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Travel Agents (Amendment) Bill

Bill No. 41/2017.

Read the first time on 2 October 2017.

A BILL

intituled

An Act to amend the Travel Agents Act (Chapter 334 of the 1998 Revised Edition) and to make a related amendment to the Singapore Tourism Board Act (Chapter 305B of the 1997 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act is the Travel Agents (Amendment) Act 2017 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

5 Amendment of section 2

2. Section 2 of the Travel Agents Act (called in this Act the principal Act) is amended by deleting the definitions of “licence” and “licensee” and substituting the following definitions:

10 ““code of conduct” means a code of conduct mentioned in section 28(1)(ga)(ii);

“licence” means a licence granted or renewed under section 7;

“licensee” means any person who holds a licence;

“regulations” means regulations made under this Act;

15 “relevant individual”, in relation to an applicant for a licence or to a licensee, means —

(a) where the applicant or licensee is an individual, the applicant or licensee, as the case may be;

20 (b) where the applicant or licensee is a partnership, a partner of the partnership;

(c) where the applicant or licensee is an unincorporated association, a member of the governing body of the unincorporated association; and

25 (d) where the applicant or licensee is a company or other body corporate, any director of the company or officer holding a similar managerial or executive position in the body corporate;

30 “supply”, in relation to a travel product, includes the sale, or arranging for the provision, of the travel product;

“tour” means a visit to one or more places or points of interest, whether in Singapore or elsewhere, in which the participant or participants in the visit is or are, for any part of the visit, accompanied by an individual who is not a participant of the visit;

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“travel product” means any goods or services described in section 4(1).”.

Amendment of section 3

3. Section 3 of the principal Act is amended by inserting, immediately after subsection (4), the following subsection:

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“(5) This Act does not apply to the Government, or a body established by or under a public Act for a public purpose.”.

Repeal and re-enactment of section 4

4. Section 4 of the principal Act is repealed and the following section substituted therefor:

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“Business of travel agent

4.—(1) Subject to this section, a person carries on the business of a travel agent if the person carries on, or advertises or holds himself out as carrying on, a business of any one or more of the following:

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(a) supplying any person a right to travel on any conveyance;

(b) supplying any person —

(i) a right to travel on any conveyance to; and

(ii) a right of accommodation at a hotel or similar boarding premises at,

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one or more places, whether in Singapore or elsewhere;

(c) purchasing, or reserving, for resale to a person a right to travel on any conveyance;

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(*d*) supplying any tour (whether or not organised by the person) to any other person;

(*e*) such other similar activity as may be prescribed.

(2) An individual who is employed by a licensee or who is an agent of a licensee does not carry on the business of a travel agent by reason only of carrying on in the course of the individual's employment or agency, as the case may be, any activity mentioned in subsection (1).

(3) However, a person does not carry on the business of a travel agent if —

(*a*) for the activity mentioned in subsection (1)(*a*), the person carries on the activity only in respect of a conveyance the person owns;

(*b*) for the activity mentioned in subsection (1)(*a*) or (*c*), the person carries on the activity only in respect of a conveyance —

(i) used for a regular route service within the meaning of the Bus Services Industry Act 2015 (Act 30 of 2015);

(ii) used for a community bus service or courtesy bus service, within the meaning of the Bus Services Industry Act 2015, and that travels only within Singapore; or

(iii) used for a train service within the meaning of the Public Transport Council Act (Cap. 259B);

(*c*) for the activity mentioned in subsection (1)(*b*), the person carries on the activity only in respect of —

(i) a conveyance the person owns; and

(ii) a hotel or similar boarding premises the person owns or operates; or

(*d*) for the activity mentioned in subsection (1)(*d*), the person carries on the activity only in respect of any

place or point of interest that the person owns or operates.”.

Amendment of section 6

5. Section 6 of the principal Act is amended —

(a) by deleting subsection (1) and substituting the following subsection: 5

“(1) A person must not carry on the business of a travel agent unless the person is authorised to do so by a licence.”; and

(b) by deleting “\$10,000” in subsection (2) and substituting “\$25,000”. 10

Repeal and re-enactment of section 7 and new section 7A

6. Section 7 of the principal Act is repealed and the following sections substituted therefor:

“Application for licence or renewal of licence” 15

7.—(1) Any person who desires to obtain or renew a licence must make an application to the Board in the form the Board requires.

(2) Upon receiving an application under subsection (1), the Board must consider the application and may — 20

(a) grant or renew a licence for such duration as the Board may specify in the licence; or

(b) refuse the application.

