

**立法會**  
**Legislative Council**

LC Paper No. CB(2)1827/18-19  
(These minutes have been  
seen by the Administration)

Ref : CB2/BC/5/17

**Bills Committee on  
Hotel and Guesthouse Accommodation (Amendment) Bill 2018**

**Minutes of the fifth meeting  
held on Monday, 1 April 2019, at 2:30 pm  
in Conference Room 3 of the Legislative Council Complex**

**Members present** : Hon YIU Si-wing, BBS (Chairman)  
Hon CHEUNG Kwok-kwan, JP (Deputy Chairman)  
Hon Paul TSE Wai-chun, JP  
Hon Charles Peter MOK, JP  
Hon KWOK Wai-keung, JP  
Hon Alvin YEUNG  
Hon SHIU Ka-fai  
Hon Tony TSE Wai-chuen, BBS

**Members absent** : Hon James TO Kun-sun  
Hon Vincent CHENG Wing-shun, MH

**Public Officers attending** : Mr Jack CHAN, JP  
Under Secretary for Home Affairs  
Home Affairs Bureau

Miss Vega WONG, JP  
Deputy Director of Home Affairs (2)  
Home Affairs Department

Miss Grace LI, JP  
Assistant Director of Home Affairs (4)  
Home Affairs Department

Mr Peter SZE  
Senior Assistant Law Draftsman (Acting)  
Department of Justice

Ms Carmen CHU  
Senior Government Counsel  
Department of Justice

**Clerk in attendance** : Ms Wendy JAN  
Chief Council Secretary (2) 4

**Staff in attendance** : Ms Vanessa CHENG  
Assistant Legal Adviser 5

Ms Catherina YU  
Senior Council Secretary (2) 4

Miss Alison HUI  
Legislative Assistant (2) 4

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**I. Meeting with the Administration**

[File Ref.: HAD HQ CR/15/3/20(C); LC Paper Nos. CB(3)811/17-18, LS96/17-18, CB(2)190/18-19(01) to (02), IN01/18-19, CB(2)201/18-19(01), CB(2)640/18-19(04) and CB(2)1102/18-19(01) to (02)]

The Bills Committee deliberated (index of proceedings attached at **Annex**).

2. The Bills Committee requested the Administration to provide:
- (a) information on the average processing time of applications for licence renewal for hotel/guesthouse licences, and the licence renewal arrangements for hotels and guesthouses;
  - (b) justifications for only requiring licence holders whose licence had a validity period exceeding 36 months, but not all licence holders, to submit to the Hotel and Guesthouse Accommodation Authority a certificate from an authorized person certifying the matters specified in the proposed new

section 12I(3) on an annual basis; and

- (c) justifications for issuing licences with validity period not exceeding 84 months to hotels but only issuing licences with validity period not exceeding 36 months to guesthouses, and the reasons for not specifying in the Hotel and Guesthouse Accommodation (Amendment) Bill 2018 the different maximum validity periods of licences for hotels and guesthouses respectively.

*(Post-meeting note: The Administration's response was issued to members vide LC Paper No. CB(2)1677/18-19(01) on 19 June 2019.)*

3. The Chairman said that subject to any views members might have on the Administration's written response to the issues arising from the meeting, he would decide whether a further meeting was necessary. Members agreed that if the holding of a further meeting was not required, the Bills Committee would consider its scrutiny work of the Bill completed.

#### Legislative timetable

4. Members noted that:

- (a) the Chairman intended to report the deliberations of the Bills Committee to the House Committee at its meeting on 17 May 2019;
- (b) the Administration intended to resume the Second Reading debate on the Bill at the Council meeting of 29 May 2019; and
- (c) the deadline for giving notice to propose amendments to the Bill, if any, was 20 May 2019.

*(Post-meeting note: Members were informed of the updated legislative timetable vide LC Paper Nos. CB(2)1468/18-19 on 17 May 2019 and CB(2)1734/18-19 on 26 June 2019.)*

