

# 涉及內地團的違規個案剖析

## An analysis of cases involving mainland tours

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由今年二月一日起，十個針對內地團不規範狀況的指引生效，即第一百九十三號至二百零二號指引。在這些指引中，有些是首次推行的，例如第一百九十三號指引（「一團一導遊」規定），以及第一百九十九號及第二百零二號指引（會員及導遊記分制）。以下精選了三宗違規個案，並已把無關痛癢的枝節刪除，務求會員及導遊更易掌握上述指引的重點。

### 個案一

#### 個案概述

會員甲在大約兩個月之內向議會登記了二十份團隊確認書，但確認書上深圳組團社乙的印章卻不是已向深圳市文體旅遊局存檔的出境遊專用章。議會要求深圳市文體旅遊局協助查證，證實組團社乙並沒有組辦那些旅行團。

會員甲涉嫌違反了兩項規則：（一）第二百零二號指引：會員接待的內地團須由獲准經營出境旅遊業務的內地旅行社組辦；以及會員在接待內地團之前，必須與內地旅行社簽署符合規定的合同；（二）《議會會員一般作業守則》第2(1)(d)段：會員須避免作出與法律或合約上的義務相抵觸或令人懷疑其操守的行為及事情。上述兩項規則已按照第一百九十九號指引，納入了「內地旅行團接待服務記分制：會員」的適用規則之中。

#### 解釋

會員甲表示，那些團隊都是組團社乙的「散拼團」（由來自不同地方的旅客拼合而成的旅行團），確認書上的印章都是對方提供的。

#### 規條委員會的決定

委員會根據深圳市文體旅遊局的查證結果，認



From 1 February this year, 10 directives which targeted the irregularities of mainland tours came into effect, namely Directive Nos. 193-202. Among them, some were newly introduced, such as Directive No. 193 (the “one tour, one guide” rule), Directive Nos. 199 and 200 (the demerit systems for members and guides). In the following, three violation cases are specially selected, with the unnecessary details trimmed off, in order to help members and guides grasp the main points of these directives.

### Case 1

#### Case descriptions

In about two months, Member A registered with the TIC 20 tour confirmation agreements, which were not stamped with Shenzhen's Tour Operator B's dedicated outbound travel stamp already filed with the Shenzhen Municipal Bureau of Culture, Sport and Tourism (BCST). The TIC requested assistance from the BCST, which verified that Tour Operator B had not organised such tours.

Member A was suspected of violating two rules: (1) Directive No. 202: mainland tours received by members must be organised by mainland China's authorised travel agencies for outbound travel; and before receiving mainland tours, members must sign with the mainland travel agencies contracts which meet the requirements; and (2) paragraph 2(1)(d) of the General Code of Conduct for TIC Members: members must avoid actions and situations inconsistent with their legal or contractual obligations or likely to raise doubts about their integrity. These two rules were applicable rules subsumed under the Demerit System for Mainland Tour Reception Services: Members according to Directive No. 199.

為會員甲沒有在確認書上提供實際組辦那二十個團隊的組團社名稱，也沒有與相關組團社簽訂合同，違反了上述第一項規則。此外，會員甲多次提交蓋上組團社乙的印章的確認書，但那些團隊卻並非由它組辦，這屬於蓄意欺騙，違反了上述第二項規則。會員甲因此被罰款和記分。

## 個案二

### 個案概述

一名內地旅客投訴，導遊丙在購物開始前收起了旅客的通行證，直到購物行程完成後才退還。此外，會員丁沒有按行程表安排團隊入住「三星酒店」，而導遊丙雖然答應解決住宿問題，卻悄悄離開他們入住的賓館。議會在調查期間，發現會員丁除了安排導遊丙負責接待外，還安排了另一名導遊到口岸送團。

導遊丙涉嫌違反了兩項規則：(一)《導遊作業守則》第III節的第4(i)段：導遊須盡責盡力，誠懇親切有禮，服務週到；以及(二)第4(x)段：導遊不得扣起或拿走旅客的旅遊證件，除非出於正當原因而且所持續的時間合理。上述第二項規則已按照第二百號指引，納入了「內地旅行團接待服務記分制：導遊」的適用規則之中。

