal Adviser 9 ("ALA9") Administration	<p><u>Clause 107 – Prohibition on disclosure of inquiry matters</u></p> <p>In response to ALA9's enquiry, the Administration advised that, having regard to the investigation experience of the Registrar of Travel Agents, meetings of inquiry committees should be held in private to avoid any premature disclosure of confidential or sensitive information to the public.</p>	
012228 – 012944	Chairman Administration	<p><u>Clause 108 – disciplinary orders</u></p> <p>The Chairman asked about the criteria for determining the level of the financial penalty imposed on a licensed travel agent under clause 108(1)(c), whether a heavier financial penalty would be imposed on a repeated offender, and whether the Administration had taken into account the practice currently adopted by TIC.</p>	The Administration to follow up as per paragraph 3(c) of the minutes
012945 – 014048	Chairman Dr CHIANG Lai-wan Administration	<p><u>Clause 109 – Offences relating to inquiries</u></p> <p>Dr CHIANG Lai-wan enquired about the offences under clause 109, including the interpretation of "without reasonable excuse" in clause 109(1).</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>The Administration explained that, in considering a case under clause 109, the totality of facts would need to be considered to determine whether there was sufficient evidence to institute criminal proceedings.</p>	
014049 – 020055	Chairman Mr LAU Kwok-fan Administration	<p><u>Division 4 – Summary Procedure of Revocation or Suspension of Licence</u></p> <p><u>Clause 113 – Authority's additional power to revoke or suspend licence in summary way</u></p> <p><u>Clause 115 – Effect of revocation or suspension of travel agent licence</u></p> <p>The Chairman expressed concern that some travel agents whose licences had been revoked or suspended might not honour the responsibilities under the agreements entered into with consumers and service providers before their licences were revoked or suspended. He suggested that the Administration consider specifying in clause 115 that the legislative intent of the clause was to protect the interests of the customers and service providers of the travel agent whose licence had been revoked or suspended.</p> <p>Mr LAU Kwok-fan expressed concern about the protection to customers under the Travel Industry Compensation Fund if the licences of the related travel agents were revoked or suspended. He said that these travel agents might not have paid levies to TIA in respect of the outbound fares received by them.</p> <p>The Administration explained that, under clause 115, the revocation or suspension of a travel agent's licence would not avoid or affect any right, obligation or liability under any agreement already entered by the travel agent for the provision of a travel service. The obligation of a travel agent whose licence was revoked or suspended to pay levies to TIA would not be affected. The Administration agreed to provide a written response on this matter.</p>	<p>The Administration to follow up as per paragraph 4 of the minutes</p>
<b>Agenda item II – Any other business</b>			
020056 – 020131	Chairman	<p>Date of next meeting</p> <p>Closing remarks</p>	