



## **Demerit System for Mainland Tour Reception Services: Members**

### **I. Introduction**

1. The establishment of the Demerit System is aimed at improving the standard of reception services for inbound tours organised in mainland China (mainland tours) and having a deterrent against repeated violations by members, thus upholding the good reputation of Hong Kong's tourism industry.
2. The Demerit System does not cover all the rules of the TIC, but targets the kinds of violations on which the TIC has focused and which are related to the reception of mainland tours.
3. Members suspected of violating those rules of the TIC subsumed under the Demerit System will be handled by the Compliance Committee, which will decide the number of demerits to be given after considering the situations of the cases. If the number of accumulated demerits reaches 30 within two years, the membership of the member concerned will be suspended or terminated.
4. The Demerit System will not affect the power of the Board or the Compliance Committee to impose penalties, including the power to suspend or terminate the membership of members.

### **II. Scope**

1. Those rules of the TIC subsumed under the Demerit System are listed in "Applicable rules under the Demerit System" in Section IV.
2. The Board may amend the contents of "Applicable rules under the Demerit System" and will notify members before the amendments take effect.
3. "Applicable rules under the Demerit System" will be posted on the TIC website. Members are advised to check the latest version of "Applicable rules under the Demerit System" from time to time.
4. The Demerit System will not be enforced retrospectively.

### **III. Guidelines for giving demerits (see Annex 1 for examples)**

1. If, after the implementation of the Demerit System, members are suspected of violating such rules as listed in "Applicable rules under the Demerit System" and are later found by the Compliance Committee to have violated



the rules, then demerits will be given on top of the penalties\* currently impossible, both according to the grades of violation:

<u>Violation grade</u>	<u>No. of demerits</u>
Minor	0
Not serious	5
Serious	10
Very serious	15
Extremely serious	20

\* The penalties impossible include: issuance of a warning, imposition of a fine, issuance of a reprimand, imposition of the requirement for compliance with TIC rules, suspension of membership, and termination of membership.

- If members have accumulated 30 demerits within two years, their membership will be suspended or terminated according to established procedures as follows:

30 demerits for the first time:	Suspension of membership for <u>three months</u> ;
30 demerits for the second time:	Suspension of membership for <u>one year</u> ;
30 demerits for the third time:	<u>Termination</u> of membership.

- If the penalty imposed by the Compliance Committee is different from the penalty arising from paragraph 2 because of an accumulation of 30 demerits, then the actual penalty will be the heavier of the two penalties. If the two penalties are the same, then the actual penalty will be the latter penalty.
- All the accumulated demerits will be erased once the membership of members is suspended or terminated.
- If more than one violation is involved in a case, the number of demerits given in the case will equal the highest number of demerits given for any one of all the violations rather than the total number of demerits given for all the violations.
- Demerits are valid for two years, counting from the date when the Compliance Committee finds the case substantiated or any other specified date. In other words, the demerits given for each violation will be erased after two years. Demerits erased on expiry will be deducted from the total number of demerits.
- If there are other cases pending deliberation by the Compliance Committee while the membership of members is suspended, then any demerits to be



given in such other cases will be counted from the date when the membership is resumed and will also be valid for two years.

8. Demerits given to members will continue to be valid pending appeals filed by the members to be considered by the Appeal Board.
9. If the Appeal Board decides that the case is substantiated, the demerits will be counted from the date when the Compliance Committee finds the case substantiated or any other specified date and be valid for two years. If the Appeal Board decides that the case is not substantiated, the demerits will be erased.

#### IV. Applicable rules under the Demerit System (see Annex 2 for examples)

If the Compliance Committee decides that a member has violated the rules in this Section, it will impose a penalty and give demerits according to the grades of violation. The penalties imposable include: issuance of a warning, imposition of a fine, issuance of a reprimand, imposition of the requirement for compliance with TIC rules, suspension of membership, and termination of membership; and the number of demerits which can be given includes: 0, 5, 10, 15 and 20.

(I) General Code of Conduct for TIC Members	
1.	A member shall faithfully carry out the duties which he undertakes, and shall have proper regard for the interests of those who engage him or seek his services.
2.	A member shall avoid actions and situations inconsistent with his legal or contractual obligations or likely to raise doubts about his integrity.

