

LEGISLATIVE COUNCIL BRIEF

Travel Agents Ordinance (Cap 218)

TRAVEL AGENTS ORDINANCE (SPECIFICATION OF FUND LEVY) (AMENDMENT) NOTICE 2009

INTRODUCTION

On 26 June 2009, the Secretary for Commerce and Economic Development (SCED), in exercise of powers conferred by section 32H of the Travel Agents Ordinance (TAO) (Cap 218), made the Travel Agents Ordinance (Specification of Fund Levy) (Amendment) Notice 2009 (the Amendment Notice) at Annex to reduce the Travel Industry Compensation Fund (the Fund) levy rate from 0.15% to 0%.

JUSTIFICATION

2. The Fund was established in 1993 under the TAO to provide ex gratia payments to outbound travellers of up to 90% of the loss in outbound package tour fares in case of default of travel agents. Its scope of protection was extended in 1996 through the introduction of the Package Tour Accident Contingency Fund Scheme to provide ex gratia payments to outbound package tour travellers who die or are injured in accidents whilst travelling abroad. The ex gratia payments cover expenses incurred by the outbound travellers concerned in medical treatment and funeral-related expenses and by their relatives in making compassionate visits to the place of accident.

3. The Fund derives its income from the Fund levy which is contributed by travel agents in accordance with section 32H of the TAO. The rate of levy is stipulated in the Travel Agents Ordinance (Specification of Fund Levy) Notice (Cap 218D), which is at present 0.15% of every outbound fare received. The Fund is held, managed and applied by the Travel Industry Compensation Fund Management Board (the Board).

4. To ensure that the level of the Fund's balance is sufficient to meet its commitments in ex gratia payments, the Board commissions a professional actuarial consultant to conduct a risk assessment study every five years. The last study was completed in 2008. Taking into account

the annual turnover of the outbound package tours in 1996 to early 2007 (about \$8 billion on average for normal turnover years), the amount of ex gratia payments made each year and the Fund's investment return, the consultant has recommended to set the prudent level of the Fund at \$400 million¹, and allows a buffer of some 25% of this level to cater for claims on top of the worst-case scenario set out in footnote 1.

5. The Board conducted a public consultation exercise to collect the views of stakeholders on, among others, the proposal of putting in place a mechanism with an upper and lower triggering threshold respectively at \$500 million and \$400 million, for suspending or resuming collection of the Fund levy. With the balance of the Fund standing at \$527 million in May 2009, the Board has also proposed to suspend the collection of the Fund levy.

6. After considering the views received, the interest of the travelling public and the financial position of the Fund, SCED accepted the Board's recommendation to reduce the Fund levy rate to zero, i.e. to suspend the collection of the Fund levy. Under section 32H of the TAO, SCED has the authority for setting the rate of the Fund levy.

7. SCED also accepted the Board's recommendation to set up a levy rate adjustment mechanism as outlined in paragraph 5 above. SCED will in future process the necessary legislative amendments to adjust the levy rate, having regard to this mechanism as well as the balance of the Fund, turnover of outbound package tours, business environment of travel agents, findings of the actuarial consultant and any other relevant factors.

THE AMENDMENT NOTICE

8. The Amendment Notice amends section 1 of the Travel Agents Ordinance (Specification of Fund Levy) Notice (Cap 218D) by reducing the rate of the Fund levy from 0.15% to 0%. The new rate is applicable to outbound fares received on or after the commencement date on 3 July 2009.

¹ This prudent level allows the Fund to meet the ex gratia payments in a worst-case scenario involving the default of two large-scale and a number of small-scale travel agents.

LEGISLATIVE TIMETABLE

9. The Amendment Notice will be gazetted on 3 July 2009 for commencement of operation on the same date. It will be tabled at the Legislative Council on 8 July 2009.

IMPLICATIONS

10. The Amendment Notice is in conformity with the Basic Law, including the provisions concerning human rights. It will not affect the current binding effect of the TAO and has no financial and civil service implications. For economic implications, the suspension of the collection of the Fund levy would help lower the operation costs of travel agents. The travelling public may also enjoy lower package tour fares or improved service should the travel agents pass on the reduction in the Fund levy to consumers.

PUBLIC CONSULTATION

11. The Board has conducted a public consultation exercise from 13 March to 30 April 2009 on the above-mentioned and other proposals. A total of 28 written submissions reflecting the views of 421 respondents were received. Over 80% of the respondents supported the proposals to set up a levy rate adjustment mechanism and to suspend the collection of the Fund levy.

12. The Legislative Council Panel on Economic Development was consulted on 22 June 2009. The Panel supported the proposal, and agreed that the suspension of the collection of the Fund levy should take effect upon gazettal on 3 July 2009 in order to reduce the operation cost of travel agents as soon as possible and help tide them over the difficult times amidst the global economic crisis.

PUBLICITY

13. The Tourism Commission will issue a press release on 3 July 2009 regarding the Amendment Notice. Relevant announcements will also be broadcast through the mass media and other channels including public transport and publicity materials.

ENQUIRY

14. Any enquiries on this brief should be directed to Mrs Laura ARON, Assistant Commissioner for Tourism via telephone at 2810 3525 or email at laura_aron@cedb.gov.hk.

Tourism Commission
Commerce and Economic Development Bureau
June 2009

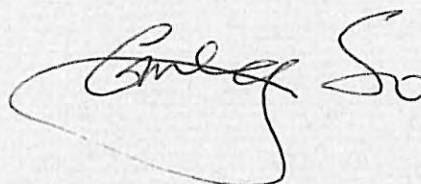
**TRAVEL AGENTS ORDINANCE (SPECIFICATION
OF FUND LEVY) (AMENDMENT) NOTICE 2009**

(Made by the Secretary for Commerce and Economic Development under
section 32H(2) of the Travel Agents Ordinance (Cap. 218))

1. Fund levy

(1) Section 1(1) of the Travel Agents Ordinance (Specification of Fund Levy) Notice (Cap. 218 sub. leg. D) is amended by repealing “0.15%” and substituting “0%”.

(2) Section 1(2) is amended by repealing “2 May 1997” and substituting “3 July 2009”.



Acting Secretary for Commerce and
Economic Development

26 June 2009

Explanatory Note

The Travel Industry Compensation Fund (“the Fund”) was established in 1993 to provide ex gratia payments to an outbound traveller in relation to a loss suffered in respect of an outbound fare or in relation to a loss suffered in respect of an accident which results in the death or personal injury of that traveller. Travel agents are required to contribute to the Fund by way of levy (“the Fund levy”). The Fund levy is payable at the rate of 0.15% of every outbound fare

received. The rate is specified by the Secretary for Commerce and Economic Development in the Travel Agents Ordinance (Specification of Fund Levy) Notice (Cap. 218 sub. leg. D) (“the principal Notice”). This Notice amends the principal Notice by reducing the rate of the Fund levy from 0.15% to 0%. The new rate is to apply in respect of any outbound fare received on or after 3 July 2009.