(3) The Board may refuse to grant or renew a licence if —

(a) the applicant or a relevant individual of the applicant is not a suitable person to be involved in the management or operation of the business of a travel agent; 25

(b) the applicant is unable to meet or continue to meet such minimum financial requirements as may be prescribed; 30

- (c) the Board has reason to believe that the applicant or a relevant individual of the applicant has committed any offence involving dishonesty or moral turpitude;
- (d) the Board has reason to believe that the applicant is contravening or has contravened —
 - (i) any provision of this Act or the regulations; or
 - (ii) any condition of a licence or any code of conduct applicable to the applicant;
- (e) the Board has reason to believe that a relevant individual of the applicant is contravening or has contravened, or is responsible for another licensee's contravention of —
 - (i) any provision of this Act or the regulations; or
 - (ii) any condition of a licence or any code of conduct applicable to the relevant individual or the other licensee, as the case may be;
- (f) the application for the grant or renewal of the licence contains a statement or information that is untrue, or misleading (including as a result of any omission), in any material particular;
- (g) all relevant individuals of the applicant are incapable, by reason of illness, infirmity or any other cause, of carrying on the business of a travel agent; or
- (h) the Board considers it in the public interest to do so.

(4) Before refusing an application to renew a licence, the Board must —

- (a) serve the applicant written notice of its intention; and
- (b) give the applicant an opportunity to submit reasons, within such period as the Board may specify in that notice, why the application should not be refused.

(5) For the purposes of subsection (3)(e), a relevant individual is responsible for any contravention of a licensee if the relevant individual —

- (a) consented or connived, or conspired with others, to effect the licensee's contravention;
 - (b) is in any other way, whether by act or omission, knowingly concerned in, or is party to, the contravention by the licensee; or 5
 - (c) knew or ought reasonably to have known that the contravention by the licensee (or a contravention of the same type) would be or is being effected, and failed to take all reasonable steps to prevent or stop the contravention. 10
- (6) To avoid doubt —
- (a) subsection (3)(d) applies in relation to any contravention by the applicant, whether the contravention occurred before, on or after the date of commencement of section 6 of the Travel Agents (Amendment) Act 2017; and 15
 - (b) subsection (3)(e) applies in relation to —
 - (i) any contravention by a relevant individual of the applicant, whether the contravention occurred before, on or after the date of commencement of section 6 of the Travel Agents (Amendment) Act 2017; and 20
 - (ii) any contravention by a licensee mentioned in subsection (3)(e) for which the relevant individual is responsible, whether the contravention occurred before, on or after the date of commencement of section 6 of the Travel Agents (Amendment) Act 2017. 25

Travel agent licence

7A.—(1) A licence is subject to such conditions as the Board may specify in writing. 30

(2) The conditions of a licence may include the assignment to the licensee of such description or classification as a travel agent as the Board considers appropriate to specify the type of business

of a travel agent mentioned in section 4(1) that the licensee is authorised to carry on.

(3) The Board may, at any time, vary or revoke any of the conditions of a licence or impose any new condition.

5 (4) Before taking any action under subsection (3) that is to a licensee's disadvantage, the Board must —

(a) serve the licensee written notice of its intention; and

10 (b) give the licensee an opportunity to submit reasons, within a reasonable period after the date that the Board serves the written notice, why the conditions of the licence should not be so varied or revoked, or the new condition should not be imposed.

15 (5) An appeal made under section 11 against the Board's decision under subsection (3) does not affect the operation of the decision or prevent the taking of any action to implement the decision, unless directed by the Minister in any particular case.”.

Repeal of sections 9 to 12 and new sections 9 to 12

7. Sections 9 to 12 of the principal Act are repealed and the following sections substituted therefor:

“Suspension or revocation of licence

20 **9.—**(1) The Board may suspend a licence for a period not exceeding 6 months (or a longer maximum period if prescribed in substitution), or revoke a licence, if —

25 (a) the licensee or a relevant individual of the licensee is not a suitable person to be involved in the management or operation of the business of a travel agent, including by reason of the manner in which the licensee is carrying on that business;

30 (b) the Board has reason to believe that the licensee or a relevant individual of the licensee has committed any offence involving dishonesty or moral turpitude;

(c) the Board has reason to believe that the licensee is contravening or has contravened —

- (i) any provision of this Act or the regulations; or
 - (ii) any condition of a licence or any code of conduct applicable to the licensee;
- (d) the Board has reason to believe that a relevant individual of the licensee is contravening or has contravened, or is responsible for another licensee's contravention of —
- (i) any provision of this Act or the regulations; or
 - (ii) any condition of a licence or any code of conduct applicable to the relevant individual or the other licensee, as the case may be;
- (e) the application for the grant or renewal of the licence contains a statement or information that is untrue, or misleading (including as a result of any omission), in any material particular;
- (f) all relevant individuals of the licensee are incapable, by reason of illness, infirmity or any other cause, of carrying on the business of a travel agent;
- (g) the licensee has ceased to carry on the business of a travel agent; or
- (h) the Board considers it in the public interest to do so.
- (2) Subject to subsection (3), where subsection (1)(c) applies, instead of suspending or revoking the licensee's licence, the Board may require the licensee to pay a financial penalty of such amount not exceeding \$2,000, by such date, as the Board may determine.
- (3) Subsection (2) does not apply in respect of any contravention that is prescribed to be an offence under this Act or the regulations.
- (4) Subject to subsection (5), before suspending or revoking a licence under subsection (1) or imposing a financial penalty under subsection (2), the Board must —
- (a) serve the licensee written notice of its intention; and

(b) give the licensee an opportunity to submit reasons, within 14 days after the date that the Board serves the written notice, why the licence should not be suspended or revoked or the financial penalty should not be imposed.

