

**立法會**  
**Legislative Council**

LC Paper No. CB(2)405/20-21  
(These minutes have been  
seen by the Administration)

Ref : CB2/SS/1/20

**Subcommittee on Hotel and Guesthouse Accommodation  
(Amendment) Ordinance 2020 (Commencement) Notice**

**Minutes of the meeting  
held on Tuesday, 3 November 2020, at 9:00 am  
in Conference Room 3 of the Legislative Council Complex**

**Members present** : Hon Charles Peter MOK, JP (Chairman)  
Hon James TO Kun-sun  
Prof Hon Joseph LEE Kok-long, SBS, JP  
Hon YIU Si-wing, BBS  
Hon MA Fung-kwok, GBS, JP  
Dr Hon KWOK Ka-ki  
Hon KWOK Wai-keung, JP  
Dr Hon Fernando CHEUNG Chiu-hung  
Dr Hon Helena WONG Pik-wan  
Hon Alvin YEUNG  
Hon LAM Cheuk-ting  
Hon SHIU Ka-chun  
Hon HUI Chi-fung  
Hon LUK Chung-hung, JP  
Hon LAU Kwok-fan, MH  
Hon Jeremy TAM Man-ho  
Hon Vincent CHENG Wing-shun, MH, JP  
Hon Tony TSE Wai-chuen, BBS, JP

**Members absent** : Hon LEUNG Yiu-chung  
Hon Kenneth LEUNG  
Hon Dennis KWOK Wing-hang  
Hon Andrew WAN Siu-kin  
Hon KWONG Chun-yu

[According to the announcement made by the Hong Kong Special Administrative Region Government on 11 November 2020 pursuant to the Decision of the Standing Committee of the National People's Congress on Issues Relating to the Qualification of the Members of the Legislative Council of the Hong Kong Special Administrative Region, Kenneth LEUNG, KWOK Ka-ki, Dennis KWOK Wing-hang and Alvin YEUNG were disqualified from being a member of the Legislative Council on 30 July 2020.]

**Public Officers attending** : Miss Vega WONG Sau-wai, JP  
Deputy Director of Home Affairs (2)  
Home Affairs Department

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

Ms Pauline PANG Mei-tuan  
Chief Officer (Licensing Authority)  
Home Affairs Department

**Clerk in attendance** : Miss Lilian MOK  
Chief Council Secretary (2) 4

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

Mr Roger CHUNG  
Council Secretary (2) 4

Miss Natalie WU  
Clerical Assistant (2) 4

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Action

**I. Election of Chairman**

Mr James TO, the member who had the highest precedence in Council among members of the Subcommittee present, presided over the election of the Chairman. Mr TO invited nominations for the chairmanship of the Subcommittee.

2. Mr YIU Si-wing was nominated by Mr Tony TSE and the nomination was seconded by Mr MA Fung-kwok. Mr YIU accepted the nomination.

3. Mr Charles MOK was nominated by Dr KWOK Ka-ki and the nomination was seconded by Mr Alvin YEUNG. Mr MOK accepted the nomination.

4. As there was no other nomination, Mr James TO announced a vote by secret ballot. The result of the vote was that six members voted for Mr YIU Si-wing and nine members voted for Mr Charles MOK. Mr TO declared that Mr MOK elected as the Chairman of the Subcommittee. Mr MOK then took the chair.

## **II. Meeting with the Administration**

[L.N. 140 of 2020, LC Paper Nos. LS111/19-20 and CB(2)1008/19-20]

5. The Subcommittee deliberated (index of proceedings attached at **Annex**).

Admin 6. The Subcommittee requested the Administration to provide its updated views on the regulation of home-stay lodging with reference to the analysis and the overseas practices set out in the Information Note entitled "Regulation of home-stay lodging in selected places" prepared by the Research Office of the Legislative Council Secretariat (LC Paper No. IN01/18-19).

*(Post-meeting note: The Administration's updated views were issued to members vide LC Paper No. CB(2)226/20-21(01) on 11 November 2020.)*

7. Members considered it not necessary for the Subcommittee to invite public views on the Hotel and Guesthouse Accommodation (Amendment) Ordinance 2020 (Commencement) Notice ("the Commencement Notice").