(II) Code of Business Practice on Inbound Travel Service	
1.	Members shall receive inbound visitors only after accommodation has been confirmed by its providers.
2.	Members shall ensure that their tourist guides observe the Code of Conduct for Tourist Guides issued by the TIC.
3.	Members shall conduct shopping activities in accordance with the contracts signed with their business partners.

(III) Directives	
1.	Directive No. 181: Prohibition of collection of additional charges from mainland inbound visitors



	<p>Members shall not in any way collect or collect for others, or attempt to collect or collect for others, even if acting on the instructions of the mainland tour operator, any additional charges from mainland inbound visitors on the grounds of their leaving the tour group in the middle of the trip, their age or occupation, etc, except for the fees necessitated by the participation in self-pay activities by the visitors.</p>
2.	<p>Directive No. 188: Prohibition of subcontracting of inbound tour reception services to unlicensed travel agents</p> <p>Members shall not subcontract the reception services of inbound tours to companies without a valid Travel Agents Licence or any persons (including tourist guides).</p>
3.	<p>Directive No. 192: Tourist Guide Accreditation System</p> <p>All tourist guides assigned by members to receive visitors to Hong Kong shall have a valid Tourist Guide Pass issued by the TIC.</p>
4.	<p>Directive No. 193: Assigning the same tourist guide throughout the journey of mainland tours</p> <ol style="list-style-type: none"> <li>i. Members shall assign the same tourist guide who holds a valid Tourist Guide Pass issued by the TIC to receive the same inbound tour organised in mainland China throughout its journey in Hong Kong except for the time when the tour group is met at the immigration control points and when tour members are on their own for “free activity”.</li> <li>ii. If members assign another tourist guide to meet the tour group at the immigration control points, that tourist guide shall also hold a valid Tourist Guide Pass issued by the TIC.</li> <li>iii. Members shall not make any change to the tourist guides originally assigned to receive and meet the tour group without valid grounds.</li> <li>iv. All the tourist guides shall be assigned by members, which shall provide the names of all the tourist guides when registering with the TIC the tour confirmation agreements of mainland tours, and which shall not increase the number of the tourist guides once the confirmation agreements are registered.</li> </ol>
5.	<p>Directive No. 194: Service remunerations for tourist guides receiving mainland tours</p> <p>Members which assign tourist guides to receive inbound tours organised in mainland China shall make payment of service remunerations (including a basic remuneration/salary, a tour-guiding fee, etc) to the tourist guides concerned to prevent them from relying on shopping commission as their</p>



	major source of income.
6.	<p>Directive No. 195: Prohibition of requests for tourist guides to bear or unreasonably advance mainland tours' payments</p> <p>Members shall not require tourist guides to bear or unreasonably advance any payments for inbound tours organised in mainland China.</p>
7.	<p>Directive No. 196: Distribution of itineraries to participants of mainland tours</p> <ul style="list-style-type: none"> <li>i. Members shall immediately distribute itineraries through tourist guides to each of the participants of inbound tours organised in mainland China on their arrival in Hong Kong.</li> <li>ii. The itinerary shall be printed on A4 paper, contain the items designated by the TIC and be in the format specified.</li> <li>iii. Members shall not distribute to visitors the tour confirmation agreement which they have signed with mainland China's tour operator as if it were the itinerary.</li> <li>iv. When distributing the itinerary to visitors, tourist guides shall read out the parts designated by the TIC.</li> </ul>
8.	<p>Directive No. 198: Prohibition of compelling participants of mainland tours to make purchases</p> <ul style="list-style-type: none"> <li>i. Members shall not make use of any methods to directly or indirectly compel or attempt to compel participants of inbound tours organised in mainland China to make purchases.</li> <li>ii. If the tourist guides assigned by members to receive participants of mainland tours make use of any methods to directly or indirectly compel or attempt to compel the participants to make purchases, the members shall bear liability as an employer for that.</li> </ul>
9.	<p>Directive No. 201: Signing service agreements with tourist guides receiving mainland tours</p> <ul style="list-style-type: none"> <li>i. Before assigning tourist guides to receive inbound tours organised in mainland China, members shall sign with them the "Service Agreement between Hong Kong Receiving Agent and Tourist Guide for Mainland Tours" designated by the TIC.</li> <li>ii. Members and tourist guides shall comply with all the clauses of the above-mentioned Service Agreement.</li> </ul>
10.	<p>Directive No. 221: Registration of tour confirmation agreements of mainland (ex Shenzhen) tours (revised)</p> <ul style="list-style-type: none"> <li>i. All mainland (ex Shenzhen) tours received by members shall be</li> </ul>



