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8 September 2017

Ms Clara Tam
Assistant Legal Adviser
Legal Service Division
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Ms Tam,

Travel Industry Bill

I refer to your letter dated 25 May 2017. Our reply to your request for information/clarification in relation to the Travel Industry Bill (the Bill) is set out below.

A. Comparison with Existing Regulatory Regime

2. A comparison between the existing and new regulatory regimes of the travel industry in relation to the key aspects mentioned in your letter is enclosed at **Annex**.

B. Regulation of Unscrupulous Acts in the Travel Trade

Primary legislation, subsidiary legislation and administrative measures

3. The new regulatory regime underpinned by the Bill will deter and combat unscrupulous practices in the travel trade through two tiers, namely legislative means (i.e. primary and subsidiary legislation) and administrative means.

4. In determining the unscrupulous practices to be regulated through legislative means under the new regulatory regime, we have taken into account a host of factors, including the following –

- (a) whether the unscrupulous practices are criminal offences under the Travel Agents Ordinance (Cap. 218) at present;
- (b) the seriousness of the unscrupulous practices in terms of their impact on tourists' safety and interests as well as the reputation of Hong Kong's travel industry and the frequency of recurrence of cases involving such practices (e.g. there were incidents of inbound tour group members being coerced into making purchases, some of which even involved the injuries and deaths of the members concerned, from time to time);
- (c) the need for enhancing deterrent effect against the unscrupulous practices and improving compliance with the regulatory regime; and
- (d) similar regulatory experience in other sectors.

Committing any of such unscrupulous practices forbidden by the Bill will be an offence. Any offender that is a licensed travel agent, tourist guide or tour escort will also be subject to disciplinary proceedings by the Travel Industry Authority (TIA), which may result in the imposition of a disciplinary order (ranging from the giving of a warning to revocation of the licence).

5. On the other hand, clause 153(2)(k) of the Bill empowers the TIA to regulate the activities of licensed travel agents, tourist guides and tour escorts through directives, guidelines and codes of conduct (collectively called "administrative measures"). Under clause 55 of the Bill, a licensee must comply with these administrative measures, which seek to regulate the licensees' activities at the operational and working level. The TIA can make necessary changes to them in response to prevailing circumstances in the travel industry in a timely manner. A licensee who contravenes an administrative measure is subject to disciplinary proceedings, which may result in the imposition of a disciplinary order. We envisage that, when formulating administrative measures, the TIA will take into account all relevant circumstances, including the prevailing industry development, the measures being implemented by the Travel Industry Council of Hong Kong (TIC) under the existing regulatory regime and the TIC's regulatory experience, the travel trade's views, etc.

Regulation of shops arranged to be patronized by inbound tour groups

6. The obtaining of a service providing shopping trips for an inbound tour group is a common element of the itinerary designed by travel agents that carry on inbound tour group business. As in the case of the existing arrangement implemented by the TIC (i.e. the “Refund Protection Scheme (Registered Shops) for Inbound Tour Group Shoppers”), we consider it necessary for the TIA to implement an administrative scheme to regulate shops arranged by travel agents to be patronized by inbound tour groups under the new regulatory regime. To this end, clause 152(b) of the Bill states that one of the functions of the TIA is to regulate shops that inbound tour groups are arranged to patronize in relation to that patronage; and clause 153(2)(j) of the Bill empowers the TIA to establish and implement an administrative scheme for regulating shops that inbound tour groups are arranged to patronize. The TIA will formulate the administrative scheme having regard to all relevant circumstances, including the prevailing industry development, the scheme being implemented by the TIC at present and the TIC’s regulatory experience, the travel trade’s views, etc.

7. While the subjects of licensing under the new regulatory regime are travel agents, tourist guides and tour escorts, the regulation of shops arranged to be patronized by inbound tour groups is intended to be ancillary to the regulation of travel agents and tourist guides receiving such tour groups. The long title of a bill sets out the purpose of the Bill in general terms. In considering the scope of a bill, the established approach is to take into account the long title, the Explanatory Memorandum and the provisions of the bill, as well as the Legislative Council Brief on the bill and other relevant factors. As mentioned in paragraph 6, the function and power of the TIA to regulate the shops are set out in clauses 152(b) and 153(2)(j) of the Bill.

