

**立法會**  
**Legislative Council**

LC Paper No. CB(4)549/18-19

(These minutes have been seen  
by the Administration)

Ref: CB4/BC/5/16

**Bills Committee on Travel Industry Bill**

**Minutes of the fourteenth meeting held on  
Wednesday, 16 May 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 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

---

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) and  
CB(4)1063/17-18(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) consider specifying a time limit for establishing an inquiry committee after the receipt of a complaint case by the Travel Industry Authority;
- (b) the enforcement of clause 115, in particular if the licence of a travel agent was revoked or suspended, how could that travel agent honour its obligation or liability in relation to the provision of travel services to the affected customers, and whether other licensed travel agent(s) could take over the obligation or liability of that travel agent if necessary;
- (c) consider reviewing the drafting of the Chinese text of clause 120(1) to enhance its readability;
- (d) consider listing out the factors to be considered by the Secretary for Commerce and Economic Development ("SCED") in removing a member of the appeal panel from office under clause 120(1);
- (e) the justification for providing SCED, instead of the appeal panel or the chairman of the appeal panel, the power to extend the period of time for which a person might lodge a notice of appeal under clause 121(3), having regard to the practices adopted by other similar independent appeal boards including the appeal boards formed under the Amusement Game Centres Ordinance (Cap. 435) and the Accreditation of Academic and Vocational Qualifications Ordinance (Cap. 592);
- (f) consider reviewing the membership size of an appeal board under clause 122(2) by increasing the minimum number and prescribing the maximum number of members in an appeal board to ensure consistency in handling appeals;

Action

- (g) consider specifying in clause 122 that the composition of an appeal board should include both members from travel trade and non-travel trade;
- (h) whether the proposed casting vote arrangement under clause 125(3) was in line with the practices and procedures adopted by other similar independent appeal boards including the appeal boards formed by the Insurance Authority and the Securities and Futures Commission;
- (i) to ensure that all parties to the appeal could attend and well prepare for the appeal hearing, consider (i) formulating guidelines for the chairperson of an appeal board on fixing the date, time and place for a hearing under clause 127(a), and (ii) specifying the minimum period for giving notice to the parties to the appeal by the chairperson of an appeal board under clause 127(b);
- (j) consider setting out the relevant procedure, e.g. quorum and voting requirements, for determining an appeal without a hearing under clause 128(2) and (3);
- (k) consider specifying the factors to be considered by an appeal board in giving consent to a person, who was neither a party to the appeal nor the legal representative of a party to the appeal, to participate in a hearing under clause 128(4)(b)(iii) as well as defining the roles of that person;
- (l) in relation to clause 128(6) which provided that an appeal board may make an order as to the payment of costs and expenses incurred in relation to the hearing, advise (i) the factors to be taken into consideration when such costs orders would be determined, (ii) whether the appeal board would have the expertise to make such orders, (iii) whether the appeal board would have the authority to enforce such orders and (iv) whether such orders would be subject to appeal;
- (m) provide a list of regulations proposed to be made by SCED under clause 138; and
- (n) statistics on the appeal cases handled by the Travel Industry Council of Hong Kong in the past five years, including the number of appeal cases involved legal proceedings, the amount of legal costs incurred and the parties responsible for the payment of such costs.

*(Post-meeting note: The Administration's written response was issued to members vide LC Paper No. CB(4)1173/17-18(02) on 31 May 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 Monday, 4 June 2018 at 4:30 pm.
5. There being no other business, the meeting ended at 10:29 am.

Council Business Division 4  
Legislative Council Secretariat  
19 February 2019

**Proceedings of the fourteenth meeting of  
the Bills Committee on Travel Industry Bill  
on Wednesday, 16 May 2018, at 8:45 am  
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>			
000924 – 000941	Chairman	Opening remarks	
000942 – 001027	Chairman	Declaration of interests [LC Paper No. CB(4)849/16-17(01)]	
001028 – 001932	Chairman Administration	Briefing by the Administration on its response to issues raised at the previous meeting [LC Paper No. CB(4)1063/17-18(02)]  Discussion on clause 98 under which the chairperson of the disciplinary committee might decide not to proceed further with a case if he was satisfied that the case was trivial, frivolous, vexatious, misconceived or lacking in substance	
001933 – 004243	Chairman Mr WU Chi-wai Administration Mr Paul TSE	Clause 115 – Effect of revocation or suspension of <u>travel agent licence</u>  Discussion on the enforcement of clause 115, in particular, how a travel agent could honour its obligation or liability in relation to the provision of travel services/arrangements to the affected customers if its licence was revoked or suspended  The Administration agreed to provide a response on this matter.	The Administration to follow up as per paragraph 3(b) of the minutes
<b>Continuation of clause-by-clause examination</b>			
004244 – 005312	Chairman Mr Martin LIAO Administration Mr Paul TSE	<b>Part 8 – Division 2 – Appeal Board</b>  <u>Clause 120 – Removal of members of appeal panel from office</u>  Mr Martin LIAO requested the Administration to list out the factors to be considered by the Secretary for Commerce and Economic Development ("SCED") in removing a member of the appeal panel from office under clause 120(1) and review the drafting of the Chinese text of clause 120(1) to enhance its readability.	The Administration to follow up as per paragraphs 3(c), 3(d) and 3(e) of the minutes

