

LEGISLATIVE COUNCIL BRIEF

Travel Agents Ordinance (Chapter 218)

Travel Agents (Fee Concessions) Regulation 2015

INTRODUCTION

Annex A

At the meeting of the Executive Council on 23 June 2015, the Council ADVISED and the Chief Executive ORDERED that the Travel Agents (Fee Concessions) Regulation 2015 (Regulation) at **Annex A** should be made.

JUSTIFICATIONS

2. During the occupy movement in late 2014, the Commerce and Economic Development Bureau was maintaining close contact with travel trade representatives to understand the impact of the movement on business. Many of these trade representatives expressed difficulties in business and decline in sales due to the movement.

3. Inbound tourism has shown signs of moderation since the beginning of the occupy movement. While the number of overall visitors still grew by 12.1% year-on-year in the fourth quarter of 2014, the growth rate decelerated visibly to 4.9% in the first quarter of 2015. Among the different markets, although the number of Mainland visitors surged by 18.2% in the fourth quarter of 2014, that of short-haul and long-haul overseas visitors switched from increases in the third quarter to respective decreases of 6.5% and 2.5% in the fourth quarter. In parallel to the decelerated growth in overall visitors, Mainland visitors recorded a sharply slower growth of 7.7% in the first quarter of 2015, while short-haul and long-haul overseas visitors continued to decline, by 5.7% and 2.6% respectively. A short-term financial relief to the travel trade is needed.

4. In 2003, the Government waived the travel agents licence fees, along with other licence fees, such as restaurants, hotels and guesthouses for one year in response to the outbreak of the Severe Acute Respiratory Syndrome (SARS) as part of a package of relief measures for the economy. In 2009, the Government also waived various licence fees for one year, including the travel agents licence fees, as part of a package of relief measures in response to the economic downturn and human swine flu.

5. On this occasion, the occupy movement had lasted for a shorter period of time, i.e. about two and a half months, with a lesser adverse effect on the tourism sector than SARS in 2003 and the economic downturn and human swine flu in 2009. The proposed waiving of the fees as proposed in paragraph 7 below is considered appropriate and proportionate.

6. Although the occupy movement then affected mainly the business activities in Admiralty, Causeway Bay and Mongkok, it is justified to waive licence fees for all travel agents irrespective of their locations because the adverse effect, as a result of the decline in overseas visitors and also Hong Kong people's dampened mood to travel, took its toll on travel agents generally.

THE REGULATION

7. To waive certain fees payable by a travel agent under the First Schedule to the Travel Agents Regulations (Cap. 218A) (First Schedule) within the period from 20 November 2015 to 19 November 2016 (concession period), as part of the short-term measures announced by the Financial Secretary in his 2015-2016 Budget to support the tourism sector which has been affected by the occupy movement, it is proposed that—

- (a) the fee of \$630 for an application for a travel agent's licence (licence)¹ be fully waived if the application is made within the concession period;
- (b) the fee for a licence or the renewal of a licence² be waived if the term of the licence or renewed licence begins within the

¹ This is the fee specified in item 1 of the First Schedule.

² The fee for a licence or the renewal of a licence is specified in item 2 of the First Schedule. Under that item, an amount of \$485 is payable for each month of the term of the licence or renewed licence.

concession period, subject to a maximum amount of \$2,910 (i.e. \$485 (per month) x 6) in aggregate;

- (c) the fee of \$665 for amending a licence to permit the carrying on of the business of the travel agent at an additional address³ and the fee of \$925 for the issue of a duplicate of the amended licence⁴ be fully waived, if both the amendment date and the earliest date on which the business is permitted to be carried on at the address fall within the concession period; and
- (d) half of the fee of \$925 (i.e. \$462.5) for the issue of a duplicate of a renewed licence that permits the carrying on of the business of the travel agent at more than one address be waived, if the duplicate is to be issued within the concession period and the fee mentioned in paragraph (b) above is waived in respect of the whole or part of the term of the licence.^{5 6}

8. The Regulation is made under section 50(2) of the Travel Agents Ordinance (Cap. 218) and section 29 of the Interpretation and General Clauses Ordinance (Cap. 1). The First Schedule to Cap. 218A, section 50 of Cap. 218 and section 29 of Cap. 1 are at **Annex B**.