C. Existing Subsidiary Legislation made under the Travel Agents Ordinance (Cap. 218)

8. We envisage that the future Travel Industry Ordinance will be commenced in two phases by and large –

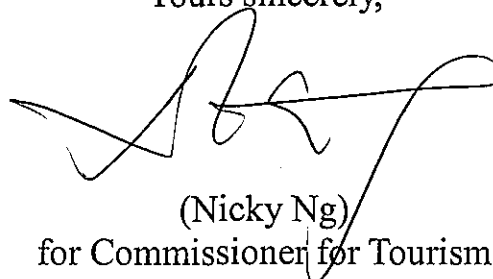
- (a) the Secretary for Commerce and Economic Development (SCED) will first appoint by subsidiary legislation a day on which the provisions in the Bill for establishing the TIA (i.e. clauses 1 and 2, Part 10, clauses 170 and 172, Schedule 9, and Schedule 11 – clauses 2 and 5), as well as the provisions in the Bill that empower the TIA and SCED to make subsidiary legislation (see paragraph 8(b) below)), come into operation; and

(b) thereafter, the TIA will formulate subsidiary legislation covering the matters in clauses 150 and 164 of the Bill, whereas the SCED will formulate subsidiary legislation covering the matters in clauses 138, 146, 147 and 148 of the Bill. The matters contained in Cap. 218 sub. leg. A, C to F at present, excluding those covered in the Bill¹ and those no longer applicable to the new regulatory regime², will generally be covered by the new subsidiary legislation to be made pursuant to the future Travel Industry Ordinance. All of the new subsidiary legislation will take effect upon the full commencement of the future Travel Industry Ordinance, i.e. on the day appointed by the SCED by subsidiary legislation for bringing the remaining provisions of the future Travel Industry Ordinance into operation. Accordingly, Cap. 218 and all of its subsidiary legislation will be repealed.

9. On the other hand, Cap. 218 sub. leg. G to H seeks to waive fees relating to travel agent licences payable under Cap. 218 sub. leg. A for two 12-month periods beginning on 20 November since 2015. No new subsidiary legislation will be made to replace these pieces of subsidiary legislation³.

10. Please let us know if you have any further enquiries or comments.

Yours sincerely,



(Nicky Ng)
for Commissioner for Tourism

Encl.

c.c. DoJ (Attn.: Mr Michael Lam & Mr Jonathan Luk) (By E-mail)
Clerk to Bills Committee (By E-mail)

¹ They include matters in relation to the register, issue of duplicate licences, prescribed services of inbound travel business activities, and display of licences. Furthermore, forms prescribed at present will be specified administratively by the TIA.

² They include matters in relation to the Advisory Committee on Travel Agents and financial penalties imposed by the Travel Industry Compensation Fund Management Board.

³ Nonetheless, the TIA can waive fees relating to licences by making subsidiary legislation under clauses 164(d) and (e) of the Bill together with section 29 of the Interpretation and General Clauses Ordinance (Cap. 1).

Comparison between Existing and New Regulatory Regimes

A. Interpretation of Key Terms

Key areas of the Bill	Requirements/provisions modelled on Travel Agents Ordinance (Cap. 218) or its subsidiary legislation	Requirements adapted from the TIC's existing regulatory requirements	New requirements under the Bill
Controller	Clause 2(3) The interpretation is modelled on that of “shadow director” in section 2 of the Companies Ordinance (Cap. 662), which is akin to that of “controller” in section 2 of Cap. 218.	–	–
Carrying on travel agent business	Clauses 4(1)(a), (2)-(4) Clauses 4(1)(a) and (4) are modelled on section 4 of Cap. 218 (regarding outbound travel business) and section 4A of Cap. 218 together with regulation 18 of Cap. 218A (regarding inbound travel	–	Clause 4(1)(b) The clause seeks to bring under regulation travel agents based outside Hong Kong (including on-line travel agents) that carry on outbound travel business activities targeted at the public of Hong Kong.