會員丁則涉嫌違反了兩項規則：(一)第一百九十三號指引：會員必須指派同一名導遊為同一個內地團全程在香港時間提供接待服務；(二)《經營入境旅行服務守則》第3(2)(a)段：會員若因迫不得已的理由而須更改旅館，旅館的級數不得低於原訂的住宿標準。上述第一項規則已按照第一百九十九號指引，納入了「內地旅行團接待服務記分制：會員」的適用規則之中。

### 解釋

導遊丙表示投訴人只是不滿住宿安排，當晚和她沒有多大爭執。至於收起旅客的通行證，這是因為店舖要求複印旅客的證件，所以她才那樣做。

會員丁解釋，因為原來的酒店接待了過多旅客，只好安排團隊改住另一家賓館。至於收起旅客的通行證一事，這是業界的行規，店舖要求記錄旅客的資料，以便計算佣金。

### Explanations

Member A remarked that those tours were “hotchpotch tours” organised by Tour Operator B (tours composed of travellers from different places), and the company stamp on the tour confirmation agreements was provided by Tour Operator B.

### Decisions of the Compliance Committee

With the BCST’s verification, the Committee decided that Member A violated the first rule mentioned above because it neither included in the tour confirmation agreements the name of the tour operator which actually organised the 20 tours, nor signed any contract with that tour operator. It was also decided that **Member A was in breach of the second rule for it had repeatedly submitted tour confirmation agreements stamped with Tour Operator B’s company stamp, which was intentional fraud because those tours were not organised by Tour Operator B.** Member A was fined and given demerits.

## Case 2

### Case descriptions

A mainland visitor complained that Tourist Guide C took away the travel permits of the tour members before shop visits, and did not give back the permits until such visits were completed. Besides, Member D failed to arrange for the tour group to stay at a “three-star hotel” according to the itinerary, and Guide C stealthily left the hostel where the tour group stayed despite promising to solve the problem. Investigations by the TIC revealed that Member D, apart from arranging for Guide C to receive the tour group, assigned another guide to see the tour group off at immigration.

Guide C was suspected of violating two rules: (1) paragraph 4(i) under section III of the Code of Conduct for Tourist Guides: guides must be dutiful, sincere, courteous and attentive; and (2) paragraph 4(x): guides must not seize or take away the travel documents of visitors unless such an act is made on proper grounds and lasts for a reasonable time. The second rule was an applicable rule subsumed under the Demerit System for Mainland Tour Reception Services: Tourist Guides according to Directive No. 200.

Member D was suspected of violating two rules: (1) Directive No. 193: members must assign the same guide to receive the same mainland tour throughout its journey in Hong Kong; and (2) paragraph 3(2)(a) of the Code of Business Practice on Inbound Travel Service: if members need to alter the accommodation because of reasons beyond their control, the new accommodation must not be of a lower grade than the original accommodation. The first rule was an applicable rule subsumed under the Demerit System for Mainland Tour Reception Services: Members according to Directive No. 199.

### Explanations

Guide C remarked that the complainant was merely dissatisfied with the accommodation, but did not have much argument with her on that night. As for

### 規條委員會的決定

委員會指出，雖然導遊丙和會員丁都聲稱只是應店舖的要求才收起通行證，但所有店舖都表明沒有要求導遊丙那樣做；再者，**導遊丙雖然可以收起旅客的通行證，但必須有合理解釋，而且要得到旅客同意**。此外，導遊丙沒有任何解釋就遺下旅客並離開賓館，這樣做也不恰當。委員會認為導遊丙違反了上述兩項規則，決定發出警告信和記分。

委員會認為，**第一百九十三號指引不准會員另派導遊到口岸送團，會員丁因此違反了上述第一項規則**。此外，即使酒店超賣房間，會員丁也不能降低酒店級別，它因此違反了上述第二項規則。會員丁因此被罰款和記分。