(5) Subsection (4) does not apply where the licensee has died or is adjudged a bankrupt, or has been dissolved or wound up, or has otherwise ceased to exist.

(6) Any decision of the Board to suspend or revoke a licence, or require the payment of a financial penalty, under this section only takes effect as from the day immediately following the latest of the following events where applicable:

(a) if no appeal is made against the decision of the Board, the expiry of the period allowed under section 11 for the licensee to make the appeal;

(b) if an appeal is made against the decision of the Board —

(i) the appeal is withdrawn;

(ii) the Minister confirms the Board's decision under section 11; or

(iii) the Board confirms its decision upon a reconsideration required by the Minister under section 11.

(7) Where any decision of the Board to suspend a licence becomes effective under subsection (6), the licensee concerned must not, during the period that the order of suspension is in force, carry on the business of a travel agent other than doing what is necessary to fulfil the licensee's obligations under a contract to supply a travel product, entered into before the date the order of suspension takes effect.

(8) For the purposes of subsection (1)(d), a relevant individual is responsible for any contravention of a licensee if the relevant individual —

- (a) consented or connived, or conspired with others, to effect the licensee's contravention;
- (b) is in any other way, whether by act or omission, knowingly concerned in, or is party to, the contravention by the licensee; or
- (c) knew or ought reasonably to have known that the contravention by the licensee (or a contravention of the same type) would be or is being effected, and failed to take all reasonable steps to prevent or stop the contravention.

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(9) To avoid doubt —

- (a) subsection (1)(c) applies in relation to any contravention by the licensee, whether the contravention occurred before, on or after the date of commencement of section 7 of the Travel Agents (Amendment) Act 2017; and

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- (b) subsection (1)(d) applies in relation to —

- (i) any contravention by a relevant individual of the licensee, whether the contravention occurred before, on or after the date of commencement of section 7 of the Travel Agents (Amendment) Act 2017; and

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- (ii) any contravention by a licensee mentioned in subsection (1)(d) for which the relevant individual is responsible, whether the contravention occurred before, on or after the date of commencement of section 7 of the Travel Agents (Amendment) Act 2017.

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(10) A reference in subsection (7) to the day a decision to suspend becomes effective includes a reference to the date specified in a notice, given before the date of commencement of section 7 of the Travel Agents (Amendment) Act 2017, specifying when a suspension of a licence takes effect.

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Board may require licensees to inform customers of notice under section 9

5 **10.**—(1) Where the Board has served a written notice mentioned in section 9(4) on a licensee, the Board may also require the licensee to inform each of the following in writing, and in such form or manner as the Board may specify, of the Board’s notice:

10 (a) a person who, as at the date the Board serves the written notice, has a contract with the licensee for the licensee to supply a travel product, and in respect of which the licensee has not fully performed the licensee’s obligations;

15 (b) any other person who, in any way, communicates with the licensee during the specified period in relation to a travel product.

(2) A licensee who is required by the Board to inform a person mentioned in subsection (1) of the Board’s notice must inform the person of that fact —

20 (a) for a person mentioned in subsection (1)(a), within 2 working days after the date the Board serves the written notice; and

25 (b) for a person mentioned in subsection (1)(b), within 2 working days after the date of the first communication from the person, if the 2 working days fall in the specified period, or before entering into a contract with the person for the licensee to supply a travel product, whichever is earlier.

30 (3) A licensee who contravenes subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$4,000.

(4) In this section, “specified period”, in relation to a licensee, means the period starting on the day the Board serves a written notice on the licensee under section 9(4) and ending —

- (a) subject to paragraph (b), 3 months (or such longer period as may be prescribed in substitution) after that day; or
- (b) if the Board makes a decision under section 9(1) within the period mentioned in paragraph (a) — 5
 - (i) where the decision of the Board is to suspend or revoke the licensee’s licence, on the day the decision becomes effective under section 9(6);
 - (ii) where there is an appeal against the Board’s decision and the Board’s decision is reversed, on the day the decision is reversed; and 10
 - (iii) where the Board decides not to suspend or revoke the licence, on the day of the Board’s decision.