Key areas of the Bill	Requirements/provisions modelled on Travel Agents Ordinance (Cap. 218) or its subsidiary legislation	Requirements adapted from the TIC's existing regulatory requirements	New requirements under the Bill
	<p>business).</p> <p>Clauses 4(2) and (3) seek to seek to increase the clarity of the target subject to our regulation all along.</p>		
Working as tourist guide	–	<p>Clause 38</p> <p>The interpretation is adapted from the TIC's general description about "tourist guide", i.e. a person assigned by a travel agent to receive and take care of travellers visiting Hong Kong.</p>	–
Working as tour escort	–	<p>Clause 39</p> <p>The interpretation is adapted from the TIC's general description about "tour escort", i.e. a person appointed by a travel agent to accompany an outbound tour group and to take care of the participants</p>	–

Key areas of the Bill	Requirements/provisions modelled on Travel Agents Ordinance (Cap. 218) or its subsidiary legislation	Requirements adapted from the TIC's existing regulatory requirements	New requirements under the Bill
		throughout the journey.	
Outbound fare, outbound package, outbound travel service, outbound traveller	Clause 139 The interpretations of the terms are generally modelled on section 32A of Cap. 218.	—	—

B. Key Aspects of Licensing Requirements for Travel Agents

Key areas of the Bill	Requirements/provisions modelled on Travel Agents Ordinance (Cap. 218) or its subsidiary legislation	Requirements adapted from the TIC's existing regulatory requirements	New requirements under the Bill
Requirement about suitability of premises and its location for travel agent business	<p>Clauses 8(2)(a)(ii), 10(2)(b)(i), 14(2)(a)(i)</p> <p>The clause is modelled on sections 12(1)(a)(iii) and (1)(b)(iv) and 15(3) of Cap. 218.</p>	–	–
Requirement about suitability to hold travel agent licence	<p>Clauses 8(2)(a)(iii), 14(2)(a)(ii), 18; Schedules 2 to 4</p> <p>The matters for determining one's suitability to hold a travel agent licence are premised on those under sections 12, 15(3) and 19(1)(a) of Cap. 218, and includes the new ones as set out in the right-most column.</p>	–	<p>Clauses 8(2)(a)(iii), 14(2)(a)(ii), 18; Schedules 2 to 4</p> <p>The new matters are –</p> <ul style="list-style-type: none"> • conviction record relating to criminal offences under the Bill and Trade Descriptions Ordinance (Cap. 362) and criminal offences involving violence; • record of application for travel agent licence and renewal and tourist guide/tour escort pass and

Key areas of the Bill	Requirements/provisions modelled on Travel Agents Ordinance (Cap. 218) or its subsidiary legislation	Requirements adapted from the TIC's existing regulatory requirements	New requirements under the Bill
			<p>renewal under the existing regime; record of application for travel agent/tourist guide/tour escort licence application and renewal under the new regime; record relating to travel agent business under the existing and new regimes; and</p> <ul style="list-style-type: none"> • record of compliance with the TIC's regulatory requirements under the existing regime and with the requirements in the Bill. <p>In determining whether a company is suitable to hold a travel agent licence, the TIA must also have regard to any information in its possession, whether provided by the company or not, on any matters</p>

Key areas of the Bill	Requirements/provisions modelled on Travel Agents Ordinance (Cap. 218) or its subsidiary legislation	Requirements adapted from the TIC's existing regulatory requirements	New requirements under the Bill
			relating to an associated company of the company, including the matters set out in Schedule 2, and whether every officer and controller of the associated company is suitable to be associated with the business of a travel agent.
Capital requirement	—	<p>Clauses 8(2)(a)(iv), 10(2)(b)(ii), 10(3), 19; Schedule 5</p> <p>The requirement makes reference to the capital requirement for obtaining the TIC's membership. At present, an applicant in the form of company is required to have a paid-up capital of not less than \$500,000 and, for each branch, additional \$250,000. An applicant in the form of sole proprietorship/partnership is</p>	—

Key areas of the Bill	Requirements/provisions modelled on Travel Agents Ordinance (Cap. 218) or its subsidiary legislation	Requirements adapted from the TIC's existing regulatory requirements	New requirements under the Bill
		<p>required to provide a bank guarantee of \$150,000 in favour of the TIC or pay \$150,000 as security to the TIC. Travel agents in the form of sole proprietorship/partnership are not allowed to carry on outbound tour group business or open any branch.</p> <p>Under the Bill, any applicant for a travel agent licence (whether in the form of sole proprietorship, partnership or company) will be required to fulfil the capital requirement of \$500,000 and, for each branch, additional \$250,000. There will be no restriction on the types of business to be carried on by any forms of travel agents.</p>	