Time marker	Speaker	Subject(s)	Action required
		<p><u>Clause 121 – Appeals against decisions or orders</u></p> <p>Mr LIAO requested the Administration to provide justifications for empowering SCED, instead of the appeal panel or the chairperson of the appeal panel, to extend the period of time in which a person might lodge a notice of appeal under clause 121(3).</p>	
005313 – 005420	Chairman Administration	To ensure the efficiency of the Travel Industry Authority ("TIA") in handling complaints, the Chairman suggested specifying a time limit for establishing an inquiry committee after the receipt of a complaint case by TIA.	The Administration to follow up as per paragraph 3(a) of the minutes
005421 – 011100	Chairman Administration Mr WU Chi-wai Mr Paul TSE	<p><u>Clause 122 – Appointment of appeal board</u></p> <p>To ensure consistency in handling appeals, members suggested reviewing the membership size of an appeal board by increasing the minimum number and prescribing the maximum number of members in an appeal board. The Chairman suggested specifying in the Bill that an appeal board should include trade member(s) to ensure that the trade's operations could be taken into account when handling appeal cases.</p>	The Administration to follow up as per paragraphs 3(f) and 3(g) of the minutes
011101 – 011337	Chairman Administration Mr Paul TSE	<p><u>Clause 125 – Voting at hearing</u></p> <p>Mr Paul TSE cast doubt on the need for the chairperson of an appeal board to have a casting vote for making a final decision about an appeal, and enquired whether the proposed casting vote arrangement under clause 125(3) was in line with the arrangement adopted by other similar appeal boards, including the appeal boards under the Insurance Ordinance (Cap. 41) and Securities and Futures Ordinance (Cap. 571).</p>	The Administration to follow up as per paragraph 3(h) of the minutes
011338 – 011947	Chairman Administration Assistant Legal Adviser 9 ("ALA9") Mr Paul TSE	<p><u>Clause 127 – Date, time and place of hearing</u></p> <p>To ensure that all parties to the appeal could attend and get well-prepared for an appeal hearing, Mr Paul TSE suggested formulating guidelines on the fixing of the date, time and place of a hearing under clause 127(a). ALA9 suggested that consideration be given to specifying a minimum period for giving notice about a hearing under clause 127(b).</p>	The Administration to follow up as per paragraph 3(i) of the minutes
011948 – 012243	Chairman Mr WU Chi-wai Administration	The Chairman requested the Administration to provide a list of regulations proposed to be made by SCED under clause 138.	The Administration to follow up as per paragraph 3(m) of the minutes

Time marker	Speaker	Subject(s)	Action required
012244 – 013240	Chairman Administration ALA9 Mr Paul TSE Mr WU Chi-wai	<p><u>Clause 128 – Proceedings of appeal board</u></p> <p>ALA9 suggested that consideration be given to setting out the relevant procedure, e.g. quorum and voting requirements, for determining an appeal without a hearing under clause 128(2) and (3).</p> <p>Members suggested improving the formulation of clause 128(4)(b) to ensure the legal effect of the evidence given by a party to an appeal hearing. Consideration should also be given to specifying the factors to be considered by an appeal board in giving consent to a person, who was neither a party to the appeal nor the legal representative of a party to the appeal, to participate in a hearing under clause 128(4)(b)(iii).</p>	The Administration to follow up as per paragraphs 3(j) and 3(k) of the minutes
013241 – 013721	Chairman Mr WU Chi-wai Mr Paul TSE Administration	Mr WU Chi-wai requested the Administration to provide statistics on the appeal cases handled by the Travel Industry Council of Hong Kong in the past five years, including the number of appeal cases involving legal proceedings, the amount of legal costs incurred and the parties responsible for the payment of such costs.	The Administration to follow up as per paragraph 3(n) of the minutes
013722 – 014759	Chairman Mr Paul TSE Administration Mr Martin LIAO	Concerning whether the appeal board was capable of determining the costs and expenses incurred in relation to a hearing under clause 128(6), members requested the Administration to set out the factors to be taken into consideration for determining such costs and expenses. Members also enquired whether the orders of such costs and expenses were subject to appeal.	The Administration to follow up as per paragraph 3(l) of the minutes
<b>Agenda item II – Any other business</b>			
014800 – 014831	Chairman	Date of next meeting  Closing remarks	