

# 《旅遊業條例草案》仍在審議

## Travel Industry Bill still under scrutiny

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政府官員及立法會議員必須設法解決業界的憂慮。

**Government officials and Legco members must address the concerns of the industry.**

### 《旅遊業條例草案》委員會

**本**刊上期報導，政府已於三月二十二日把《旅遊業條例草案》提交立法會首讀及二讀。立法會內務委員會其後於三月二十四日決定成立法案委員會，藉以對《草案》詳加研究。《旅遊業條例草案》委員會因而成立，由代表旅遊業界的姚思榮議員擔任主席。

《草案》委員會自四月起已召開了三次會議，其中一次會議特別讓團體代表及個別人士表達對《草案》的意見；議會主席及總幹事除了提交書面意見外，當天還親自在會上申述意見。委員會下一次會議將於七月初召開。

### 導遊及領隊受僱於旅行社？

導遊及領隊既有受僱於旅行社的情況，但更常見的是以自由業者的身份為幾家旅行社接團或帶團，而不會只為一家旅行社工作。由於行業在淡季和旺季對人手需求的差別相當大，現行做法的彈性大，既容許旅行社按淡旺季而調節人手，以減輕成本，而導遊及領隊也可在淡季時從事其他工作，所以對雙方都有好處。

可是，有多於一名代表勞工界的議員，提出要在《草案》中訂明導遊及領隊是旅行社的僱員，藉以解決「假自僱」的問題，保障導遊及領隊的僱員權益。

議會及業界都反對有關建議，除了上述理由外，還因為「假自僱」的問題現有機制已可處理，勞工處及法庭過去有效處理的「假自僱」個案已足以證明這點。此外，香港向來奉行自由市場原則，按照有關原則，一方向另一方提供服務並收取酬金

### Bills Committee on Travel Industry Bill

**A**s reported in the last issue of *The Voice*, the Travel Industry Bill was submitted to the Legislative Council (Legco) for first and second readings on 22 March. The House Committee of Legco then decided on 24 March to form a bills committee to study the Bill in detail, and the Bills Committee on Travel Industry Bill was thus formed, with Mr Yiu Si Wing, the Legco member representing the tourism sector, as its Chairman.

The Bills Committee has so far met three times since April, with one of those meetings specially held to let deputations and individuals air their views on the Bill, at which the TIC's Chairman and Executive Director expressed their views in person apart from making submissions to the Committee. The next meeting will be held in early July.

### Are guides and escorts employed by agents?

Whereas there are tourist guides and tour escorts who are employed by travel agents, more often than not they work for several travel agents, rather than for one single agent, as freelance guides or escorts. Given the huge difference in manpower demand between high and low seasons, such a practice is flexible enough to allow travel agents to adjust their manpower accordingly and reduce costs on the one hand, and make it possible for guides and escorts to take up other jobs during the low season on the other, which benefits both travel agents, and guides and escorts.

**More than one Legco member representing the labour sector, however, has proposed that the Bill should stipulate that guides and escorts are employees of travel agents in order to tackle the problem of "fake self-employment" and protect their rights as employees.**

The TIC and the industry are against such a proposal for several grounds. Apart from what has been mentioned above, "fake self-employment" can be dealt with by existing mechanisms, as evidenced by cases of that kind having been effectively handled by the Labour Department and the court in the past. Also Hong Kong has always attached importance to free-market principles, under which one party providing a service for another party for a sum of money may not necessarily be bound together as employee

未必就一定是僱傭關係。既然其他行業都沒有以法例硬性規定只准僱傭關係存在，單單針對旅遊業並不公平。

## 業者擔心的其他事宜

雖然全體旅客之中約有四分之三是內地旅客，但與來自內地的個人遊旅客相比，內地團體旅客所佔的百分比其實相當低。可是，由於為內地團體旅客提供服務的食肆及購物店舖大都集中在一些地區，因而在一輛輛旅遊車日復一日運載旅客前往那些地區的情況下，區內的居民難免覺得滋擾。有議員因此要求政府授權將來成立的旅遊業監管局處理這一問題。

除了以上所述外，議會及業界還關注好些事宜，例如政府打算把一些嚴重不當行為刑事化，但旅行社擔心萬一相關附屬法例未能清楚界定各方的責任，旅行社恐怕會無辜受罰。此外，旅監局最終會自負盈虧，業界擔心將來要負擔其開支，因而對成本造成壓力。

業界的種種疑慮當然不可能在本文一一敘述，希望政府與立法會議員能體察業界的疑慮，把《草案》加以修訂，以期更能保障業界與公眾的利益。✎

and employer. Since no other industries have been subject to legal requirements that only allow employer-employee relationships to exist, it is unfair to single out the travel industry.

## Other matters that concern traders

Although three quarters of all visitors come from the mainland, the percentage of mainland visitors who come here as tour groups is actually quite low compared with individual mainland visitors. That said, **when coachloads of them appear day after day in some local districts with large numbers of restaurants and shopping outlets to have meals and to shop, little wonder the residents are annoyed.** A Legco member therefore has asked the Government to authorise the future Travel Industry Authority (TIA) to tackle this problem.

Apart from the above, the TIC and the industry are also concerned about quite a number of issues. For example, **travel agents are worried that they will be scapegoated for the wrongdoing of others if the subsidiary legislation fails to clearly define the responsibilities of various parties, given the Government's intention to criminalise certain serious misconduct.** The pressure on costs when in the future the industry has to bear the expenses of the TIA, which will ultimately become self-financed, is another concern.

The many concerns of the industry, of course, cannot all be covered here. It is hoped that the Government and the Legco members will take note of them and amend the Bill to make it better protect the interests of the industry and the public. ✎

## 《草案》點滴

《旅遊業條例》生效之後——

- ◆ 議會將不再是《防止賄賂條例》所指的公共機構；
- ◆ 議會所審定或認可的訓練或發展課程，將不再是《稅務條例》所指的訂明教育課程，因而修讀有關課程的費用將不再可以用來當作個人進修開支而從應評稅入息中扣除；
- ◆ 議會會員將不再可以選出立法會旅遊界功能界別的議員，但持有《旅遊業條例》所指的旅行社代理商牌照的人卻變成可以；以及
- ◆ 議會會員將不再可以成為選出行政長官的選舉委員會旅遊界界別分組的委員，但持有《旅遊業條例》所指的旅行社代理商牌照的人卻變成可以。

## Titbits of the Bill

When the Travel Industry Ordinance becomes effective -

- ◆ the TIC will no longer be a public body under the Prevention of Bribery Ordinance;
- ◆ training or development courses accredited or recognised by the TIC will no longer be regarded as prescribed courses of education under the Inland Revenue Ordinance and therefore the expenses of taking such courses will no longer be eligible for deduction from the assessable income as the expenses of self-education;
- ◆ TIC members will no longer be eligible to return members at elections for the tourism functional constituency of the Legislative Council, but persons holding travel agent licences under the Travel Industry Ordinance will become eligible; and
- ◆ TIC members will no longer be eligible to become members of the tourism subsector of the Election Committee which returns the Chief Executive at elections, but persons holding travel agent licences under the Travel Industry Ordinance will become eligible.