Key areas of the Bill	Requirements/provisions modelled on Travel Agents Ordinance (Cap. 218) or its subsidiary legislation	Requirements adapted from the TIC's existing regulatory requirements	New requirements under the Bill
		<p>Furthermore, clause 10(3) is adapted from the TIC's current requirement that a travel agent's application for carrying on business at an additional address for a period not exceeding 14 days is not subject to the capital requirement of \$250,000 applicable to each branch.</p>	
Guarantee money requirement	—	—	<p>Clauses 8(2)(a)(v), 14(2)(a)(iii), 20-23; Schedule 6 Travel agents with valid licences obtained after the full commencement of the new regulatory regime will be required to deposit guarantee money of \$500,000 with the TIA by bank guarantee. Travel agents with valid licences immediately before the full commencement of the new</p>

Key areas of the Bill	Requirements/provisions modelled on Travel Agents Ordinance (Cap. 218) or its subsidiary legislation	Requirements adapted from the TIC's existing regulatory requirements	New requirements under the Bill
			regulatory regime will not be required to immediately deposit guarantee money. Their deposit will be triggered when the aggregated amount of financial penalties imposed under the new regime on the them, or the frequency of their misconduct, exceeds the levels specified by the TIA.
Authorized representative requirement	—	—	Clauses 8(2)(a)(vi), 14(2)(a)(iv), 24-31; Schedule 7 Each travel agent will be required to appoint an authorized representative to ensure adequate supervision of the operation, management and control of the travel agent's concerned, to ensure that the travel agent's operation is in compliance with the new regulatory regime, and to inform

Key areas of the Bill	Requirements/provisions modelled on Travel Agents Ordinance (Cap. 218) or its subsidiary legislation	Requirements adapted from the TIC's existing regulatory requirements	New requirements under the Bill
			the TIA of any changes in the prescribed particulars about the travel agent (e.g. in relation to its suitability to hold a licence).
Staffing requirement	–	<p>Clauses 8(2)(a)(vii), 10(2)(b)(iii), 10(3), 14(2)(a)(v), 32</p> <p>The requirement makes reference to the staffing requirement for obtaining and renewing the TIC's membership.</p> <p>Furthermore, clause 10(3) is adapted from the TIC's current requirement that a travel agent's application for carrying on business at an additional address for a period not exceeding 14 days is not subject to the staff requirement.</p>	–
Validity period of	Clauses 8(6)-(7), 10(7)-(8),	–	–

Key areas of the Bill	Requirements/provisions modelled on Travel Agents Ordinance (Cap. 218) or its subsidiary legislation	Requirements adapted from the TIC's existing regulatory requirements	New requirements under the Bill
travel agent licence	14(7)-(8) The validity period is the same as that under sections 13(b) and 15(1) of Cap. 218.		
Application for and issue of branch licence	Clauses 9-10 The requirement about applying for a branch licence for carrying on travel agent business in a branch is the same as that under regulations 12(a) and (b) of Cap. 218 sub. leg. A, which pertains to carrying on travel agent business at additional addresses.	—	—
No fresh application for travel agent licence etc. within prescribed period after refusal of travel agent licence	—	—	Clauses 16-17 A person whose application for a travel agent licence/branch licence/renewal has been refused, may not reapply for the licence/renewal within the prescribed period. A person whose travel agent

Key areas of the Bill	Requirements/provisions modelled on Travel Agents Ordinance (Cap. 218) or its subsidiary legislation	Requirements adapted from the TIC's existing regulatory requirements	New requirements under the Bill
application or revocation of licence			licence/branch licence has been revoked may not reapply for the licence within the prescribed period.
Period within which application for renewal of travel agent licence and branch licence must be made	Clause 13(2)(a); Schedule 1 – clause 1(1) The period is the same as that under sections 15(2) and (3) of Cap. 218 and regulation 13 of Cap. 218 sub. leg. A.	–	–
Offence relating to application for travel agent licence etc.	Clause 60 The offence is modelled on that under section 48(1)(c)(i) of Cap. 218.	–	–

C. Key Aspects of Regulation of Travel Agents

Key areas of the Bill	Requirements/provisions modelled on Travel Agents Ordinance (Cap. 218) or its subsidiary legislation	Requirements adapted from the TIC's existing regulatory requirements	New requirements under the Bill
Prohibition against obtaining inbound travel service for Mainland inbound tour group organized by person in the Mainland ¹ not approved to carry on business of organizing Mainland inbound tour groups	—	<p>Clauses 2, 5, 6(3)-(6)</p> <p>The prohibition makes reference to the TIC's Directive No. 227 that if a Mainland inbound tour group received by a Hong Kong travel agent is organized by a Mainland travel agents, the Mainland travel agent shall be authorized by the China National Tourism Administration.</p>	—
Prohibition	Clause 6(1) and (4)	—	—