8. The Chairman informed members that the Chairman of the House Committee had given notice to move a proposed resolution at the Council meeting of 21 October 2020 to extend the scrutiny period of the Commencement Notice to 11 November 2020. However, the proposed resolution was not dealt with at the Council meeting of 21 October 2020 before the adjournment of the meeting. As such, the period for amending the Commencement Notice expired at the said Council meeting.

## **III. Any other business**

9. The Subcommittee completed the scrutiny of the Commencement Notice. Members noted that a report on the deliberations of the Subcommittee would be submitted to the House Committee in due course.

10. There being no other business, the meeting ended at 10:24 am.

Council Business Division 2  
Legislative Council Secretariat  
26 November 2020

**Proceedings of the meeting of the  
Subcommittee on Hotel and Guesthouse Accommodation  
(Amendment) Ordinance 2020 (Commencement) Notice  
on Tuesday, 3 November 2020, at 9:00 am  
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker(s)	Subject(s)	Action required
<i>Agenda item I – Election of Chairman</i>			
000353-001046	Mr James TO Mr Tony TSE Mr MA Fung-kwok Mr YIU Si-wing Dr KWOK Ka-ki Mr Alvin YEUNG Mr Charles MOK	Election of Chairman	
<i>Agenda item II – Meeting with the Administration</i>			
001047-001410	Chairman Dr KWOK Ka-ki Assistant Legal Adviser 5 ("ALA5") Clerk Mr Jeremy TAM	Dr KWOK Ka-ki's enquiry about the legislative timetable of the Hotel and Guesthouse Accommodation (Amendment) Ordinance 2020 (Commencement) Notice ("the Commencement Notice").  ALA5's and the Clerk's advice on the period for amending the Commencement Notice which had expired at the Council meeting of 21 October 2020.  Mr Jeremy TAM's enquiry and the Chairman's response about the arrangements for subsequent meetings, if any.	
001411-001624	Chairman Administration	Briefing by the Administration on the Commencement Notice.	
001625-002606	Chairman Mr YIU Si-wing Administration	Mr YIU Si-wing noted that the outbreak of Coronavirus Disease 2019 had taken an unprecedented heavy toll on the tourism sector and the number of visitor arrivals of Hong Kong plummeted. He also expressed concern about the various nuisances caused by unlicensed hotels and guesthouses to the community.  Mr YIU's further enquiries about:  (a) the total number of licensed hotels and guesthouses closed down since January 2020 in Hong Kong;  (b) the number of operations and complaint cases against unlicensed hotels and guesthouses since January 2020;	

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		<p>(c) how the Administration would deal with the existing licences which would expire after the implementation of the Hotel and Guesthouse Accommodation (Amendment) Ordinance 2020 ("the Amendment Ordinance"), in particular those granted to guesthouses situated in buildings with Deed of Mutual Covenants which contained restrictive provisions;</p> <p>(d) the Administration's enforcement actions against unlicensed hotels and guesthouses after the implementation of the Amendment Ordinance; and</p> <p>(e) the regulation of home-stay lodging in Hong Kong.</p> <p>The Administration's response that:</p> <p>(a) up to September 2020, there were 2 088 licensed hotels and guesthouses, which represented 39 premises less when compared with last year. Meanwhile, there were altogether 31 new licence applications received this year, some of which were being processed and had not yet been reflected in the 2 088 licences;</p> <p>(b) upon receipt of reports of suspected unlicensed premises, the Office of the Licensing Authority ("OLA") would conduct inspection to the suspected guesthouses. While about 1 200 complaint cases were received and close to 17 000 operations were conducted in 2019, there were only around 360 complaint cases received and some 7 000 operations conducted during the period from January to September 2020;</p> <p>(c) under section 28 of the Amendment Ordinance, a transitional period of 12 months, beginning on the date on which the Amendment Ordinance came into operation, would be in place. Specifically, if an existing licence expired within the 12-month transitional period, the licensee could apply for renewal based on the existing licensing requirements for a period not exceeding 12 months. If a licence expired beyond the 12-month transitional period, the renewal application would be processed in accordance with the enhanced licensing regime;</p> <p>(d) the Amendment Ordinance would facilitate enforcement actions against unlicensed hotels and guesthouses by empowering the Hotel and Guesthouse Accommodation Authority ("the Authority") to apply for search warrants to enter and search a suspected unlicensed hotel or guesthouse and to apply to court for closure of premises in</p>	

