



香港旅遊業議會
TRAVEL INDUSTRY COUNCIL
OF HONG KONG
Incorporated with limited liability

DIRECTIVE

Issue Date: 24 December 2010

Ref: BOD199/24122010/IN/FY

**Demerit System for Mainland Tour Reception Services: Members
Resolution No. 199
(Directive category: Inbound)**

To protect participants of inbound tours organised in mainland China (mainland tours), the Board resolved at its meeting held on 19 November 2010 that:

The “Demerit System for Mainland Tour Reception Services: Members” shall be established for the regulation of members which provide reception services for mainland tours.

According to the above-mentioned Demerit System, members which have violated rules of the TIC subsumed under it will be given demerits in accordance with the seriousness of the violations, and the membership of the members concerned will be suspended or terminated once the total number of demerits reaches 30. Please refer to the Appendix for details.

Any service provided by members for mainland China’s inbound visitors is considered an inbound tour organised in mainland China if it contains either of the following items: (1) the sightseeing at, or visiting, touring or roaming of any tourist attractions or any other locations in Hong Kong; or (2) shopping at shops regulated by the Refund Protection Scheme (Registered Shops) for Inbound Tour Group Shoppers.

This Directive takes effect from 1 February 2011.

BY ORDER OF THE BOARD OF DIRECTORS
TRAVEL INDUSTRY COUNCIL OF HONG KONG

Joseph Tung
Executive Director

Appendix: “Demerit System for Mainland Tour Reception Services: Members”

IMPORTANT

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 imposable, 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 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.

2. 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.

3. 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.
4. All the accumulated demerits will be erased once the membership of members is suspended or terminated.
5. 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.
6. 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.
7. 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 (the latest version is on the TIC website) (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. 159: Reception of inbound tours organised by mainland's authorised travel agencies Members shall receive only inbound tours from mainland China which are organised by Authorised Travel Agencies for Outbound Travel by Chinese Citizens approved by the China National Tourism Administration.
2.	Directive No. 181: Prohibition of collection of additional charges from mainland inbound visitors Members shall not in any way collect or collect for others, or attempt to

	<p>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>
3.	<p>Directive No. 184: Refund Protection Scheme (Registered Shops) for Inbound Tour Group Shoppers</p>
4.	<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>
5.	<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>
6.	<p>Directive No. 193: Assigning the same tourist guide throughout the journey of mainland tours</p> <ol style="list-style-type: none"> 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”. 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. iii. Members shall not make any change to the tourist guides originally assigned to receive and meet the tour group without valid grounds. 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.
7.	<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 major source of income.</p>

8.	<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>
9.	<p>Directive No. 196: Distribution of itineraries to participants of mainland tours</p> <p>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.</p> <p>ii. The itinerary shall be printed on A4 paper, contain the items designated by the TIC and be in the format specified.</p> <p>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.</p> <p>iv. When distributing the itinerary to visitors, tourist guides shall read out the parts designated by the TIC.</p>
10.	<p>Directive No. 198: Prohibition of compelling participants of mainland tours to make purchases</p> <p>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.</p> <p>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.</p>
11.	<p>Directive No. 201: Signing service agreements with tourist guides receiving mainland tours</p> <p>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.</p> <p>ii. Members and tourist guides shall comply with all the clauses of the above-mentioned Service Agreement.</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.

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 in *The Voice of TIC* and 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.

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.

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.

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.