¹ As stated in our reply issued to the Bills Committee on 3 July 2017 (LC Paper No. CB(4)1333/16-17(02)), we will consider refining the relevant provision to make clear the intent, i.e. that a licensed travel agent must not obtain any of the services described in clause 5 of the Bill for a Mainland inbound tour group organized by a Mainland travel agent (viz. a person who carries on the business of organizing Mainland inbound tour groups) unless the Mainland travel agent is approved to carry on the business of organizing Mainland inbound tour groups by a regulatory organization in the Mainland that regulates the travel industry of the Mainland.

Key areas of the Bill	Requirements/provisions modelled on Travel Agents Ordinance (Cap. 218) or its subsidiary legislation	Requirements adapted from the TIC's existing regulatory requirements	New requirements under the Bill
against carrying on travel agent business without licence	The prohibition is modelled on sections 9(a) and 48(1)(a) of Cap. 218.		
Prohibition against carrying on travel agent business at premises other than that specified in licence	Clause 6(2)(a) and (4) The prohibition is modelled on sections 9(b) and 48(1)(a) of Cap. 218.	–	–
Prohibition against carrying on travel agent business otherwise than in accordance with licence conditions	Clauses 6(2)(b) and (4), 8(5), 10(6), 14(6) The prohibition is modelled on sections 9(c), 11(1), 15(3) and 48(1)(a) of Cap. 218.	–	–
Registration fee for Mainland inbound tour	–	Clauses 2, 5, 33 The requirement makes reference to the TIC's Directive	–

Key areas of the Bill	Requirements/provisions modelled on Travel Agents Ordinance (Cap. 218) or its subsidiary legislation	Requirements adapted from the TIC's existing regulatory requirements	New requirements under the Bill
group		Nos. 221 and 222 that a travel agent receiving a Mainland inbound tour group shall pay a registration fee to the TIC.	
Change of ownership or control	Clauses 34-35 The requirements are generally modelled on sections 16, 18, 20 and 48(2) of Cap. 218.	—	—
Display of licence	Clause 36 The requirement is modelled on regulation 14 of Cap. 218 sub. leg. A and section 48(2) of Cap. 218. As licence display is a basic requirement, we consider it appropriate to cover it in the Bill instead of the subsidiary legislation to be formulated.	—	—
Display of information on vehicle arranged to transport	—	Clause 37 The requirement makes reference to the TIC's Directive Nos. 146, 221 and 222 that a	—

Key areas of the Bill	Requirements/provisions modelled on Travel Agents Ordinance (Cap. 218) or its subsidiary legislation	Requirements adapted from the TIC's existing regulatory requirements	New requirements under the Bill
inbound tour group		travel agent shall display on the tour coach arranged to transport an inbound tour group it receives its travel agent licence number and tour code in a prominent position.	
Prohibition against employing/engaging tourist guide/tour escort without licence	—	Clause 41 The prohibition makes reference to the TIC's Directive Nos. 192 and 169 that travel agents shall not arrange any tourist guide without a pass to receive any visitor to Hong Kong or any tour escort without a pass to take care of any outbound tour group.	—
Duty to comply with prescribed requirements	Clause 54 The requirement is modelled on sections 14 and 48(2) of Cap. 218.	—	—
Duty to comply with guidelines,	—	Clause 55 The requirement is adapted	—

Key areas of the Bill	Requirements/provisions modelled on Travel Agents Ordinance (Cap. 218) or its subsidiary legislation	Requirements adapted from the TIC's existing regulatory requirements	New requirements under the Bill
directives or codes of conduct		from the TIC's requirement. Under the Bill, a licensed travel agent breaching a guideline, directive or code of conduct will be subject to disciplinary proceedings.	
Publication of advertisements	Clause 165 The requirement is modelled on section 47 of Cap. 218.	—	—
Liability of officers, partners, etc.	Clause 166 The clause is modelled on section 49 of Cap. 218 in the case of a company and adopts a comparable notion in the case of a firm (i.e. sole proprietorship/partnership).	—	—