(5) A written notice in section 9(4) includes a written notice of intention to suspend a licence given before the date of commencement of section 7 of the Travel Agents (Amendment) Act 2017. 15

Appeal to Minister

11.—(1) Any person aggrieved by an appealable decision of the Board may appeal against the decision to the Minister within 14 days after notice of the decision is served on the person or such extended period as the Minister may allow in any particular case. 20

(2) An appeal made under subsection (1) must be in writing and state — 25

- (a) the circumstances under which the appeal arises and the issues and grounds for the appeal; and
- (b) all relevant facts, evidence and arguments in respect of the appeal. 30

(3) The Minister may require any of the following to provide the Minister with all such information as the Minister may

require for the purpose of considering and determining the appeal:

(a) the appellant;

(b) the Board;

5 (c) any person who is not a party to the appeal but appears to the Minister to have information that is relevant to the circumstances under which the appeal arises.

10 (4) The appellant, Board or person (as the case may be) must provide the information to the Minister in such manner and within such period as may be specified by the Minister.

(5) The Minister may reject an appeal if the appellant fails to comply with subsection (2) or (4).

(6) The Minister may determine an appeal by —

15 (a) confirming, varying or reversing the Board's decision;
or

(b) requiring the Board to reconsider the Board's decision.

(7) The Minister's decision on appeal is final.

20 (8) Every appellant must be notified of the Minister's decision under subsection (6).

(9) The Minister may designate any of the following persons to hear and determine, in the Minister's place, any appeal or a specific appeal to the Minister under subsection (1):

25 (a) any Minister of State, including a Senior Minister of State, for his Ministry;

(b) any Parliamentary Secretary, including a Senior Parliamentary Secretary, to his Ministry.

30 (10) A reference to the Minister in this section (other than in subsection (1) or (9)) includes a reference to a person designated under subsection (9).

(11) In this section, "appealable decision" means a decision of the Board —

- (a) refusing to grant or renew a licence under section 7(2);
- (b) varying, revoking or imposing a condition under section 7A(3);
- (c) suspending or revoking a licence under section 9(1);
or
- (d) requiring a person to pay a financial penalty under section 9(2).

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Power of Board to publish information

12. The Board may, where the Board thinks it necessary or expedient in the interest of the public and in such form or manner as the Board thinks fit, publish information relating to —

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- (a) a licensee on whom the Board has served a written notice mentioned in section 9(4); and
- (b) any action the Board takes under section 9(1) or (2).”.

Repeal and re-enactment of section 13

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8. Section 13 of the principal Act is repealed and the following section substituted therefor:

“Furnishing false, etc., information

13. Any person who —

- (a) in connection with any application for the grant or renewal of a licence; or
- (b) for any other purpose under this Act or the regulations,

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makes any statement or furnishes any information to the Board or an officer of the Board that the person knows, or ought reasonably to know, is false, or misleading (including by reason of any omission), in any material particular, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.”.

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Amendment of section 17

9. Section 17 of the principal Act is amended —

(a) by inserting, immediately after the words “under this Act”, the words “or the regulations”; and

5 (b) by deleting the words “seizable offences given by” and substituting the words “any arrestable case mentioned in section 18(1) of”.

Amendment of section 18

10. Section 18 of the principal Act is amended —

10 (a) by inserting, immediately after the words “execution of this Act”, the words “or the regulations”;

(b) by deleting paragraphs (b) and (c) and substituting the following paragraphs:

15 “(b) to require any person to produce any document relevant to the execution of this Act or the regulations and to inspect, examine and make copies or retain any of them;

20 (c) to make such inquiry as may be necessary to ascertain whether the provisions of this Act or the regulations are complied with by any licensee, licensee’s employee or licensee’s agent who assists in carrying on the business of a travel agent;

25 (d) to take such photograph or audio or video recording as the police officer or authorised officer of the Board thinks necessary, of any place, or of any individual reasonably believed to be acquainted with the facts and circumstances relevant to any contravention of this Act or the regulations.”; and

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- (c) by renumbering the section as subsection (1) of that section, and by inserting immediately thereafter the following subsection:

“(2) In this section, “place” includes —

- (a) any building or structure, whether permanent or temporary; 5
- (b) any land, whether built on or not;
- (c) any place, whether open or enclosed, including any place situated underground or underwater; 10
- (d) any vehicle, vessel, train or aircraft; and
- (e) any part of any place mentioned in paragraphs (a) to (d).”.

Amendment of section 19

11. Section 19 of the principal Act is amended by deleting “\$2,000” and substituting “\$4,000”. 15

Repeal and re-enactment of section 20 and new section 20A

12. Section 20 of the principal Act is repealed and the following sections substituted therefor:

“Offences by corporations” 20

20.—(1) Where, in a proceeding for an offence under this Act or the regulations, it is necessary to prove the state of mind of a corporation in relation to a particular conduct, evidence that —

- (a) an officer, employee or agent of the corporation engaged in that conduct within the scope of his actual or apparent authority; and 25

(b) the officer, employee or agent had that state of mind, is evidence that the corporation had that state of mind.