## 個案三

### 個案概述

一名內地旅客和太太去完海洋公園後，太太身體不適，於是向導遊戊提出翌日不參加購物行程；導遊戊聽後十分惱怒，說把錢退回給他們，並叫他們離團。第二天早上，團隊離開第一家店舖後，那兩名旅客與導遊戊打架，三人最後被控在公眾地方打鬥，裁判官在控方不就控罪舉證的情況下撤銷控罪，三人各以港幣一千元簽保守行為十二個月。

導遊戊涉嫌違反了兩項規則：(一)《導遊作業守則》第III節的第4(ii)段：導遊須言行謹慎，態度客觀；以及(二)第6(i)段：導遊須凡事以旅客的利益及香港旅遊業的聲譽為大前提。上述第一項規則已按照第二百零號指引，納入了「內地旅行團接待服務記分制：導遊」的適用規則之中。

議會在調查過程中，發現負責接待的會員已派了導遊庚往口岸接團，卻沒有和她簽署服務協議，而她接團後帶領團隊遊覽了多個景點。會員已因此涉嫌違反了三項規則：(一)第一百八十五號指引：團隊確認書必須包括接待團隊的每一名導遊的指定資料；(二)第一百九十三號指引：會員必須指派同一名導遊為同一個內地團全程在香港時間提供接待服務；(三)第二百零一號指引：會員在指派導遊接待內地團之前，

the complaint that the permits were taken away by her, she did it because the shop wanted to photocopy them.

Member D explained that it could not but send the tour group to another hostel since the original hotel had taken too many bookings. It was trade practice to have the travel permits of the visitors taken away so that the shops could record their particulars for commission calculation.

### Decisions of the Compliance Committee

The Committee pointed out that although both Guide C and Member D claimed that the permits were taken away at the request of the shops, all the shops stated that they did not ask Guide C to do so. **Guide C was allowed to take away the permits, but she should have good reasons and obtained the visitors' consent.** It was also improper for her to abandon the tour group and left the hostel without giving any reasons. The Committee decided to issue a warning letter to Guide C and impose demerits on her for breaching the above two rules.

The Committee decided that **Member D violated the first rule because Directive No. 193 forbade members from assigning another guide to see a tour group off at immigration.** It considered that Member D also violated the second rule because even if the hotel oversold its rooms, it should not lower the grade of the accommodation of its customers. Member D was thus fined and imposed demerits.

## Case 3

### Case descriptions

A mainland visitor told Guide E that his wife was unwell after they visited Ocean Park and so they did not want to join the shop visits the next day. Guide E was very furious after hearing this, and threatened to ask them to leave the tour group and refund their tour fares. The next day, when the tour group left the first shop, the two visitors and Guide E had a scuffle, with the result that the three of them were charged with fighting in a public place. The charge was finally dropped after the prosecutor offered no evidence and all of them were bound over by the magistrate for one year in the sum of HK\$1,000 each.

Guide E was suspected of violating two rules: (1) paragraph 4(ii) under section III of the Code of Conduct for Tourist Guides: guides must speak and act cautiously, discreetly, and be objective in their attitude; and (2) paragraph 6(i): guides must always have regard first and foremost for the interests of visitors and the reputation of the Hong Kong tourism industry. The first rule was an applicable rule subsumed under the Demerit System for Mainland Tour Reception Services: Tourist Guides according to Directive No. 200.