D. Key Aspects of Licensing Requirements for Tourist Guides and Tour Escorts

Key areas of the Bill	Requirements/provisions modelled on Travel Agents Ordinance (Cap. 218) or its subsidiary legislation	Requirements adapted from the TIC's existing regulatory requirements	New requirements under the Bill
Tourist guide/tour escort licence application – requirements about holding identity card, age, competency in first aid, education, pre-examination training courses, and licensing examination	–	<p>Clauses 43(2)(a)(i)-(ii), (iv)-(viii); Schedule 8</p> <p>The requirements are adapted from those for issuing tourist guide or tour escort passes under the TIC's accreditation system.</p>	–
Tourist guide/tour escort licence renewal – requirements about holding identity card, competency in	–	<p>Clauses 47(2)(a)(i), (iii)-(v)</p> <p>The requirements are generally adapted from those for renewing tourist guide or tour escort passes under the TIC's accreditation system, and include the new requirements as</p>	<p>Clauses 47(2)(a)(i), (iii)-(v)</p> <p>As in the case of tourist guides under the TIC's accreditation system, tour escorts will also be required to have completed the Continuing Professional Development Scheme when</p>

Key areas of the Bill	Requirements/provisions modelled on Travel Agents Ordinance (Cap. 218) or its subsidiary legislation	Requirements adapted from the TIC's existing regulatory requirements	New requirements under the Bill
first aid, and completion of the Continuing Professional Development Scheme		set out in the right-most column.	<p>applying for renewing licences under the Bill.</p> <p>Furthermore, as in the case of applications for tourist guide/tour escort licences, applicants for renewal of licences will be required to fulfil the requirement of competency in first aid.</p>
Tourist guide/tour escort licence application and renewal – suitability to hold tourist guide/tour escort licence	–	<p>Clauses 43(2)(a)(iii), 47(2)(a)(ii), 53; Schedule 4 – clause 1(2)</p> <p>The matters for determining one's suitability to hold a tourist guide/tour escort licence are premised on those considered by the TIC under its accreditation system, and include the new matters as set out in the right-most column.</p>	<p>Clauses 43(2)(a)(iii), 47(2)(a)(ii), 53; Schedule 4 – clause 1(2)</p> <p>The new matters are –</p> <ul style="list-style-type: none"> • conviction record relating to criminal offences under the Bill and Cap. 362; • record of application for travel agent licence and renewal under the existing regime; record of application for travel agent/tourist

Key areas of the Bill	Requirements/provisions modelled on Travel Agents Ordinance (Cap. 218) or its subsidiary legislation	Requirements adapted from the TIC's existing regulatory requirements	New requirements under the Bill
			guide/tour escort licence application and renewal under the new regime; record relating to travel agent business under the existing and new regimes; and <ul style="list-style-type: none"> • record of compliance with the requirements in the Bill.
Validity period of tourist guide/tour escort licence	–	Clauses 43(6)-(7), 47(6)-(7) The validity period is the same as that under the TIC's accreditation system.	–
Period within which application for renewal of tourist guide/tour escort licence must be made	–	Clause 46(2)(a); Schedule 1 – clause 1(2) The period is the same as that within which an application for renewing a tourist guide/tour escort pass under the TIC's accreditation system.	–
No fresh application for tourist guide/tour	–	–	Clauses 49-52 The arrangement is on par with that relating to travel agent

Key areas of the Bill	Requirements/provisions modelled on Travel Agents Ordinance (Cap. 218) or its subsidiary legislation	Requirements adapted from the TIC's existing regulatory requirements	New requirements under the Bill
escort licence etc. within prescribed period after refusal of tourist guide/tour escort licence application or revocation of licence			licences under the Bill.
Offence relating to application for tourist guide/tour escort licence etc.	—	—	Clause 61 The arrangement is on par with that relating to travel agent licences under the Bill.

