

立法會
Legislative Council

By fax
LC Paper No. CB(2) 1351/01-02

Ref : CB2/H/1
Tel : 2869 9269
Date : 13 March 2002
From : Clerk to the House Committee
To : Members of the House Committee

**Revenue (Variation and Reduction of
Fees and Charges) Order 2002 (L.N. 35 of 2002)**

Further to the discussion at the House Committee meeting on 8 March 2002, I forward for Members' information a letter (English version) from Assistant Legal Adviser 1 dated 13 March 2002 to Secretary for the Treasury seeking clarifications on the Revenue (Variation and Reduction of Fees and Charges) Order 2002 which was tabled in Council on 13 March 2002. The Chinese version of the letter will follow.

2. The Legal Service Division will provide a report on the Order for the House Committee meeting on 22 March 2002.

(Mrs Constance LI)
for Clerk to the House Committee

Encl.

立法會 *Legislative Council*

傳真文件

立法會 CB(2)1351/01-02 號文件

檔 號： CB2/H/1
電 話： 2869 9269
日 期： 2002 年 3 月 13 日
發文者： 內務委員會秘書
受文者： 內務委員會委員

《2002 年收入(更改及減少費用)令》(2002 年 35 號法律公告)

繼於 2002 年 3 月 8 日內務委員會會議進行討論後，本人現附上助理法律顧問 1 於 2002 年 3 月 13 日致庫務局局長的函件(英文本)。該函件要求當局就 2002 年 3 月 13 日提交立法會的《2002 年收入(更改及減少費用)令》作出澄清。該函件的中文本容後奉上。

2. 法律事務部將會就《2002 年收入(更改及減少費用)令》，為 2002 年 3 月 22 日的內務委員會會議提交報告。

內務委員會秘書

(李蔡若蓮女士代行)

連附件

LS/S/24/01-02
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Secretary for the Treasury
Finance Bureau
"R" Division
4/F, Main and East Wings
Central Government Offices
11 Ice House Street
Hong Kong
(Attn : Ms Erica Ng
Principal Assistant Secretary)

13 March 2002

BY FAX
Fax No. : 2234 9757
Total no. of page(s) : 3

Dear Ms Ng,

**Revenue (Variation and Reduction of
Fees and Charges) Order 2002 (L.N. 35 of 2002)**

I refer to the above Order made by the Chief Executive after consultation with the Executive Council and published in the Gazette on 12 March 2002. I shall be grateful if you could clarify the following :—

1. Please explain the legislative intent of section 39A of the Public Finance Ordinance (Cap. 2) (previously appeared as section 96 of the Interpretation and General Clauses Ordinance (Cap. 1)) and how that power has been exercised in the past.
2. Please provide justifications for the Administration to use an order under section 39A of Cap. 2 instead of other legislative proposals. On the basis that the Order is subsidiary legislation, please let us know :
 - (a) the reasons why section 39A of Cap. 2 is applicable in the light that each of the charging regime in the respective Ordinances and Regulations has specific provisions for their variation;
 - (b) in relation to business registration fee, whether the making of the Order subject to negative vetting of the Council would effectively remove the powers of the Council under section 35 of the Interpretation and General Clauses Ordinance (Cap.1), since section 18(1) of the Business Registration Ordinance (Cap. 310) provides that the Legislative Council may by resolution amend Schedule 1.

- (c) if the binding effect of the existing provisions of the Business Registration Ordinance (Cap. 310) is not affected, as stated in paragraph 13 of the LegCo Brief, would the making of the Order under section 39A of Cap. 2 be regarded as inconsistent with section 18 of Cap. 310?

Waiver of business registration fee

3. Paragraph 3 of the LegCo Brief states that those who apply afresh or apply for renewal of a one-year certificate or a three-year certificate during the concessionary period will be relieved from the payment of a business registration fee of \$2,000. Section 2 of the Order, however, provides that section 3 shall apply only to fees payable in respect of business registration certificates and branch registration certificates which commence on or after 1 April 2002 and before 1 April 2003. Is it the policy intent that the waiver of fee applies also to application made during the specified period for a certificate that commences after 1 April 2003?

4. In the event that business registration fee has been paid for a certificate that commences on and after 1 April 2002, would the Administration arrange for refund of such fee, and if so, what is the legal authority for the refund?

5. Please confirm that no concession is intended for those businesses whose business registration certificate or branch registration certificate has been issued for a period of 3 years that would not expire during the concessionary period.

6. Please also confirm that the levy prescribed in item 3 of Schedule 2 to the Business Registration Ordinance (Cap.310) continues to be payable.

Reduction of water and sewage charges

7. According to paragraphs 4 and 6 of the LegCo Brief, water and sewage charges for domestic accounts and fresh water supply for flushing are billed at four-monthly intervals. Item 1(b) and (c) in Part III of Schedule 1 to the Waterworks Regulations (Cap. 102 sub. leg.) prescribes the charge on a 4-month period. Please explain the reason for providing the maximum amount allowed to be deducted in respect of a bill for a 1-month period of supply under sections 4(3)(a) and 5(3)(a) of the Order.

8. Section 5(1)(a) of the Order refers to the rate for sewage charge based on the volume of water supplied for non-domestic accounts. Please clarify whether the reduction applies to those trade, business or manufacture listed in the Schedule to the Sewage Services (Sewage Charge) Regulation (Cap. 463 sub. leg.) where the amount charged is equal to 70% of the volume of water supplied.

To facilitate my reporting to the House Committee on 22 March 2002, I shall be grateful if you could let me have your reply by 18 March 2002.

Yours sincerely,

(Bernice Wong)
Assistant Legal Adviser

c.c. D of J (Attn : Miss Miranda Ng, SALD) (Fax No. 2845 2215)
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