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		<p>particular circumstances; and</p> <p>(e) it welcomed the lawful operation of hotels and guesthouses, including those operating in the mode of home-stay lodging. While there was no dedicated regime for premises operating in the mode of home-stay lodging, the existing and enhanced regimes were flexible enough to cater for hotels and guesthouses operating in different modes. The regulatory requirements to be imposed on the subject premises would be flexible having regard to the circumstances of each case.</p>	
002607-003115	Chairman Mr HUI Chi-fung Administration	<p>Mr HUI Chi-fung's concerns about:</p> <p>(a) the safety and security problems and nuisances caused by unlicensed hotels and guesthouses to the community; and</p> <p>(b) the effectiveness of the Amendment Ordinance in facilitating enforcement actions and enhancing deterrence against unlicensed hotels and guesthouses.</p> <p>The Administration's advice that:</p> <p>(a) to combat against unlicensed premises, OLA, upon receipt of reports of suspected cases, would conduct inspection to the guesthouses concerned and collect evidence by posing as clients when necessary. A dedicated team was also formed under OLA to search information and intelligence on suspected unlicensed hotels/guesthouses through browsing webpages, mobile applications, social media, discussion forums, and blogs, etc.; and</p> <p>(b) the Amendment Ordinance would enable the prosecution of the offence on indictment (in addition to the summary offence under the Hotel and Guesthouse Accommodation Ordinance (Cap. 349)) with a higher maximum penalty of a fine of \$500,000 and imprisonment for three years to underline the seriousness of the offence so that the courts might consider passing heavier sentences on defendants in future cases. Additional manpower had been recruited for the implementation of the enhanced licensing regime.</p>	
003116-003741	Chairman Dr Fernando CHEUNG Administration	<p>Dr Fernando CHEUNG expressed concern about the effectiveness of the enforcement actions under the enhanced licensing regime and requested the Administration to:</p> <p>(a) introduce a dedicated regulatory regime for home-stay lodging to keep up with the new tourism</p>	

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		<p>trend and embrace the concept of sharing economy; and</p> <p>(b) provide its updated views on the regulation of home-stay lodging with reference to the analysis and the overseas practices set out in the Information Note entitled "Regulation of home-stay lodging in selected places" prepared by the Research Office of the Legislative Council Secretariat (LC Paper No. IN01/18-19).</p> <p>The Administration undertook to provide its updated views on home-stay lodging and advised that:</p> <p>(a) the existing and enhanced licensing regimes were flexible enough to cater for hotels and guesthouses operating in different modes, including home-stay lodging; and</p> <p>(b) under the Amendment Ordinance, the Authority would be empowered to apply to the court for a search warrant to allow enforcement officers to enter into, or break into, with reasonable force when necessary, a suspected unlicensed hotel or guesthouse to collect evidence.</p>	<p>Admin (paragraph 6 of the minutes)</p>
003742-004556	<p>Chairman Mr Alvin YEUNG Administration</p>	<p>Mr Alvin YEUNG's view that the Administration should adopt a relatively moderate approach in dealing with non-compliance cases during the initial phase of implementation of the Amendment Ordinance. In response to his enquiries about the manpower arrangement and publicity plan for the enhanced licensing regime, the Administration's advice that:</p> <p>(a) the staffing establishment of OLA had been expanded from 144 in 2018-2019 to 171 in 2020-2021 to make preparation for the commencement of the Amendment Ordinance. Part-time staff might be recruited subject to operational needs. OLA had also been providing internal training and guidelines on the relevant regulatory and enforcement duties for its staff; and</p> <p>(b) OLA would step up publicity through various channels to remind the public of the possible legal and safety consequences of operating unlicensed hotels or guesthouses and to urge visitors and members of the public to patronize only licensed hotels or guesthouses. Moreover, OLA would communicate with the Estate Agents Authority to remind real estate agents of the need to remind their clients, before any transaction was processed, of the legal consequences of allowing any premises to be used for operating unlicensed hotels and guesthouses</p>	