	<p>registered with the TIC by means of the following forms designated by the TIC in order to specify the reception services agreed by both members and outbound travel agencies of mainland China (ex Shenzhen):</p> <ul style="list-style-type: none"> <li>a. the “Tour Confirmation Agreement for Mainland (ex Shenzhen) Tours (With Visits to Registered Shops)” (Form 1) if the itineraries of mainland (ex Shenzhen) tours include Point 1(2)<sup>Note</sup> in the above; and</li> <li>b. the “Tour Confirmation Agreement for Mainland (ex Shenzhen) Tours (Without Visits to Registered Shops)” (Form 2) if the itineraries of mainland (ex Shenzhen) tours do not include Point 1(2)<sup>Note</sup> in the above.</li> </ul> <p><i>Note Shopping at shops regulated by the Refund Protection Scheme (Registered Shops) for Inbound Tour Group Shoppers.</i></p> <ul style="list-style-type: none"> <li>ii. Tour Confirmation Agreements shall be completed in accordance with the following method: <ul style="list-style-type: none"> <li>a. Part I of the Tour Confirmation Agreement shall be signed and stamped by members and outbound travel agencies of mainland China (ex Shenzhen), and Part II shall be signed and stamped by members only.</li> <li>b. Unless there are sufficient and reasonable reasons, all the entries of the Tour Confirmation Agreement shall be completed except where otherwise specified, and the information provided shall be accurate.</li> </ul> </li> <li>iii. Each Tour Confirmation Agreement pasted with the registration-fee sticker(s) with the sufficient amount shall be registered with the TIC together with proof of accommodation related and limited to the mainland (ex Shenzhen) tour (in which the tour code and the serial number of the registration-fee sticker(s) shall be marked) by fax (3764-0122 or 3764-0123), by email (<a href="mailto:tour@tichk.org">tour@tichk.org</a>) or by hand.</li> <li>iv. The Tour Confirmation Agreements for Mainland (ex Shenzhen) Tours (With Visits to Registered Shops) shall be registered at least two days before the arrival of the mainland tour in Hong Kong, and the Tour Confirmation Agreements for Mainland (ex Shenzhen) Tours (Without Visits to Registered Shops) shall be registered before the arrival of the mainland tour in Hong Kong.</li> </ul>
11.	<p>Directive No. 222: Registration of tour confirmation agreements of Shenzhen tours</p> <ul style="list-style-type: none"> <li>i. All Shenzhen tours received by members shall be registered with the TIC by means of the following forms designated by the TIC in order to specify the reception services agreed by both members and Shenzhen’s outbound travel agencies: <ul style="list-style-type: none"> <li>a. the “Tour Confirmation Agreement for Shenzhen Tours (With Visits to Registered Shops)” (Form 1) if the itineraries of</li> </ul> </li> </ul>



