

L.N. 218 of 2008**BROADCASTING (LICENCE FEES) (AMENDMENT)
REGULATION 2008**

(Made by the Chief Executive in Council under section 42(1)(f)
of the Broadcasting Ordinance (Cap. 562))

1. Commencement

This Regulation shall come into operation on 1 December 2008.

2. Interpretation

(1) Section 2 of the Broadcasting (Licence Fees) Regulation (Cap. 562 sub. leg. A) is amended by repealing the definitions of “deemed domestic free television programme service licence” and “deemed domestic pay television programme service licence”.

(2) Section 2 is amended, in the Chinese text, in the definition of “用戶”, by repealing the semicolon and substituting a full stop.

3. Deemed licences

Section 4 is repealed.

4. Schedule 1 substituted

Schedule 1 is repealed and the following substituted—

“SCHEDULE 1

[s. 3(1)]

ANNUAL LICENCE FEE FOR DOMESTIC FREE
TELEVISION PROGRAMME SERVICE LICENCE

1. Interpretation

In this Schedule—

“licence” (牌照) means a domestic free television programme service licence;

“licence year” (牌照年度) means, in relation to a licence—

- (a) the period commencing on the specified day and expiring at the end of the day immediately before the first anniversary of the specified day; or
- (b) the period commencing on an anniversary of the specified day and expiring at the end of the day immediately before the next anniversary of the specified day;

“programme time” (節目時間) means, in relation to a licence, the duration of a television programme included in a television programme service broadcast under the licence;

“specified day” (指明日期) means, in relation to a licence, the day the licence comes into force.

2. Annual licence fee

(1) The annual licence fee for a licence is payable in respect of a licence year and consists of the following—

- (a) a fixed fee of \$4,701,400; and
- (b) a variable fee calculated at the rates specified in section 4 and on the basis of the aggregate programme time of the television programmes broadcast in the licence year.

(2) The fixed fee is to be calculated on a pro rata basis if before the end of a licence year—

- (a) the licence is surrendered or revoked; or
- (b) the period of validity of the licence expires.

3. Time and manner of payment

(1) The holder of a licence shall pay to the Director of Accounting Services the fixed fee not later than 14 days after the commencement of a licence year.

(2) The holder of a licence shall, in respect of a licence year, pay to the Director of Accounting Services a provisional amount of the variable fee not later than 60 days after the commencement of the licence year.

(3) The provisional amount is to be calculated at the rates specified in section 4—

- (a) in relation to a licence year commencing on the specified day, on the basis of the estimated aggregate programme time of the television programmes to be broadcast in the licence year as recorded in the licence; and
- (b) in relation to a licence year commencing on an anniversary of the specified day, on the basis of the aggregate programme time of the television programmes broadcast in the preceding licence year.

(4) If a television programme service, television programme or any part of a television programme service or television programme is approved or directed by the Broadcasting Authority to be simulcast in both analogue and digital formats, the programme time is to be calculated only by reference to the duration of the television programme or the part of the programme broadcast in digital format.

(5) If in respect of a licence year the variable fee payable for a licence exceeds the provisional amount paid for the licence, the holder of the licence shall, on demand by the Director of Accounting Services, pay the difference to the Director of Accounting Services.

(6) If in respect of a licence year the provisional amount paid for a licence exceeds the variable fee payable for the licence, the Director of Accounting Services shall pay the difference to the holder of the licence.

4. Rates of variable fee

The rates specified for the purposes of sections 2(1)(b) and 3(3) are as follows—

- (a) for the first 17 000 hours of programme time: \$13,200 for every 100 hours or any part of those 100 hours; and
- (b) for the programme time after those 17 000 hours: \$1,630 for every 100 hours or any part of those 100 hours.”.

5. Annual licence fee for domestic pay television programme service licence or deemed domestic pay television programme service licence

(1) Schedule 2 is amended, within the square brackets, by repealing “ss. 3(2) & 4(2)” and substituting “s. 3(2)”.

(2) Schedule 2 is amended, in the heading, by repealing “OR DEEMED DOMESTIC PAY TELEVISION PROGRAMME SERVICE LICENCE”.

(3) Schedule 2 is amended by repealing section 1 and substituting—

“1. Interpretation

In this Schedule—

“licence” (牌照) means a domestic pay television programme service licence;

“specified day” (指明日期) means, in relation to a licence, the day the licence comes into force.”.

6. Annual licence fees for type A and type B other licensable television programme service licences

Schedule 4 is amended, in section 2(a), by repealing “\$171,200” and substituting “\$73,500”.

LAM Chik-ting, Tony
Clerk to the Executive Council

COUNCIL CHAMBER
23 September 2008

Explanatory Note

The object of this Regulation is to amend the annual licence fees payable under the Broadcasting (Licence Fees) Regulation (Cap. 562 sub. leg. A) (“principal Regulation”) for domestic free television programme service licences (“Licences”) and type A other licensable television programme service licences (“type A licences”). This Regulation also repeals provisions in the principal Regulation relating to deemed domestic free television programme service licences and deemed domestic pay television programme service licences (“deemed licences”) as those licences no longer exist.

2. Sections 2 and 3 repeal provisions relating to deemed licences.
3. Section 4 creates a new Schedule 1 under the principal Regulation (“new Schedule”) which provides for the annual licence fee for Licences.
4. Section 2 of the new Schedule provides that the annual licence fee for Licences consists of a fixed fee of \$4,701,400 and a variable fee calculated on the basis of the aggregate duration of the television programmes broadcast in a licence year (“variable fee”).
5. Section 3 of the new Schedule provides for the time and manner of payment of the annual licence fee for Licences.
6. Section 4 of the new Schedule provides for the rates of the variable fee.
7. Section 5 amends Schedule 2 to the principal Regulation by repealing provisions relating to deemed licences.
8. Section 6 amends the fixed portion of the annual licence fee for type A licences.