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		<p>and to check whether there were previous convictions records in respect of certain premises. Briefing sessions and seminars would also be organized for the related business sectors.</p>	
004557-005250	<p>Chairman Dr Helena WONG Administration</p>	<p>Raising grave concern that the Administration could hardly provide an accurate number of unlicensed hotels and guesthouses currently operating, Dr Helena WONG cast doubt on how OLA would be able to take effective enforcement actions against unlicensed premises.</p> <p>The Administration explained that given the unlawful and hidden nature of the unlicensed premises, there could hardly be any accurate figure. Nevertheless, OLA had been carrying out proactive inspections and investigations. The dedicated team responsible for searching information and intelligence had an understanding on the situation through complaints received and online investigations.</p>	
005251-005709	<p>Chairman Mr YIU Si-wing Administration</p>	<p>Mr YIU Si-wing's view that the Administration should employ more up-to-date channels of communication to enhance publicity, particularly in the estates and buildings in which suspected unlicensed guesthouses were located, on the implementation of the Amendment Ordinance.</p> <p>The Administration's reiteration that OLA would strengthen publicity through various channels, including distribution of leaflets and arranging meetings with leading online home sharing platform operators to brief them on the latest enforcement plan.</p>	
005710-010639	<p>Chairman Mr HUI Chi-fung Administration</p>	<p>Mr HUI Chi-fung criticized the Administration for not engaging the 18 District Councils ("DCs") in the local consultation on licence applications. He was of view that DCs were important components in Hong Kong's political structure and had all along been giving pertinent advice on district affairs. In response to Mr HUI's suggestion that all DC members regardless of their political affiliations should be consulted on the relevant licence applications in their respective districts, the Administration's advice that:</p> <p>(a) the Amendment Ordinance empowered the Authority to appoint a panel of persons ("the advisory panel") to advise the Authority on views of affected persons when considering a licence application. "Affected person" was defined in the Amendment Ordinance as, subject to the location of the premises in question, an owner or occupier of any other part of the building, and/or an owner or occupier of any other premises situated in the surrounding area. The Administration would follow the statutory</p>	

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		<p>requirements and take into account the views of affected persons in considering licence applications; and</p> <p>(b) to strike a fair and reasonable balance between efficiency and impartiality, the advisory panel to be appointed would comprise representatives from various professions, local communities and the hotel and guesthouse sector. The membership list of the advisory panel would be made public.</p> <p>In response to the Chairman's view that DC members should be provided with information of new licence applications, the Administration's advice that similar to the current practice, a list of prospective guesthouses applying for licences would be posted on OLA's homepage for public viewing.</p>	
010640-011826	Chairman Dr Helena WONG Administration	<p>Dr Helena WONG's view that DC members should be consulted on the relevant licence applications in their respective districts.</p> <p>In response to Dr WONG's enquiry about licence processing, the Administration's advice that:</p> <p>(a) while the processing time for each licence application might vary subject to the maintenance condition of individual premises, the time required for OLA to process an application was around two months on average provided that the subject premises had complied with all relevant licensing requirements ; and</p> <p>(b) as the local consultation exercise would be conducted in parallel with other application procedures, the entire licensing process would not be substantially lengthened.</p> <p>Dr WONG's further suggestion that the Administration should work closely with owners' corporations of target estates and residential buildings to raise their awareness of the implementation of the enhanced licensing regime and appeal to them to report suspected cases to OLA.</p>	
011827-012650	Chairman Mr Alvin YEUNG Administration	<p>Mr Alvin YEUNG's views that the Administration should:</p> <p>(a) consult DC members on the relevant licence applications in their respective districts;</p> <p>(b) employ more up-to-date channels of communication to proactively enhance the publicity on the Amendment Ordinance; and</p>	

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		<p>(c) meet with online home sharing platform operators to brief them on the enhanced licensing regime.</p> <p>The Administration's advice that:</p> <p>(a) it would follow the statutory requirements to conduct local consultation when considering a licence application;</p> <p>(b) it would continue to step up publicity through various channels to help hotel and guesthouse operators and the general public to make preparation for migration to the enhanced licensing regime; and</p> <p>(c) it had been engaging online home sharing platform operators and would continue to do so as appropriate and brief them on the new licensing requirements.</p>	
<i>Agenda item III - Any other business</i>			
012651-012801	Chairman	Closing remarks	