	<p>Shenzhen tours include Point 1(2)<sup>Note</sup> in the above; and</p> <p>b. the “Tour Confirmation Agreement for Shenzhen Tours (Without Visits to Registered Shops)” (Form 2) if the itineraries of Shenzhen tours do not include Point 1(2)<sup>Note</sup> in the above.</p> <p><i>Note Shopping at shops regulated by the Refund Protection Scheme (Registered Shops) for Inbound Tour Group Shoppers.</i></p> <p>ii. Tour Confirmation Agreements shall be completed in accordance with the following method:</p> <p>a. Part I of the Tour Confirmation Agreement shall be signed and stamped by members and Shenzhen’s outbound travel agencies, and Part II shall be signed and stamped by members only.</p> <p>b. Unless there are sufficient and reasonable reasons, all the entries of the Tour Confirmation Agreement shall be completed except where otherwise specified, and the information provided shall be accurate.</p> <p>iii. Members shall register each Tour Confirmation Agreement pasted with the registration-fee sticker(s) with the sufficient amount, together with proof of accommodation related and limited to the Shenzhen tour (in which the tour code and the serial number of the registration-fee sticker(s) shall be marked), by attaching it to an email sent to their dedicated email accounts by Shenzhen’s outbound travel agencies through their dedicated email accounts, and then forwarding the email to the TIC’s email account (<a href="mailto:tour@tichk.org">tour@tichk.org</a>) through the members’ dedicated email accounts for registration.</p> <p>iv. The Tour Confirmation Agreements for Shenzhen Tours (With Visits to Registered Shops) shall be registered at least two days before the arrival of the Shenzhen tour in Hong Kong, and the Tour Confirmation Agreements for Shenzhen Tours (Without Visits to Registered Shops) shall be registered before the arrival of the Shenzhen tour in Hong Kong.</p>
12.	Directive No. 225: Refund Protection Scheme (Registered Shops) for Inbound Tour Group Shoppers
13.	<p>Directive No. 227: Signing contracts which contain specified key points with mainland China’s authorised travel agencies</p> <p>i. If mainland tours received by members are organised by mainland China’s travel agencies, then these travel agencies shall be Authorised Travel Agencies for Outbound Travel by Chinese Citizens approved by the China National Tourism Administration (CNTA).</p> <p>ii. Before receiving such mainland tours, members shall sign with the mainland travel agencies contracts which contain all the key points specified in the attachment and endorsed by the CNTA.</p> <p>iii. Members shall submit to the TIC the contracts mentioned in Point 2 within two working days counting from the date of the letter sent to</p>



	members by the TIC requesting such contracts to be submitted.
14.	<p>Directive No. 238: Registration of tour confirmation agreements of inbound mainland one-day shopping tours via Hong Kong-Zhuhai-Macao Bridge</p> <p>i. All inbound mainland one-day shopping tours via the Hong Kong-Zhuhai-Macao Bridge received by members shall be registered with the TIC by means of the form “Tour Confirmation Agreement for Inbound Mainland One-day Shopping Tours via Hong Kong-Zhuhai-Macao Bridge” designated by the TIC in order to specify the reception services agreed by both members and outbound travel agencies of mainland China.</p> <p>ii. Tour Confirmation Agreements shall be completed in accordance with the following method:</p> <p>a. The Tour Confirmation Agreement shall be signed and stamped by members and outbound travel agencies of mainland China.</p> <p>b. Unless there are sufficient and reasonable reasons, all the entries of the Tour Confirmation Agreement shall be completed except where otherwise specified, and the information provided shall be accurate.</p> <p>iii. Each Tour Confirmation Agreement pasted with the registration-fee sticker(s) with the sufficient amount shall be registered with the TIC by fax (3764-0122 or 3764-0123), by email (<a href="mailto:tour@tichk.org">tour@tichk.org</a>) or by hand.</p> <p>iv. The Tour Confirmation Agreement for Inbound Mainland One-day Shopping Tours via Hong Kong-Zhuhai-Macao Bridge shall be registered before the arrival of the mainland tour in Hong Kong.</p>

## V. Notification of demerits

1. When a decision is made by the Compliance Committee, the Executive Office will notify the member concerned of the decision in writing, including the number of demerits given for the latest violation and the total number of demerits accumulated within the past two years (if any).
2. When members have accumulated 10 and 20 demerits, the Executive Office will write to them, detailing the demerits given to them during the past two years, reminding them of the consequences of accumulating more demerits, and urging them to improve their business practice.
3. Once members have accumulated 30 demerits, the Executive Office will notify the Travel Agents Registry. Should there be a need, the tourism authorities in other places will also be notified.





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## VI. Announcement of demerits

1. For those members which have been given demerits for having violated such rules as listed in “Applicable rules under the Demerit System”, their names, the number of demerits given, the rules violated and the reasons of violations will be announced on the TIC website.
2. If the violations are considered minor or not serious, such information will be posted on the TIC website for one month; and if the violations are considered serious, very serious or extremely serious, such information will be posted for one year.



