

LEGISLATIVE COUNCIL BRIEF

Travel Agents Ordinance (Cap 218)

TRAVEL INDUSTRY COMPENSATION FUND (AMOUNT OF EX GRATIA PAYMENTS AND FINANCIAL PENALTY) (AMENDMENT) RULES 2011

INTRODUCTION

On 14 January 2011, the Travel Industry Compensation Fund Management Board (the Board), in exercise of power under section 32G(2) of the Travel Agents Ordinance (TAO) (Cap 218), made the Travel Industry Compensation Fund (Amount of Ex gratia Payments and Financial Penalty) (Amendment) Rules 2011 (the Amendment Rules) at Annex to increase the maximum amount of ex gratia payments to outbound travellers who die or are injured in accidents when taking part in activities provided or organised by a travel agent.

JUSTIFICATION

2. The Travel Industry Compensation Fund (the Fund) was established in 1993 to provide ex gratia payment of up to 90% of the loss suffered by outbound package travellers arising from the default of travel agents. Since the introduction of the Package Tour Accident Contingency Fund Scheme (the Scheme) in 1996, it also provides ex gratia payment to outbound travellers who die or are injured in accidents when taking part in activities provided or organised by a travel agent. 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 Board, having considered the financial position of the Fund, the change in price level since 1996, past experience in handling applications for ex gratia payments from outbound travellers and the views of the stakeholders collected during the public consultation on the use of the Fund in 2009, decided to increase the maximum amount of ex gratia payments concerning funeral-related expenses and compassionate visits under the Scheme by making the following amendments to section 5C of Cap 218E –

- (a) increasing the maximum amount of ex gratia payments in connection with expenses reasonably incurred in the relevant country in relation to the funeral of an outbound traveller or incurred in relation to the delivery back to Hong Kong of the dead body of the outbound traveller (including ashes resulting from cremation) from \$40,000 to \$100,000; and
- (b) increasing the maximum amount of ex gratia payments in connection with compassionate visits by relatives or former spouse from \$40,000 to \$100,000, removing the restriction on the number of relatives which is currently set at a maximum of two, and raising the cap on the maximum amount for each relative or former spouse from the current \$20,000 to \$25,000.

4. The Board considered that the proposed increase of ex gratia payments would enhance the protection for outbound travellers without causing a great burden on the Fund or affecting its long-term financial health and sustainability.

THE AMENDMENT RULES

5. The Amendment Rules amend section 5C of Cap 218E by revising the maximum amount of ex gratia payments in respect of funeral-related expenses and compassionate visit to \$100,000 respectively.

LEGISLATIVE TIMETABLE

6. The legislative timetable is as follows –

Publication in the Gazette	21 January 2011
Tabling at LegCo	26 January 2011
Commencement	16 March 2011

IMPLICATIONS

7. The Amendment Rules are 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. There are no significant economic, environmental and sustainability implications.

PUBLIC CONSULTATION

8. The Board conducted a public consultation on the abovementioned and other proposals in 2009 and received favourable response. The Legislative Council Panel on Economic Development was consulted on the proposal on 22 June 2009 and the Panel indicated its support to the proposal.

PUBLICITY

9. The Amendment Rules will be published in the Gazette on 21 January 2011 and the Board will issue a press release on the same day. Publicity materials will be prepared for distribution to the travelling public through travel agents, after the commencement of the Amendment Rules.

ENQUIRY

10. Any enquiries on this brief should be directed to Mr Howard YAM, Assistant Commissioner for Tourism (1) via telephone at 2810 3525 or email at howardyam@cedb.gov.hk.

**Tourism Commission
Commerce and Economic Development Bureau
January 2011**

Travel Industry Compensation Fund (Amount of Ex gratia Payments and Financial Penalty) (Amendment) Rules 2011

Section 1

1

Travel Industry Compensation Fund (Amount of Ex gratia Payments and Financial Penalty) (Amendment) Rules 2011

(Made by the Travel Industry Compensation Fund Management Board after consulting the Secretary for Commerce and Economic Development under section 32G(2) of the Travel Agents Ordinance (Cap. 218))

1. **Commencement**
These Rules come into operation on 16 March 2011.
2. **Travel Industry Compensation Fund (Amount of Ex gratia Payments and Financial Penalty) Rules amended**
The Travel Industry Compensation Fund (Amount of Ex gratia Payments and Financial Penalty) Rules (Cap. 218 sub. leg. E) are amended as set out in section 3.
3. **Section 5C amended (Amount of ex gratia payment)**
Section 5C, Table—

Repeal items (b) to (f)	
Substitute	
“(b) expenses reasonably incurred in the relevant country in relation to the funeral of an outbound traveller or incurred in relation to the delivery back to Hong Kong of the dead body of the outbound traveller (including ashes resulting from cremation), in a case where the accident results in the death of the traveller	\$100,000

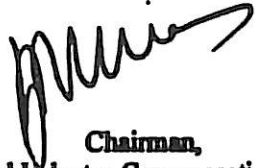
Travel Industry Compensation Fund (Amount of Ex gratia Payments and Financial Penalty) (Amendment) Rules 2011

Section 3

2

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|--|----------------------------|
| (c) subject to item (g), expenses reasonably incurred by one or more than one relative of an outbound traveller in visiting the relevant country for a purpose connected with the traveller's death or injury | \$25,000 per relative |
| (d) subject to item (g), if a deceased or injured outbound traveller does not have any relatives, expenses reasonably incurred by one or more than one former spouse of the traveller in visiting the relevant country for a purpose connected with the traveller's death or injury | \$25,000 per former spouse |
| (e) subject to item (g), expenses reasonably incurred by one or more than one relative of a deceased outbound traveller in visiting Hong Kong for a purpose connected with the traveller's death, but only if there is no relative or former spouse of the traveller residing in Hong Kong | \$25,000 per relative |
| (f) subject to item (g), if a deceased outbound traveller does not have any relatives, expenses reasonably incurred by one or more than one former spouse of the traveller in visiting Hong Kong for a purpose connected with the traveller's death | \$25,000 per former spouse |

- (g) the total amount of all ex gratia payments made under items (c) to (f) \$100,000².



Chairman,
Travel Industry Compensation Fund
Management Board

January 14, 2011

Explanatory Note

The purpose of these Rules is to increase the maximum amount of certain ex gratia payments made under Part II of the Travel Industry Compensation Fund (Amount of Ex gratia Payments and Financial Penalty) Rules (Cap. 218 sub. leg. E).