

LEGISLATIVE COUNCIL BRIEF

Massage Establishments Ordinance
(Chapter 266)

MASSAGE ESTABLISHMENTS (AMENDMENT) REGULATION 2003

INTRODUCTION

A At the meeting of the Executive Council on 18 February 2003, the Council ADVISED and the Chief Executive ORDERED that the Massage Establishments (Amendment) Regulation 2003, at Annex A, should be made under section 12 of the Massage Establishments Ordinance to revise the fee payable for the renewal of a massage establishment licence (whether for a renewal period of 12 months or 24 months) and to effect a few minor textual amendments.

JUSTIFICATIONS

B 2. After conducting a costing review, the unit cost for processing an application for a massage establishment licence at 2003-04 price level is at \$13,193 for new issue and \$2,727 for renewal. The breakdown of the unit cost is at Annex B. The cost of issuing renewed licences was reduced as a result of the streamlined licensing procedures (more details are in paragraphs 18 and 19 below) which are the same for licences renewed for one year or two years. We propose to reduce the fee for issue of a renewed licence to \$2,730 to reflect the full cost whether it is valid for one year or two years.

3. Notwithstanding the general principle of full-cost recovery, we propose to maintain the fee for issue of a new licence at its existing level of \$6,410. This will avoid imposing extra financial burden on prospective operators under the current economic situation. Our proposals are in line with the opinion that bona fide massage business provides job opportunities, especially for people with low-skilled background and the blind. Its development as a health and relaxation-oriented service has thrived in recent years and contributed to our local community economy.

C 4. If a substantial increase is made to the fee for issuing new licence, it will add significantly to the start-up costs of prospective operators, especially the small ones. A table showing the breakdown of the size of currently licensed massage establishments in terms of their number of beds is at Annex C. At present the massage trade mainly consists of small-scale establishments. The table shows that currently 115 licensed establishments (about 50%) out of a total 228 are small-scale operators with less than 10 massage beds.

5. On the basis of our experience, it is estimated that there will be an average of only 17 new applications for massage establishment licences each year. Increasing the licence fee for new issue from \$6,410 to the full cost of \$13,193 would only generate an estimated additional revenue of about \$115,300 each year. In view of the adverse impact on the prospective operators in the current economic climate, we do not propose a substantial increase for such a small additional revenue. Furthermore, there is currently a moratorium of government fees and charges up to end March 2003. It is not appropriate to propose increasing a licence fee while the moratorium is still in effect. Nevertheless, we plan to revise this fee upward when the economic situation has improved.

THE AMENDMENT REGULATION

6. The main provisions of the Amendment Regulation are –

Clause 2 - To amend Form 2 of Schedule 1 to the Regulations to provide for the renewal of a massage establishment licence for a period of 2 years.

Clause 3 - To amend Schedule 2 to the Regulations to reduce the fee for the renewal of a licence (whether for a renewal period of 12 months or 24 months).

D 7. The existing provisions which are being amended are at Annex D.

LEGISLATIVE TIMETABLE

8. The legislative timetable will be –

Publication in the Gazette	28 February 2003
Tabling at the Legislative Council for negative vetting	5 March 2003

IMPLICATIONS OF THE PROPOSAL

9. The Amendment Regulation will not affect the current binding effect of the Massage Establishments Ordinance and the Regulations. The fee proposals will reduce the annual revenue by about \$489,400 in the first year of implementation reflecting reduction in cost for renewing licences. The proposals for maintaining the existing fee level for new licences, reduction in licence renewal fee and the streamlined licence application process will be beneficial to the massage establishments concerned on both the cost and expediency fronts. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It has no productivity, environmental, civil service or sustainability implications.

PUBLIC CONSULTATION

10. An information paper on the proposed revision of massage establishment licence fees was issued to the Legislative Council Panel on Security in March 2002. Members did not raise any objection to the proposals.

PUBLICITY

11. A press release will be issued on 26 February 2003. A spokesman will be available to answer media and public enquiries.

BACKGROUND

12. There are at present about 220 licensed massage establishments in Hong Kong and on average about 17 applications for new licences are received each year. Fees payable for the issue and renewal of massage establishment licences are stipulated under the Regulations. Under the current licensing scheme, a massage establishment licence is valid for one year and the existing licence fee of \$6,410, which was last revised from \$5,870 in May 1995, applies to both new issue and renewal of licences.