Annex B

LEGISLATIVE TIMETABLE

9. The legislative timetable is set out below –

Publication in the Gazette	3 July 2015
Tabling at Legislative Council for negative vetting	8 July 2015
Regulation taking effect	20 November 2015

³ A travel agent needs to apply for the amendment of its licence to add an additional business address in order to open a branch at that address. The fee payable for the amendment is specified in item 4(a) of the First Schedule and is currently an amount of \$665.

⁴ The travel agent also needs to apply for a duplicate of the amended licence for display at the branch address. The fee payable for the issue of the duplicate is specified in item 5 of the First Schedule and is currently an amount of \$925.

⁵ Upon renewal of the licence of a travel agent, the travel agent needs to apply for a duplicate of the renewed licence for each of its branches. The fee payable for the issue of such a duplicate is also the fee specified in item 5 of the First Schedule.

⁶ Since most licences are renewed with a validity period of 12 months, their duplicates are of 12 months too. Thus, waiving half of the duplicate licence fee for each branch (\$925/2) is in line with the spirit of waiving the monthly licence fee (\$485) for the licence for six months.

IMPLICATIONS OF THE PROPOSAL

10. Though this proposal of waivers will cost the Government about \$5.8 million, it is in conformity with the Basic Law, including the provisions concerning human rights. The proposal will not affect the current binding effect of existing provisions of Cap. 218 and its subsidiary legislation. It has no civil service, economic, productivity, family, environmental or sustainability implications. It also has no gender issue.

PUBLIC CONSULTATION

11. This proposal of financial relief is expected to be welcome by the travel trade whose representatives have indicated difficulties in business and declined sales. Given there are no adverse comments on these waivers after their announcement in the Budget speech, and the fact that it has no direct effect on the livelihood of the general public but only minimal impacts on the government revenue, we do not consider that there is a need to conduct public consultation on this short-term measure.

PUBLICITY

12. After the Regulation is gazetted, a press release on the waivers will be issued. Travel agents will be notified of details of the waivers separately.

ENQUIRIES

13. Any enquiry on this brief should be addressed to Mr Brendan AU, Registrar of Travel Agents, at 3151 7938.

Commerce and Economic Development Bureau
29 June 2015

Travel Agents (Fee Concessions) Regulation 2015

(Made by the Chief Executive in Council under section 50(2) of the Travel Agents Ordinance (Cap. 218) and section 29 of the Interpretation and General Clauses Ordinance (Cap. 1))

1. Commencement

This Regulation comes into operation on 20 November 2015.

2. Interpretation

In this Regulation—

concession period (寬免期) means the period beginning on 20 November 2015 and ending at midnight on 19 November 2016;

principal Ordinance (《主體條例》) means the Travel Agents Ordinance (Cap. 218);

principal Regulations (《主體規例》) means the Travel Agents Regulations (Cap. 218 sub. leg. A).

3. Concessions on fees payable under principal Regulations

The fees payable under regulation 8(1) of the principal Regulations are subject to the concessions provided for in this Regulation.

4. Fee payable for application of licence

If an application for a licence is made under section 10 of the principal Ordinance on a date that falls within the concession period, the fee specified in item 1 of the First Schedule to the principal Regulations is waived in respect of the application.

5. Fee payable for licence or renewal of licence

(1) If—

(a) a licence is granted under section 11 of the principal Ordinance; and

(b) the term of the licence begins on a date that falls within the concession period,

the fee specified in item 2 of the First Schedule to the principal Regulations is waived in respect of the licence.

(2) If—

(a) a licence is renewed under section 11 of the principal Ordinance because of the operation of section 15(3) of that Ordinance; and

(b) the term of the renewed licence begins on a date that falls within the concession period,

the fee specified in item 2 of the First Schedule to the principal Regulations is waived in respect of the renewal of the licence.