- (2) Where a corporation commits an offence under this Act or the regulations, a person — 30

(a) who is —

(i) an officer of the corporation, or a member of a corporation (in the case where the affairs of the corporation are managed by its members); or

(ii) an individual involved in the management of the corporation and in a position to influence the conduct of the corporation in relation to the commission of the offence; and

(b) who —

(i) consented or connived, or conspired with others, to effect the commission of the offence;

(ii) is in any other way, whether by act or omission, knowingly concerned in, or is party to, the commission of the offence by the corporation; or

(iii) knew or ought reasonably to have known that the offence by the corporation (or an offence of the same type) would be or is being committed, and failed to take all reasonable steps to prevent or stop the commission of that offence,

shall be guilty of that same offence as is the corporation, and shall be liable on conviction to be punished accordingly.

(3) A person mentioned in subsection (2) may rely on a defence that would be available to the corporation if it were charged with the offence with which the person is charged and, in doing so, the person bears the same burden of proof that the corporation would bear.

(4) To avoid doubt, this section does not affect the application of —

(a) Chapters V and VA of the Penal Code (Cap. 224); or

(b) the Evidence Act (Cap. 97) or any other law or practice regarding the admissibility of evidence.

(5) To avoid doubt, subsection (2) also does not affect the liability of the corporation for an offence under this Act or the regulations, and applies whether or not the corporation is convicted of the offence.

(6) In this section —

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“corporation” includes a limited liability partnership within the meaning of section 2(1) of the Limited Liability Partnerships Act (Cap. 163A);

“officer”, in relation to a corporation, means any director, partner, chief executive, manager, secretary or other similar officer of the corporation, and includes —

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(a) any person purporting to act in any such capacity; and

(b) for a corporation whose affairs are managed by its members, any of those members as if the member were a director of the corporation;

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“state of mind” of a person includes —

(a) the knowledge, intention, opinion, belief or purpose of the person; and

(b) the person’s reasons for the intention, opinion, belief or purpose.

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Offences by unincorporated associations or partnerships

20A.—(1) Where, in a proceeding for an offence under this Act or the regulations, it is necessary to prove the state of mind of an unincorporated association or a partnership in relation to a particular conduct, evidence that —

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(a) an employee or agent of the unincorporated association or partnership engaged in that conduct within the scope of his actual or apparent authority; and

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(b) the employee or agent had that state of mind,
is evidence that the unincorporated association or partnership
had that state of mind.

5 (2) Where an unincorporated association or a partnership
commits an offence under this Act or the regulations, a person —

(a) who is —

(i) an officer of the unincorporated association or a
member of its governing body;

(ii) a partner in the partnership; or

10 (iii) an individual involved in the management of the
unincorporated association or partnership and in
a position to influence the conduct of the
unincorporated association or partnership in
relation to the commission of the offence; and

15 (b) who —

(i) consented or connived, or conspired with others,
to effect the commission of the offence;

(ii) is in any other way, whether by act or omission,
knowingly concerned in, or is party to, the
20 commission of the offence by the
unincorporated association or partnership; or

(iii) knew or ought reasonably to have known that
the offence by the unincorporated association or
partnership (or an offence of the same type)
25 would be or is being committed, and failed to
take all reasonable steps to prevent or stop the
commission of that offence,

shall be guilty of the same offence as is the unincorporated
association or partnership, and shall be liable on conviction to be
30 punished accordingly.

(3) A person mentioned in subsection (2) may rely on a defence
that would be available to the unincorporated association or
partnership if it were charged with the offence with which the

person is charged and, in doing so, the person bears the same burden of proof that the unincorporated association or partnership would bear.

(4) To avoid doubt, this section does not affect the application of —

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(a) Chapters V and VA of the Penal Code (Cap. 224); or

(b) the Evidence Act (Cap. 97) or any other law or practice regarding the admissibility of evidence.

(5) To avoid doubt, subsection (2) also does not affect the liability of an unincorporated association or a partnership for an offence under this Act or the regulations, and applies whether or not the unincorporated association or partnership is convicted of the offence.

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(6) In this section —

“officer”, in relation to an unincorporated association (other than a partnership), means the president, the secretary, or any member of the committee of the unincorporated association, and includes —

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(a) any person holding a position analogous to that of president, secretary or member of a committee of the unincorporated association; and

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(b) any person purporting to act in any such capacity;

“partner” includes a person purporting to act as a partner;

“state of mind” of a person includes —

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(a) the knowledge, intention, opinion, belief or purpose of the person; and

(b) the person’s reasons for the intention, opinion, belief or purpose.”.

Amendment of section 21

13. Section 21 of the principal Act is amended —

(a) by inserting, immediately after the words “obtained by him in connection with the administration or execution of this Act” in subsection (1), the words “or the regulations”;

(b) by inserting, immediately after the words “this Act” in subsection (1)(b) and (c), the words “or the regulations”;

(c) by inserting, immediately after paragraph (b) of subsection (1), the following paragraph:

“(ba) under and in accordance with any other written law;” and

(d) by deleting “\$2,000” in subsection (2) and substituting “\$4,000”.