E. Key Aspects of Regulation of Tourist Guides and Tour Escorts

Key areas of the Bill	Requirements/provisions modelled on Travel Agents Ordinance (Cap. 218) or its subsidiary legislation	Requirements adapted from the TIC's existing regulatory requirements	New requirements under the Bill
Prohibition against working without tourist guide/tour escort licence	–	–	Clauses 40(1)-(2) The prohibition is on par with that against carrying on travel agent business without a licence under the Bill.
Prohibition against working otherwise than in accordance with licence conditions	–	–	Clauses 40(3)-(4), 43(5), 47(5) The prohibition is on par with that that against carrying on travel agent business otherwise than in accordance with licence conditions under the Bill.
Duty to comply with prescribed requirements	–	–	Clause 54 The requirement is on par with that applicable to travel agents under the Bill.
Duty to comply with guidelines, directives or codes of conduct	–	Clause 55 The requirement is adapted from the TIC's requirement. Under the Bill, a licensed tourist guide/tour escort breaching a	–

Key areas of the Bill	Requirements/provisions modelled on Travel Agents Ordinance (Cap. 218) or its subsidiary legislation	Requirements adapted from the TIC's existing regulatory requirements	New requirements under the Bill
		guideline, directive or code of conduct will be subject to disciplinary proceedings.	
Duty to inform the TIA of changes in prescribed particulars	–	–	Clause 57 The requirement is on par with that applicable to authorized representatives of travel agents under the Bill (see clause 27(c)).

F. Register

Key areas of the Bill	Requirements/provisions modelled on Travel Agents Ordinance (Cap. 218) or its subsidiary legislation	Requirements adapted from the TIC's existing regulatory requirements	New requirements under the Bill
Keeping, content, inspection and copying of register, and certified copies to be admissible as evidence	<p>Clauses 63-66</p> <p>The arrangements make reference to regulations 2 to 5 of Cap. 218 sub. leg. A. As the register with up-to-date particulars about licensees will be made available for inspection at the TIA's offices during ordinary business hours and through the Internet (or a similar electronic network) under the Bill, we consider it unnecessary for the Bill to further require the TIA to publish the particulars contained in the register by gazette.</p>	-	-
Coverage of register	-	-	Under the Bill, in addition to travel agents, the register will cover tourist guides and tour escorts under the Bill.

G. Key Aspects of Inspection, Investigation, Disciplinary and Appeal Mechanisms

Key areas of the Bill	Requirements/provisions modelled on Travel Agents Ordinance (Cap. 218) or its subsidiary legislation	Requirements adapted from the TIC's existing regulatory requirements	New requirements under the Bill
The TIA's powers to conduct inspection and investigation	(See the right-most column)	(See the right-most column)	<p>Part 6</p> <p>Part 6 seeks to equip the TIA with a comprehensive set of statutory inspection and investigation powers. At present, the Registrar of Travel Agents is statutorily empowered to conduct financial surveillance (see section 45 of Cap. 218) and conduct investigation if he suspects that the business of a licensed travel agent is being carried on contrary to public interest (see sections 21-29 of Cap. 218). The TIC takes charge of trade self-regulation.</p> <p>On offences, clauses 82 and 83 are modelled on sections 45(2), 48(1)(b) and 48(1)(c)(iii) of</p>

Key areas of the Bill	Requirements/provisions modelled on Travel Agents Ordinance (Cap. 218) or its subsidiary legislation	Requirements adapted from the TIC's existing regulatory requirements	New requirements under the Bill
			Cap. 218. Clause 84 is modelled on section 29(6) of Cap. 218 and carries a heavier maximum penalty to be commensurate with the serious nature of the offence concerned.
Disciplinary mechanism	—	—	Part 7 Part 7 seeks to provide for a comprehensive disciplinary mechanism, underpinned by the establishment of a disciplinary committee by the TIA, to handle cases of complaint lodged under section 71 of the Bill and cases of suspicion mentioned in section 72(b) in relation to licensees at the conclusion of the relevant investigation conducted by the TIA.
Summary procedure of revocation or	Clauses 112-114 As in the case of the Registrar of Travel Agents empowered to	—	Clauses 112-114 As compared with Cap. 218, the new considerations for

Key areas of the Bill	Requirements/provisions modelled on Travel Agents Ordinance (Cap. 218) or its subsidiary legislation	Requirements adapted from the TIC's existing regulatory requirements	New requirements under the Bill
suspension of licence	summarily revoke or suspend a travel agent's licence under the existing regulatory regime (see sections 19 and 20 of Cap. 218), the TIA will be empowered to summarily revoke or suspend a licence under the circumstances stipulated in the Bill.		<p>summarily revoking or suspending a licence are as follows –</p> <ul style="list-style-type: none"> • the licensee's act or conduct endangers, or poses an imminent danger, to the safety of any person or property, or brings, or poses an imminent risk of bringing, Hong Kong's travel industry into disrepute (see clauses 99(3)(c) and 112(a)(c)); • the licensee fails to make an application for appointing a new authorized representative, or the licensee's application is refused by the TIA under the circumstances stipulated in the Bill (see clauses 112(1)(a), (b) and (d)); and • the licensee's failure to pay a