When the TIC looked into the case, it discovered that Member F, responsible for receiving the tour group, assigned Guide G to meet the group at immigration without signing the service agreement with her, and that she took the tour group to several attractions after meeting them. Member F was therefore suspected of violating three rules: (1) Directive No. 185: the

必須與導遊簽署指定的服務協議。上述第二、三項規則已按照第一百九十九號指引，納入了「內地旅行團接待服務記分制：會員」的適用規則之中。

### 解釋

導遊戊表示，當她知道那兩名旅客不想購物並打算離團時，向他們解釋，說離團是可以的，但要簽署一份自願放棄活動的文件，以免日後追究。她說當她談及旅客注意事項時，他們以為她叫他們離團，就破口大罵，質問她有甚麼權力要他們離團。旅遊車抵達餐廳門口時，他們從後面打她，她唯有反抗，並下車報警。

會員己解釋，團隊確認書上沒有導遊庚的名字，是因為最初並沒有安排她在口岸接團，這次更改導遊是意料之外的安排。導遊庚只是執行在入境口岸迎接團隊的工作，而第一百九十三號指引容許這種安排。導遊庚只是臨時聘請的兼職日薪自僱人士，因此沒有與她簽署服務協議。

### 規條委員會的決定

委員會認為，導遊戊表示只要兩名旅客簽署自願離團確認書，就可以不參加購物行程，這不是一般做法，並不可信。此外，根據警方呈交裁判官的案情撮要、驗傷報告，以及內地領隊的報告，導遊戊確實與兩名旅客打架。委員會認為導遊戊違反了上述兩項規則，考慮到情節嚴重，加上她曾有一次違規紀錄，決定暫停她的導遊證。

委員會認為，確認書沒有導遊庚的資料，會員己因而違反了上述第一項規則。此外，接團導遊的工作是在口岸迎接團隊，然後帶團隊到餐廳之類的地點，等候負責景點遊覽的導遊接手，並不是像導遊庚那樣帶領旅客前往多個景點觀光，這種做法違反了上述第二項規則。此外，導遊不論兼職全職，會員都必須與它們所指派的導遊簽署服務協議，會員己因此違反了上述第三項規則。會員己因此被罰款和記分。🔒

tour confirmation agreement must contain specified information on each guide assigned to receive the tour; (2) Directive No. 193: members must assign the same guide to receive the same mainland tour throughout its journey in Hong Kong; and (3) Directive No. 201: before assigning guides to receive mainland tours, members must sign the designated service agreement with them. The second and third rules were applicable rules subsumed under the Demerit System for Mainland Tour Reception Services: Members according to Directive No. 199.

### Explanations

Guide E mentioned that when she learnt that the two visitors did not want to go shopping and wanted to leave the tour group, she explained to them that if they wanted to leave, they needed to sign a document saying that they quit the activities voluntarily so that no action would be taken against her later. When she was explaining what the tour group should pay attention to, they thought that she was asking them to leave the tour group and shouted abuse at her, questioning her power to ask them to leave. When the tour coach reached the restaurant, they hit her from the back, and she had to fight back and got out of the coach to call the police.

Member F explained that the tour confirmation agreement did not contain the information of Guide G because it originally did not plan to arrange for her to meet the tour group at immigration, and the change of guide was unexpected. What Guide G did was to meet the tour group at immigration, which was allowed under Directive No. 193. Since Guide G was a part-time, self-employed person temporarily employed on a daily wage, it did not sign the service agreement with her.

### Decisions of the Compliance Committee

The Committee deemed Guide E's explanations unconvincing because it was not the general practice that the two visitors could skip shop visits just by signing a document saying that they voluntarily left the tour group. Besides, the brief facts and medical findings submitted by the police to the magistrate and the report compiled by the mainland tour escort all showed that Guide E did have a fight with the visitors. The Committee decided that Guide E violated the two rules mentioned above, and that her Tourist Guide Pass would be suspended because the case was severe and she had had a previous violation before.

The Committee considered that Member F breached the first rule because the information of Guide G was not included in the tour confirmation agreement. Besides, **a guide who met a tour group at immigration was supposed to take it to such places as a restaurant where another guide responsible for sightseeing would take over. However, Guide G, after meeting the tour group at immigration, took it to several attractions afterwards. Such an act was in violation of the second rule.** Members had to sign the service agreement with those guides assigned by them irrespective of whether the guides were employed part-time or full-time. Member F therefore breached the third rule. It was fined and imposed demerits. 🔒