## **II. Any other business**

5. There being no other business, the meeting ended at 3:33 pm.

Council Business Division 2  
Legislative Council Secretariat  
22 July 2019

**Proceedings of the fifth meeting of the  
Bills Committee on Hotel and Guesthouse Accommodation (Amendment) Bill 2018  
on Monday, 1 April 2019, at 2:30 pm  
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker(s)	Subject(s)	Action required
<i>Agenda item I – Meeting with the Administration</i>			
000911-001020	Chairman	<p>The Chairman reminded members to declare interests in the matter under discussion, if any.</p> <p>Declaration by the Chairman that he was an employee of a company which invested in hotel projects.</p>	
The Administration's response to issues raised at the meeting of the Bills Committee on 4 March 2019			
001021-001758	Chairman Administration	<p>Members noted the Administration's written response to the issues raised at the last meeting (LC Paper No. CB(2)1102/18-19(02)).</p> <p>The Chairman's enquiry regarding:</p> <ul style="list-style-type: none"> <li>(a) in the event that a closure order had been made against any premises which were used as a hotel/guesthouse by a sub-tenant, how the owner of the premises who resided outside Hong Kong would be informed of the closure order, and whether the owner was required to take action in respect of the closure order;</li> <li>(b) how consumers would know that a closure order had been made against a hotel/guesthouse; and</li> <li>(c) who would determine the conspicuous part of the premises to which a closure order should be affixed.</li> </ul> <p>The Administration's response that the closure order would come to the notice of the owner and consumers since a copy of the closure order would be registered in the Land Registry, a notice in relation to the previous conviction of any person of an offence under section 5 or 5A would be published in English and Chinese respectively in newspapers published in Hong Kong and both of these notices would be affixed to a conspicuous part of the premises to which the previous conviction related. Further, the closure order might probably come to the owner's attention if the tenant failed to pay rent to the owner after the closure order was made. If a closure order was made against the premises, the owner of the premises as an affected person might apply to court for suspension of the closure order.</p> <p>The Administration's advice that enforcement officers appointed by the Office of the Licensing Authority under the Home Affairs Department would determine which part of the premises concerned could be regarded as a conspicuous part of the premises to which a closure order should be affixed.</p>	

Time marker	Speaker(s)	Subject(s)	Action required
Clause-by-clause examination			
001759-001840	Chairman Administration	<p><u>Clause 27</u></p> <p>Members raised no question.</p>	
001841-005214	Chairman Mr Tony TSE Mr Alvin YEUNG Administration	<p><u>Clause 28</u></p> <p><i>Proposed new section 23</i></p> <p>Mr Tony TSE's concern and enquiry regarding:</p> <p>(a) whether hotel/guesthouse operators were given sufficient time to comply with the requirements for licence renewal before the licence expired;</p> <p>(b) whether the Hotel and Guesthouse Accommodation (Amendment) Bill 2018 ("the Bill") had provided flexibility to extend the application period for licence renewal (i.e. the application must be made within the period beginning six months before, and ending three months before, the end of the validity period of the licence); and</p> <p>(c) whether the Bill had provided flexibility in case the Administration was unable to complete the processing of renewal applications before the licences expired.</p> <p>The Administration's response that:</p> <p>(a) there would be a transitional period of 12 months during which a licence holder might renew his licence (expiring during the transitional period) once for not more than 12 months under the existing licensing regime (instead of the new licensing regime). Since the renewal was based on the existing licence in relation to the premises which had already complied with certain fundamental requirements imposed by the Hotel and Guesthouse Accommodation Authority ("the Authority"), the renewal procedure was relatively simple and the transitional period of 12 months was appropriate;</p> <p>(b) according to section 9(5) of the Hotel and Guesthouse Accommodation Ordinance (Cap. 349) (the existing regime), any licence in respect of which an application for renewal was made not less than three months prior to the expiry of the licence and which expired prior to the determination of such application shall remain in effect until the determination by the Authority of such application; and</p> <p>(c) similar arrangement was made under the proposed new section 12H(4) that if the application for renewal of a licence was made within the period beginning six months before, and ending three months before, the end of the validity period of the licence and the application was pending as at the end of the licence period, the licence remained in effect despite the end of its licence period.</p>	