Repeal of sections 22 and 23 and re-enactment of section 22

14. Sections 22 and 23 of the principal Act are repealed and the following section substituted therefor:

“Service of documents

22.—(1) A document that is permitted or required by this Act or the regulations to be served on a person may be served as described in this section.

(2) A document permitted or required by this Act or the regulations to be served on an individual may be served —

(a) by giving it to the individual personally;

(b) by sending it by prepaid registered post to the address specified by the individual for the service of documents or, if no address is so specified, the individual’s residential address or business address;

(c) by leaving it at the individual’s residential address with an adult apparently resident there, or at the individual’s business address with an adult apparently employed there;

(d) by affixing a copy of the document in a conspicuous place at the individual's residential address or business address;

(e) by sending it by fax to the fax number last known to the person giving or serving the document as the fax number for the service of documents on the individual; or

(f) by sending it by email to the individual's email address.

(3) A document permitted or required by this Act or the regulations to be served on a partnership (other than a limited liability partnership) may be served —

(a) by giving it to any partner or other like officer of the partnership;

(b) by leaving it at, or by sending it by prepaid registered post to, the partnership's business address;

(c) by sending it by fax to the fax number used at the partnership's business address; or

(d) by sending it by email to the partnership's email address.

(4) A document permitted or required by this Act or the regulations to be served on a body corporate (including a limited liability partnership) or an unincorporated association may be served —

(a) by giving it to the secretary or other like officer of the body corporate or unincorporated association, or the limited liability partnership's manager;

(b) by leaving it at, or by sending it by prepaid registered post to, the body corporate's or unincorporated association's registered office or principal office in Singapore;

(c) by sending it by fax to the fax number used at the body corporate's or unincorporated association's registered office or principal office in Singapore; or

(d) by sending it by email to the body corporate's or unincorporated association's email address.

(5) Service of a document under this section takes effect —

(a) if the document is sent by fax and a notification of successful transmission is received, on the day of transmission;

(b) if the document is sent by email, at the time that the email becomes capable of being retrieved by the person; and

(c) if the document is sent by prepaid registered post, 2 days after the day the document was posted (even if it is returned undelivered).

(6) This section does not apply to documents to be served in proceedings in court.

(7) In this section —

“business address” means —

(a) in the case of an individual, the individual's usual or last known place of business in Singapore; or

(b) in the case of a partnership (other than a limited liability partnership), the partnership's principal or last known place of business in Singapore;

“email address” means the last email address given by the addressee concerned to the person giving or serving the document as the email address for the service of documents under this Act or the regulations;

“residential address” means an individual's usual or last known place of residence in Singapore.”.

Amendment of section 24

15. Section 24 of the principal Act is amended by inserting, immediately after the words “the Chief Executive of the Board”, the

words “, or an officer of the Board authorised for this purpose by the Board”.

Amendment of section 25

16. Section 25 of the principal Act is amended by deleting the words “any offence under this Act or any regulations made thereunder” and substituting the words “an offence under section 14”.

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Amendment of section 26

17. Section 26 of the principal Act is amended by deleting the words “any regulations made thereunder” and substituting the words “the regulations”.

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Repeal and re-enactment of section 27 and new section 27A

18. Section 27 of the principal Act is repealed and the following sections substituted therefor:

“Composition of offences

27.—(1) The Board may compound any offence under this Act or the regulations that is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum not exceeding the lower of the following:

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(a) one half of the amount of the maximum fine that is prescribed for the offence;

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(b) \$5,000.

(2) On payment of such sum of money, no further proceedings are to be taken against that person in respect of the offence.

(3) All sums collected under this section are to be paid into the Consolidated Fund.

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Recovery of financial penalties, etc.

27A.—(1) Any person who fails to pay a financial penalty by the date the person is required to do so under this Act is liable to pay, after that date, interest on the amount unpaid at the same rate as for a judgment debt.

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(2) Any financial penalty and any interest on the financial penalty payable by any person under this Act must be paid to the Board and is recoverable by the Board as a debt due to the Board from that person; and the person's liability to pay is not affected by the person's licence ceasing, for any reason, to be in force.

(3) The Board may, in any case it thinks fit, waive, remit or refund, wholly or in part, any financial penalty or any interest on the financial penalty payable under this Act.

(4) All financial penalties and interest on the financial penalties collected by the Board under this Act are to be paid into the Consolidated Fund.”

Amendment of section 28

19. Section 28(1) of the principal Act is amended —

(a) by inserting, immediately after the words “the carrying out of the provisions of this Act”, the words “and for prescribing anything that is to be prescribed”;

(b) by inserting, immediately after the words “a licence” in paragraph (a), the words “or by a licensee”;

(c) by deleting paragraph (b); and

(d) by deleting paragraphs (e), (f) and (g) and substituting the following paragraphs:

“(e) prescribing —

(i) the fees and charges payable under this Act or the regulations, including fees for a licence; and

(ii) the interest or penalty for the late payment of any fee or charge;

(f) providing for the waiver, refund or remission, whether wholly or in part, of any fee or charge or the interest or penalty for the late payment of any fee or charge, either generally or in any particular case or

class of cases or in the discretion of any person;

- (g) prescribing requirements applicable to licensees, including minimum financial requirements that the licensee must satisfy throughout the currency of the licence; 5
- (ga) regulating the conduct of licensees in their business, including —
 - (i) imposing restrictions or obligations on licensees in relation to any variation or termination of a contract for the supply by the licensee of a travel product; and 10
 - (ii) providing a code of conduct for licensees; 15
- (gb) prescribing duties applicable to directors of, or individuals employed or engaged by, licensees;”.