## Annex 1

### **Illustrative examples of how demerits are counted**

#### Example 1:

Suppose a member has already accumulated 20 demerits and in a case, the penalty imposed by the Compliance Committee is a fine and the member is also given 10 demerits. Since the total number of accumulated demerits reaches 30, arising from which the penalty is suspension of membership for three months, and the actual penalty is the heavier of the two penalties, the member will have its membership suspended for three months without being fined and will have a record of having its membership suspended because of an accumulation of 30 demerits once.

#### Example 2:

Suppose a member has already accumulated 10 demerits and in a case, the penalty imposed by the Compliance Committee is termination of membership and the member is also given 20 demerits. Since the total number of accumulated demerits reaches 30, arising from which the penalty is suspension of membership for three months, and the actual penalty is the heavier of the two penalties, the member will have its membership terminated and will have a record of having accumulated 30 demerits once.

#### Example 3:

Suppose a member has already accumulated 10 demerits and in a case, the penalty imposed by the Compliance Committee is suspension of membership for three months and the member is also given 20 demerits. Since the total number of accumulated demerits reaches 30, arising from which the penalty is suspension of membership for three months, and the actual penalty is the latter penalty if the two penalties are the same, the member will have its membership suspended for three months and will have a record of having its membership suspended because of an accumulation of 30 demerits once.

#### Example 4:

No. of demerits given:	5	10	15
	↑	↑	↑
Date of demerits given:	1 January 2011	2 February 2012	3 March 2013

The 5 demerits given on 1 January 2011 will be erased on 1 January 2013 because demerits are valid for 2 years. Therefore, on 3 March 2013, the number of demerits accumulated during the past 2 years is 25 (10 + 15), and the membership will not be suspended or terminated.



Example 5:

No. of demerits given:	5	10	15
	↑	↑	↑
Date of demerits given:	1 January 2011	2 February 2012	30 December 2012
		↓	↓
		15 demerits accumulated	30 demerits accumulated

On 30 December 2012, the number of demerits accumulated during the past 2 years is 30 (5 + 10 + 15), and therefore the membership will be suspended or terminated. All the demerits which lead to the suspension or termination will be erased thereafter.



## Annex 2

### **Examples of violations which may be punished**

The following examples are for reference only and are not exhaustive. When deliberating cases, the Compliance Committee does not need to follow these examples.

#### Example 1:

If a member assigns a tourist guide to receive inbound visitors without verifying the identity of the tourist guide, then it is suspected of violating the provision “A member shall faithfully carry out the duties which he undertakes, and shall have proper regard for the interests of those who engage him or seek his services” stipulated in the General Code of Conduct for TIC Members.

#### Example 2:

If a member, when giving explanations to the TIC about a case which involves a non-Tourist Guide Pass holder, deliberately claims that another Pass holder is the non-Pass holder involved in the case, then it is suspected of violating the provision “A member shall avoid actions and situations inconsistent with his legal or contractual obligations or likely to raise doubts about his integrity” stipulated in the General Code of Conduct for TIC Members.

#### Example 3:

If a member fails to put in place sufficient measures to monitor its tourist guides, with the result that its tourist guides are penalised by the Compliance Committee for having abandoned tour groups after unsuccessful attempts to compel the visitors to make purchases, then it is suspected of violating the provision “Members shall ensure that their tourist guides observe the Code of Conduct for Tourist Guides issued by the TIC” stipulated in the Code of Business Practice on Inbound Travel Service.

#### Example 4:

If a member has signed a contract with a tour operator on the mainland, which states that there is only one hour of shopping during the journey, but it arranges two more hours of shopping without the consent of the tour group, then it is suspected of violating the provision “Members shall conduct shopping activities in accordance with the contracts signed with their business partners” stipulated in the Code of Business Practice on Inbound Travel Service.



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Example 5:

If a member takes the tour group to a shop not registered with the TIC, then it is suspected of violating the provision Directive No. 184, which concerns the Refund Protection Scheme (Registered Shops) for Inbound Tour Group Shoppers.

*(April 2020)*