Time marker	Speaker(s)	Subject(s)	Action required
		<p>The Administration's response to Mr Alvin YEUNG's enquiry about the average processing time of applications for licence renewal and whether the Administration could complete the processing of licence renewal applications within the 12-month transitional period. At the Chairman's request, the Administration undertook to provide information on:</p> <ul style="list-style-type: none"> <li>(a) the average processing time of applications for licence renewal for hotel/guesthouse licences; and</li> <li>(b) the licence renewal arrangements for hotels and guesthouses.</li> </ul> <p>The Chairman's enquiry about the criteria for issuing guesthouse licences with various validity periods, which ranged from one year to three years.</p> <p>The Administration's response that:</p> <ul style="list-style-type: none"> <li>(a) generally speaking the Authority would renew the licence for a guesthouse with a validity period of three years if the licence holder had good records of acting in full compliance of the licence conditions as well as the enhanced requirements imposed by the Authority, such as providing 24-hour manned counters at the guesthouse and procuring a third party risks insurance policy with a minimum limit of indemnity as required by the Authority. If the licence holder did not comply with all requirements and conditions, the Authority might renew the licence with a validity period of less than three years; and</li> <li>(b) in anticipation of the proposed land document consideration requirement, if the Authority was aware that complaints had been received against the licence holder that there was violation of the terms and conditions of the Government lease or the Deed of Mutual Covenant, the Authority might require the licence holder to provide a certificate by a legal practitioner (in response to such complaints) for its consideration in relation to the licence renewal application. If the licence holder could not provide the relevant certificate, the Authority would renew the licence with a validity period of one year only. These arrangements had been explained to the trade which had noted such arrangements.</li> </ul> <p>Mr Tony TSE's view that all hotel/guesthouse licence holders should, irrespective of the length of the validity period of the licence, submit to the Authority a certificate from an authorized person ("AP") certifying the matters specified in the proposed new section 12I(3) on an annual basis.</p> <p>Mr TSE's enquiry and the Administration's response regarding:</p> <ul style="list-style-type: none"> <li>(a) the justifications for only requiring licence holders whose licence had a validity period exceeding 36 months, but not all licence holders, to submit to the Authority an AP's certificate on an annual basis;</li> </ul>	<p>Admin (paragraph 2(a) of the minutes.)</p>

Time marker	Speaker(s)	Subject(s)	Action required
		<p>(b) the justifications for issuing licences with validity period not exceeding 84 months to hotels but only issuing licences with validity period not exceeding 36 months to guesthouses; and</p> <p>(c) the reasons for not specifying in the Bill the different maximum validity periods of licences for hotels and guesthouses respectively.</p> <p>At the Chairman's request, the Administration undertook to provide a written response to items (a) to (c) above.</p> <p>The Chairman's view that the Administration should make clear to guesthouse operators the criteria for issuing licences with validity period beyond 36 months.</p> <p>The Administration's advice that it would:</p> <p>(a) set out in administrative guidelines the criteria for issuing licences with validity period beyond 36 months; and</p> <p>(b) explain to hotel/guesthouse operators the arrangements for the validity periods of licences and the justifications for not requiring all licence holders to submit to the Authority an AP's certificate on an annual basis.</p>	<p>Admin (paragraph 2(b) to (c) of the minutes).</p>
005215-005329	Chairman Administration	<p><u>Clauses 29 to 36</u></p> <p>Members raised no question.</p>	
005330-005703	Chairman Assistant Legal Adviser 5 ("ALA5") Administration	<p><u>Clause 37</u></p> <p>ALA5's observation that unlike the existing forms which were prescribed by way of a schedule to the Hotel and Guesthouse Accommodation (Appeal Board) Regulations (Cap. 349 sub. leg. A) ("Cap. 349A"), the proposed new regulation 16 empowered the Convenor to specify a form to be used for the purposes of any matter provided for under Cap. 349A such that the form would not be prescribed in subsidiary legislation.</p> <p>Regarding the Chairman's enquiry about the reasons why the forms under Cap. 349A (as amended under Part 3 of the Bill) were not prescribed in subsidiary legislation, the Administration's advice that there might not be sufficient flexibility for updating and revising the relevant forms from time to time if these forms were prescribed by way of subsidiary legislation. These forms to be specified by the Convenor would be published on the Administration's website to maintain transparency.</p>	
005704-005739	Chairman Administration	<p><u>Clauses 38 to 42</u></p> <p>Members raised no question.</p>	



Time marker	Speaker(s)	Subject(s)	Action required
005740-010420	Chairman Mr Tony TSE Administration ALA5	<p><u>Clauses 43 to 56</u></p> <p>Regarding Mr Tony TSE's enquiry about the reasons for not replacing the term "旅館" by "酒店及賓館" in the Chinese title of the Bill, the Administration's advice that since the Bill had already provided for a differentiation between a "hotel licence" and a "guesthouse licence", no confusion would arise and the Chinese title of the Bill would not affect the interpretation of the provisions of the Bill.</p> <p>Response of ALA5 to Mr TSE's enquiry that the Chinese title of the Bill would not affect the interpretation of the provisions in the Bill.</p> <p>Completion of clause-by-clause examination of the Bill.</p>	
010421-010518	Chairman Mr Tony TSE ALA5	ALA5's confirmation to Mr Tony TSE's enquiry that there was no discrepancy between the Chinese and English versions of the Bill.	
010519-010654	Chairman Administration	Proposed legislative timetable.	
<i>Agenda item II – Any other business</i>			
010655-010701	Chairman	Closing remarks	