13. In 1999, the Business and Services Promotion Unit commissioned a consultancy study on the review of massage establishments legislation and related regulatory control activities. The consultancy report recommended, among other things, that the scope of licensing control should be narrowed down, the validity period of renewed licences should be extended and the licence fees should cover the full cost.

14. On 24 April 2001, the Council ADVISED and the Chief Executive ORDERED that the Massage Establishments (Amendment) Bill 2001 should be introduced into the Legislative Council. The Bill sought to provide, among other things, that licences might be renewed for two years if the licensee had not breached any licensing conditions during the preceding licensing period. The Bill was passed by the Legislative Council on 14 November 2001 and published in the Gazette as the Massage Establishments (Amendment) Ordinance 2001 (Amendment Ordinance) on 23 November 2001 (Ordinance No. 28 of 2001).

15. To implement the new licensing arrangements, we need to amend the Regulations. We have also taken the opportunity to review the procedures and the costs for processing licence applications.

LICENSING PERIOD

16. Under section 4 of the Amendment Ordinance, a licence may be renewed for two years if the licensee has not breached any licensing conditions during the preceding licensing period. At present, Form 2 in Schedule 1 of the Regulations only prescribes a form of massage establishment licence which is valid for one year. The form has to be revised by way of amendments to the Regulations to enable it to be used for a licence renewed for a validity period of either one year or two years.

LICENCE FEES

Processing Licence Applications

17. Processing applications for massage establishment licences involves the Police (Licensing Office and the Police Division in which the establishment will be situated), Fire Services Department (FSD), Buildings Department (BD) and Home Affairs Department (HAD). The Police are responsible for examining the application details, coordinating among the departments concerned, setting licensing conditions and issuing the licences. FSD and BD examine the standards of fire safety and building safety respectively. HAD helps gauge the residents' opinion in the neighbourhood of the proposed massage establishment through District Offices.

18. In order to speed up the application process and to keep cost to the minimum necessary, the relevant departments have introduced a number of measures to streamline the procedures for processing the licence applications. The procedural improvements include -

- (a) the use of a check-list to ensure that all required documents are submitted with an application;
- (b) the use of supplementary information forms to ensure that departments concerned are provided with the necessary information;
- (c) examination by the Licensing Office of the proposed layout plan to ensure compliance with the standard requirements before further processing;
- (d) convening consent panel meeting¹ on request to resolve technical problems during the course of decoration work; and
- (e) elimination of unnecessary procedural steps to enhance efficiency in the licensing process.

¹ Consent panel meeting is convened on request by applicants. Concerned departments are invited to attend the meeting to answer queries by the applicants. It is an effective and efficient means to speed up the application processing.

19. Following implementation of the above measures, the Licensing Office is now able to issue an 'approval-in-principle'² to an applicant within 25 working days, which is a significant improvement from the previous processing time of about 84 working days. The streamlined procedures and enhanced efficiency have also helped to reduce the cost of processing an application. The cost for processing a renewal application is considerably lower than that for new issue because the procedures involved in the former are generally much simpler and do not involve BD and HAD.

ENQUIRIES

20. Any enquiries to this brief may be directed to Miss Eliza Yau, Principal Assistant Secretary for Security at 2810 2632.

Security Bureau
February 2003

² Approval-in-principle is issued to the applicant after initial vetting by the departments concerned. It means the application has met the basic requirements. The applicant may proceed with further preparation, for example, decoration work of the premises for the massage establishment.

**MESSAGE ESTABLISHMENTS
(AMENDMENT) REGULATION 2003 : ANNEXES**

- Annex A - Massage Establishments (Amendment) Regulation 2003

- Annex B - Cost computation of processing application for new issue and renewal of a massage establishment licence

- Annex C - Breakdown of licenced massage establishments in terms of their scale of operation

- Annex D - Existing provisions of the Massage Establishments Regulations (Cap. 266 Sub. Leg.) which are being amended

MESSAGE ESTABLISHMENTS (AMENDMENT) REGULATION 2003

(Made by the Chief Executive in Council under section 12
of the Massage Establishments Ordinance (Cap. 266))

1. Commencement

This Regulation shall come into operation on a day to be appointed by the Secretary for Security by notice published in the Gazette.