Related amendment to Singapore Tourism Board Act

20. Section 13A of the Singapore Tourism Board Act (Cap. 305B) is amended by inserting, immediately after the words “financial penalties” in paragraph (b), the words “under any Act administered by the Board”. 20

Saving and transitional provisions

21.—(1) An application under section 7(1) of the principal Act as in force immediately before the date of commencement of section 6 of this Act, and pending on that date, is to be treated as an application made under section 7(1) of the principal Act as amended by this Act. 25

(2) Every licence granted under section 7(2) of the principal Act as in force immediately before the date of commencement of section 6 of this Act and subsisting immediately before that date — 30

- (a) is treated as a licence granted or renewed under section 7(2) of the principal Act as amended by this Act; and

(b) may be revoked, suspended or otherwise dealt with in accordance with the principal Act as amended by this Act.

5 (3) Every refusal by the Board to grant a licence made under section 7(2) of the principal Act as in force immediately before the date of commencement of section 6 of this Act is to continue to be dealt with under section 7(7) of the principal Act as if not amended by this Act.

10 (4) Any appeal made to the Minister under section 7(7) or 11(4) of the principal Act as in force immediately before the date of commencement of section 6 or 7 (as the case may be) of this Act, and pending before that date, is to continue to be dealt with by the Minister under the principal Act as if not amended by this Act.

15 (5) Section 9(2) of the principal Act as in force on or after the date of commencement of section 7 of this Act does not apply in relation to a contravention that occurs before that date.

20 (6) Every decision of the Board made under section 11(1) of the principal Act as in force immediately before the date of commencement of section 7 of this Act is to continue to be dealt with under section 11 of the principal Act as if not amended by this Act.

25 (7) Any notice of suspension or revocation given under section 11(2) of the principal Act as in force immediately before the date of commencement of section 7 of this Act is to continue to be dealt with under section 11 of the principal Act as if not amended by this Act.

30 (8) For a period of 2 years after the date of commencement of any provision of this Act, the Minister may, by regulations, prescribe such additional provisions of a saving or transitional nature consequent on the enactment of that provision as the Minister may consider necessary or expedient.

EXPLANATORY STATEMENT

This Bill seeks to amend the Travel Agents Act (Cap. 334) for the following main purposes:

- (a) to allow for the grant of different classes of licences for travel agents;
- (b) to enhance investigation and enforcement powers;
- (c) to clarify the grounds on which the Singapore Tourism Board (the STB) may reject an application for the grant or renewal of a licence, or revoke or suspend a licence;
- (d) to tighten and streamline the procedure for licensing and related decisions made by the STB and appeals from such decisions;
- (e) to allow the STB to require licensees facing suspension or revocation of their licences to disclose this fact to customers;
- (f) to make other amendments for the better administration of the Act.

The Bill also makes a related amendment to the Singapore Tourism Board Act (Cap. 305B).

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2 to insert new definitions for terms that are used in the amendments. As tour models are constantly evolving, the term “tour” has been defined broadly to bring a wide range of tours within the scope of the Act. The essential elements of a tour are that it is a visit to places or points of interest, and that participants of a tour are accompanied, for any part of the tour, by an individual who is not a participant. Examples of an accompanying individual include an individual who provides guiding services, a tour leader, or a coach driver. The STB will exempt by regulations tour models that present a lower risk to the public.

Clause 3 amends section 3 to provide that the Act does not apply to the Government or any statutory board with a public function.

Clause 4 repeals and re-enacts section 4. The new section 4 includes a new business by which a person is regarded to be in the business of a travel agent, i.e. supplying tours. The new section 4 further provides that an individual who is an agent of a licensee (and not only an employee) does not require a licence for carrying on any activity of a travel agent in the course of such engagement. The new section 4 also sets out the classes of persons that would not be considered to be carrying on the business of a travel agent.

Clause 5 amends section 6 to make it clear that a licensee may carry on the business of a travel agent only to the extent authorised under the licence, as the new section 7A allows for the creation of licences of different classes, and to enhance the penalty for carrying on business as an unlicensed travel agent.

Clause 6 repeals and re-enacts section 7 and inserts a new section 7A.

The re-enacted section 7 clarifies the grounds on which the STB may reject an application for the grant or renewal of a licence.

