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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)

22 March 2002

**BY FAX**

Fax No. : 2234 9757  
Total no. of page(s) : 2

Dear Ms Ng,

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

Thank you for your letter dated 20 March 2002.

**Waiver of business registration fee**

2. You have indicated in your letter the Administration's intention to extend the concession to:
  - (a) those businesses whose business registration certificate or branch registration certificate has been issued for a period of 3 years and would not expire during the concessionary period between 1 April 2002 and 31 March 2003; and
  - (b) businesses whose registration certificates expire between 1 April 2002 and 31 March 2003 but are not renewed because of cessation of business.
3. Please explain in greater detail :
  - (a) the reason for relying on section 39A(b) of the Public Finance Ordinance (Cap. 2) to effect refund, that section being applicable only to refund in a particular case and on special ground (in the present circumstances, the concession being applicable to certain categories of businesses);
  - (b) what other statutory provisions (if any) that the Administration has considered as a possible legal authority to effect the refund;
  - (c) the procedures for applying for refund and how refund would be effected.

**Reduction of water and sewage charges**

4. According to your letter, there is no restriction under the Waterworks Ordinance on the Water Authority's ability to issue bills for the accounts for water and sewage charges for domestic accounts and fresh water supply for flushing.

5. Please note that under section 46 of the Waterworks Regulations (Cap. 102 sub. leg.), the Water Authority shall charge the rates specified in Part III of Schedule 1 for fresh water supplied under the Ordinance. Item 1(b) and (c) in Part III of Schedule 1 prescribes the charge for fresh water for domestic purposes and for flushing purposes per 4-month period (specifying a scale for payment in each case).

6. It may be argued that under section 39A(a) of Cap. 2, any fee or charge may be "varied" by order of the Chief Executive. In my view, section 39A(a) does not confer a power on the Chief Executive to vary the method by which the fee or charge is to be billed, especially when the specific ordinance or subsidiary legislation has provided how such fee or charge is to be calculated.

7. In light of paragraphs 5 and 6 above, please review section 4(3)(a) and 5(3)(a) of the Order again.

Yours sincerely,

(Bernice Wong)  
Assistant Legal Adviser

c.c. D of J (Attn : Miss Miranda Ng, SALD) (Fax No. 2845 2215)  
LA  
SALA1  
CAS(1)6(Temp)