Key areas of the Bill	Requirements/provisions modelled on Travel Agents Ordinance (Cap. 218) or its subsidiary legislation	Requirements adapted from the TIC's existing regulatory requirements	New requirements under the Bill
			Mainland inbound registration fee or financial penalties (see clauses 113(1)(a)(i) and (ii)) (comparable to the licensee's failure to pay a levy (see clause 113(1)(a)(iii)).
Effect of revocation or suspension of travel agent licence	Clause 115 The clause is modelled on section 31 of Cap. 218.	—	—
Appeal mechanism	—	—	Part 8 Part 8 provides for the establishment of an independent appeal mechanism, underpinned by an appeal panel whose members are appointed by the SCED, to handle appeals against the decisions or orders stipulated in section 121 of the Bill.

H. Key Aspects of Travel Industry Compensation Fund (TICF) and Levies

Key areas of the Bill	Requirements/provisions modelled on Travel Agents Ordinance (Cap. 218) or its subsidiary legislation	Requirements adapted from the TIC's existing regulatory requirements	New requirements under the Bill
TICF	<p>Clauses 140-142 The clauses are modelled on sections 32C, 32D and 32F of Cap. 218.</p>	—	—
Ex gratia payments	<p>Clause 143 The clause is modelled on section 32E(1) of Cap. 218.</p>	—	—
Other payments	<p>Clause 146(1) The clause is modelled on sections 32E(2) and 32M(1) of Cap. 218.</p>	—	—
Authority levy	<p>Clause 147 The clause is modelled on section 32I of Cap. 218. As the TIA will take up the regulatory role from the TIC, levies will be paid to the TIA instead of the TIC under the new regulatory regime.</p>	—	—
Fund levy	Clause 148	—	—

Key areas of the Bill	Requirements/provisions modelled on Travel Agents Ordinance (Cap. 218) or its subsidiary legislation	Requirements adapted from the TIC's existing regulatory requirements	New requirements under the Bill
	The clause is modelled on section 32H of Cap. 218. Fund levies will be paid to the TIA directly. The TIC will no longer be the authorized collector of Fund levies under the new regulatory regime.		
The TIA's rights of subrogation and relevant regulation	-	-	Clauses 144, 150(4) The rights of subrogation will entitle the TIA to recover the ex gratia payment from the travel agent that causes the loss of outbound fare in a bankruptcy or winding up or by legal proceedings against the travel agent concerned. This will help to deter unscrupulous travel agents from deliberate closure after collecting fares from outbound travellers with a view to shoving the burden of redress to the TICF.

Key areas of the Bill	Requirements/provisions modelled on Travel Agents Ordinance (Cap. 218) or its subsidiary legislation	Requirements adapted from the TIC's existing regulatory requirements	New requirements under the Bill
Offences relating to application for ex gratia payment	–	–	Clause 145 The offence will help to safeguard the TICF through sanctioning dishonest claimants for ex gratia payments.
Other payments – setting aside a certain percentage of the TICF for supporting continuous development of travel industry	–	–	Clause 146(2) The clause provides for the establishment of a new Travel Industry Development Fund. The scope of the new fund will be determined by the TIA.
Electronic levy system and relevant regulation	–	–	Clauses 149, 150(1)(c) The system will facilitate travel agents' conduct of business and payment of levies.
Regulations for Part 9	Clause 150(1) and (3) The clauses are modelled on section 32G of Cap. 218.	–	Clause 150(2) – offences relating to contravention of regulations The clause empowers the TIA to prescribe offences to enhance

Key areas of the Bill	Requirements/provisions modelled on Travel Agents Ordinance (Cap. 218) or its subsidiary legislation	Requirements adapted from the TIC's existing regulatory requirements	New requirements under the Bill
			<p>deterrent effect against travel agents' malpractices relating to levy payments, which can cover non-payment, late payment and under-payment.</p> <p>Clause 150(4) – advance authorization The clause provides for the making of regulations to enable an outbound traveller to, before his/her departure for an outbound tour, authorize in advance a person to apply for and receive an ex gratia payment. Under the proposed advance authorization arrangement, the authorization will survive the traveller's subsequent death or mental incapacity.</p>