The new section 7A deals with all matters relating to licence conditions, including the variation or revocation of licence conditions, and imposition of new licence conditions. The STB may also create licences of different classes by specifying, by way of licence conditions, the type of business of a travel agent that the licensee is authorised to carry on under the licence. Before making any change to a licence condition that disadvantages a licensee, the STB must give the licensee an opportunity to make representations. Any disadvantageous change made by the STB is subject to an appeal to the Minister under the new section 11, but the change takes effect upon the STB's decision even if an appeal is filed, unless otherwise directed by the Minister.

Clause 7 repeals sections 9 to 12 and inserts new sections 9 to 12.

Sections 9 and 10 are repealed as these requirements will be imposed in regulations instead.

Sections 11 and 12 are re-enacted as the new section 9. The new section 9 clarifies the grounds on which the STB may suspend or revoke a licence. In respect of certain grounds (such as contravention of a licence condition), the STB may impose a financial penalty on the licensee (instead of suspending or revoking the licence). The new section 9 makes it clear that the STB cannot impose a financial penalty in cases where the contravention by the licensee constitutes an offence under the Act or regulations. The new section 9 provides that before suspending or revoking a licence, or imposing any financial penalty, the STB must give the licensee up to 14 days, instead of the current 21 days, to make representations. Any suspension or revocation of a licence or imposition of a financial penalty by the STB is subject to an appeal to the Minister under the new section 11. The new section 9 also prohibits a licensee whose licence is suspended, from carrying on the business of a travel agent during the period of suspension other than doing what is necessary to fulfil the licensee's existing contractual obligations.

The new section 10 allows the STB to require licensees facing suspension or revocation of their licences to disclose this fact to new and existing customers. The provision also makes it an offence for a licensee not to comply with the STB's requirement.

The new section 11 is concerned with appeals to the Minister from certain decisions of the STB made under the new or re-enacted sections 7, 7A and 9. The Minister may decide an appeal by confirming, varying or reversing the STB's decision, or requiring the STB to reconsider its decision. The Minister's decision is final.

The new section 12 empowers the STB to publish information on matters relating to the suspension or revocation of any licence, or imposition of any financial penalty by the STB.

Clause 8 repeals and re-enacts section 13 to also make it an offence for a person to furnish false or misleading information for any purpose under the Act or regulations and not only where a person furnishes false information in connection with a licence application.

Clause 9 amends section 17 to extend its application to offences under the regulations and to refer to “any arrestable case” instead of “seizable offences” for consistency with the Criminal Procedure Code (Cap. 68).

Clause 10 amends section 18 to widen the investigation powers for the execution of the Act or regulations. The amended section 18 allows the STB to —

- (a) require any person to produce any documents, such as accounts and customer transaction records, relevant to the execution of the Act or regulations, and not only documents kept by a licensee;
- (b) make inquiry to ascertain whether a licensee or a licensee’s employee or agent is complying with the Act or regulations; and
- (c) take photographs or audio or video recordings of any place or any individual who is believed to be acquainted with the facts or circumstances of any contravention of the Act or regulations.

Clause 11 amends section 19 to enhance the penalty for a person who unlawfully obstructs a search.

Clause 12 repeals and re-enacts section 20 to update the provision on offences by corporations, and inserts a new section 20A on offences by unincorporated associations or partnerships.

Clause 13 amends section 21 to allow information obtained in connection with the administration or execution of the Act or regulations to be disclosed —

- (a) for the administration or execution of regulations (in addition to the administration or execution of the Act);
- (b) in connection with any legal proceedings arising out of the regulations (in addition to the Act); and
- (c) under and in accordance with any other written law.

Clause 13 also enhances the penalty for contravening section 21.

Clause 14 repeals sections 22 and 23. The clause re-enacts section 22 to update the provision on service of documents. Section 23 is deleted as the general law regarding the service of documents used for or in court proceedings will apply instead.

Clause 15 amends section 24 to allow an authorised STB officer to authenticate STB documents.

Clause 16 amends section 25 to remove the requirement for the Public Prosecutor's consent for trying an offence under the Act or regulations, except for an offence under section 14, which relates to wrongful conversion and false accounts.

Clause 17 amends section 26 to make an editorial change as "regulations" is now defined as regulations made under the Act.

Clause 18 repeals and re-enacts section 27 to update the provision on the composition of offences.

Clause 18 also inserts a new section 27A to provide for the charging of interest on unpaid financial penalties under the Act. Financial penalties and interest payable under the Act must be paid to the STB and will be recoverable by the STB as a debt due to the STB. The STB must pay all the financial penalties and interest it receives or recovers under the Act into the Consolidated Fund.

Clause 19 amends section 28 to expand the regulation-making powers of the STB under the Act.

Clause 20 makes a related amendment to section 13A of the Singapore Tourism Board Act to deem members and employees of the STB as public servants in relation to their administration, assessment, collection or enforcement of financial penalties under any Act administered by the STB, which would include the Travel Agents Act.

Clause 21 sets out the saving and transitional provisions.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.