2. Schedule 1 amended

Schedule 1 to the Massage Establishments Regulations (Cap. 266 sub. leg.) is amended -

(a) in Form 1 -

(i) in the Note immediately before Part II,
by repealing "並不因該條例第 4 條而" and
substituting "因為該條例第 4 條而不";

(ii) by repealing "of 19 ." and
substituting "of 20 .";

(b) in Form 2 -

(i) by repealing "19..." and substituting
"20...";

(ii) by adding "/24 months*" after "12 months";

(iii) by adding "*Delete as appropriate." at
the end.

3. Schedule 2 substituted

Schedule 2 is repealed and the following substituted -

"SCHEDULE 2 [reg. 4]

- | | | |
|----|---|-----------|
| 1. | Fee for the issue of a licence | \$6,410 |
| 2. | Fee for the renewal of a licence (whether for a renewal period of 12 months or 24 months) | \$2,730". |

4. Transitional

The Massage Establishments Regulations (Cap. 266 sub. leg.) as in force immediately before the commencement of this Regulation shall continue to apply in relation to any renewal of a licence granted under section 7 of the Ordinance that is deemed under section 7(6)(b) of the Ordinance to be granted before the commencement of this Regulation as if this Regulation had not been enacted.

Clerk to the Executive Council

COUNCIL CHAMBER

2003

Explanatory Note

The purpose of this Regulation is to amend Schedules 1 and 2 to the Massage Establishments Regulations (Cap. 266 sub. leg.) to provide for the renewal of a licence under the Massage Establishments Ordinance (Cap. 266) for a period of 24 months and revise the fee for the renewal of the licence.

COST COMPUTATION**Hong Kong Police Force****Fee for New Issue of a Massage Establishments Licence
under Massage Establishments Regulation (Cap.266 Sub. Leg.)****Cost at 2003-04 Prices
(for processing one application)**

	Police	FSD	BD	HAD	Total
	\$	\$	\$	\$	\$
Staff Costs	3,879	3,095	3,430	1,467	11,871
Departmental Expenses	64	191	257	-	512
Accommodation Costs	206	172	151	49	578
Central Administrative Overhead	42	27	101	62	232
Unit Cost	4,191	3,485	3,939	1,578	13,193^{Note}
Existing fee with effect from 1 May 1995					6,410
Proposed fee with effect from commencement of the Amendment Regulation					6,410

Police : Hong Kong Police Force
FSD : Fire Services Department
BD : Buildings Department
HAD : Home Affairs Department

^{Note} The total full cost here is slightly lower than the full cost of \$13,201 submitted under Executive Council Memorandum XCC(2002)25 to reflect the civil service pay cut and adjustment to the price level at 2003-04. On the other hand, the BD has taken the opportunity to review their cost which is found to be higher than that previously assessed.

COST COMPUTATION

Hong Kong Police Force

Fee for Renewal of a Massage Establishments Licence under Massage Establishments Regulation (Cap.266 Sub. Leg.)

Cost at 2003-04 Prices (for processing one application)

	Police	FSD	Total
	\$	\$	\$
Staff Costs	1,141	1,328	2,469
Departmental Expenses	19	82	101
Accommodation Costs	59	74	133
Central Administrative Overhead	12	12	24
Unit Cost	1,231	1,496	2,727^{Note}
Existing fee with effect from 1 May 1995			6,410
Proposed fee with effect from commencement of the Amendment Regulation			2,730

Police : Hong Kong Police Force

FSD : Fire Services Department

^{Note} The total full cost here is lower than the full cost of \$2,847 submitted under Executive Council Memorandum XCC(2002)25 to reflect the civil service pay cut and adjustment to price level at 2003-04.

Annex C

**Breakdown of licenced massage establishments
in terms of their scale of operation**

Range of number of massage beds	Number of massage establishments
0-10	115
11-20	26
21-30	31
31-40	21
41-50	14
51-60	9
61-70	4
71-80	2
81-90	3
91-100	2
101-110	0
111-120	1
Total :	228

**Extracts of
Schedules 1 and 2 of the Massage Establishments Regulations, Chapter 266A**

SCHEDULE 1

[regulations 2, 3 & 5]

FORM 1

[regulation 2]

Application No.

MESSAGE ESTABLISHMENTS ORDINANCE

(Chapter 266)

MESSAGE ESTABLISHMENTS REGULATIONS

To the Commissioner of Police

**APPLICATION FOR THE ISSUE/RENEWAL OF
A MESSAGE ESTABLISHMENTS LICENCE**

I hereby apply for a licence
to operate a massage establishment
at

.....
In support of my application I submit the following information and particulars-

PART I

* * * * *

21. (a) Have you ever been convicted in Hong Kong or elsewhere for any offence (except a traffic offence for which you were fined \$1000 HK Dollars or its equivalent in other currencies or less and did not suffer the loss of your driving licence)? YES/NO

(b) If "Yes" state-

	Date of hearing	The offence	Penalty (if any) imposed	Court which tried the offence
(1)

(2)

(3)

(4)

Note: The provisions in section 2 of the Rehabilitation of Offenders Ordinance (Chapter 297) do not by reason of section 4 of that Ordinance apply to proceedings related to a person's suitability to be granted or to continue to hold a licence. No conviction will be regarded as 'spent' and details of all convictions must therefore be included.

PART II

DOCUMENTS TO BE SUBMITTED BY APPLICANT

22. You are required to submit, together with this application, the following documents-
- (a) 2 recent passport size photographs of yourself;
 - (b) a copy of the Occupation Permit issued by the Building Authority in respect of the premises where the proposed massage establishment will be situated;
 - (c) 3 copies of a floor plan of the proposed massage establishment showing-
 - (i) all internal partitions, screens, doors and the like and the materials used or intended to be used for their construction;
 - (ii) to what use each part of the massage establishment will be put;
 - (iii) the dimensions of each such part;
 - (iv) the locations of fire-fighting equipment; and
 - (v) the manner in which areas that are to be designated for massage treatment will be open to general view;
- Note:
- (1) Each copy must be signed by you certifying that it is a true copy of the floor plan.
 - (2) In the case of-
 - (a) new applications; and
 - (b) applications for renewal which involve structural alterations to the premises,
 you are also required under the Buildings Ordinance (Chapter 123) to submit plans through an 'authorized person' to the Building Authority for approval.
- (d) 3 copies of a sketch of the sign which will be erected to advertise the massage establishment. The sketch must indicate the wording, size and materials to be

used in respect of the sign. If the sign is to be illuminated you are required to indicate the method of illumination;

Note: Each copy must be signed by you certifying that it is a true copy of the sign.

- (e) 3 copies of a sketch showing the location of the sign referred to in (d);

Note: Each copy must be signed by you certifying that it is a true copy of the sign.

- (f) if the massage establishment is to be owned by a partnership, a copy of the partnership agreement and business registration certificate of that partnership; and

- (g) if the massage establishment is to be owned by a body corporate, a copy of the Certificate of Incorporation issued by the Registrar of Companies.

I DECLARE that the information and particulars submitted by me in support of this application are, to the best of my knowledge and belief, both true and correct. I have read the Massage Establishments Ordinance (Chapter 266) and the Massage Establishments Regulations made thereunder. I understand that section 13(3) of the Ordinance provides that any person who makes any false or misleading statement or furnishes any false or misleading information in connection with any application for the issue or renewal of a licence commits an offence and shall be liable to a fine of \$50000 and to imprisonment for 6 months.

Dated this day of 19 .

Signed

Applicant.
(L.N. 510 of 1996)

Licence No.

MESSAGE ESTABLISHMENTS ORDINANCE

(Chapter 266)

MESSAGE ESTABLISHMENT LICENCE

LICENCE is granted this day of 19

to (name) (Hong Kong Identity Card
 No.) to operate a massage establishment at (address of
 premises)

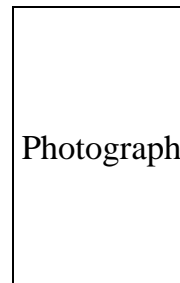
.....

.....

.....

for a period of 12 months from date of grant. THIS LICENCE is subject to those conditions endorsed on the document attached hereto.

Fee:



.....

for Commissioner of Police.
 (L.N. 510 of 1996)

SCHEDULE 2

	[regulation 4]
Fee for a licence and renewal of a licence	\$6410