(3) However, the total amount of fees that is waived under this section—

(a) in respect of a licence and any renewal of the licence; or

(b) in respect of a renewal of a licence and any further renewal of the licence,

is subject to a maximum amount of \$2,910.

6. Fee payable for amending licence

If—

(a) a licence is amended to permit the carrying on of the business of a travel agent at an additional address, as mentioned in regulation 12(b) of the principal Regulations; and

(b) both the date on which the amendment is made and the earliest date on which the business is permitted to be

carried on at the address fall within the concession period,

the fee specified in item 4(a) of the First Schedule to the principal Regulations is waived in respect of the amendment.

7. Fee payable for issuing duplicate of licence

(1) If—

- (a) a duplicate of a licence is to be issued under regulation 12(a) of the principal Regulations on a date that falls within the concession period; and
- (b) the fee specified in item 2 of the First Schedule to the principal Regulations is waived under section 5 in respect of the whole or part of the term of the licence,

50% of the fee specified in item 5 of that Schedule is waived in respect of the issue of the duplicate.

- (2) If a duplicate of a licence is to be issued under regulation 12(b) of the principal Regulations on a date that falls within the concession period, the fee specified in item 5 of the First Schedule to the principal Regulations is waived in respect of the issue of the duplicate.

Clerk to the Executive Council

COUNCIL CHAMBER

2015

Explanatory Note

This Regulation provides for concessions on certain fees payable in respect of a travel agent's licence under the Travel Agents Regulations (Cap. 218 sub. leg. A) within the period from 20 November 2015 to 19 November 2016.

Schedule:	1	FEES	30/06/1997
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		(regulations 3, 8 & 12)
Item	Matter in respect of which the fee is payable	Fee \$
1.	For an application for a licence	630
2.	For a licence or the renewal of a licence	485 for each month of the term of the licence
3.	(Repealed 383 of 1989)	
4.	For amending a licence-	
	(a) for an additional address, for each new premises	665
	(b) otherwise	160
5.	For issuing a duplicate of a licence	925
6.	For inspecting the register or any part thereof	35
7.	For issuing or supplying a copy of or extract from any entry in the register	35
8.	For certifying a copy of or extract from any entry in the register	85

(L.N. 383 of 1989; L.N. 442 of 1990; L.N. 349 of 1992; L.N. 437 of 1993; L.N. 611 of 1994)

Section:	50	Regulations	L.N. 130 of 2007	01/07/2007
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Remarks:

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

(1) The Secretary for Commerce and Economic Development may by regulation- (Amended 80 of 1997 s. 9; L.N. 218 of 2000; L.N. 106 of 2002; L.N. 130 of 2007)

- (a) regulate applications for licences and the renewal of licences;
- (b) prescribe forms for the purposes of this Ordinance;
- (c) prescribe the form of any certificate, notice, application or order for the purpose of section 29;
- (d) prescribe particulars to be supplied in connection with an application for a licence;
- (e) provide for the keeping and maintenance of the register;
- (f) provide for the proof of matters relating to licensing and suspension and revocation of licences;
- (fa) prescribe services obtained for visitors for the purpose of section 4A(1)(c), including the circumstances in which such services are obtained; (Added 10 of 2002 s. 8)
- (g) (Repealed 80 of 1997 s. 9)
- (h) provide for the membership, powers, functions and procedure of meetings of the Advisory Committee;
- (i) provide for the duties of any person licensed under this Ordinance;
- (j) prescribe anything required or permitted to be prescribed under this Ordinance; and
- (k) provide for the better carrying into effect of this Ordinance.

(2) The Chief Executive in Council may by regulation prescribe fees for the licensing of persons as travel agents and relating to the register. (Added 80 of 1997 s. 9. Amended 66 of 2000 s. 3)

Section:	29	Fees and charges	30/06/1997
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(1A) Where an Ordinance confers a power on a person to make subsidiary legislation, the subsidiary legislation may impose a fee or charge for anything in it or the Ordinance. (Added 89 of 1993 s. 12)

(1) Where provision is made by any subsidiary legislation in respect of fees or other charges, such subsidiary legislation may provide for all or any of the following matters-

- (a) specific fees or charges;
- (b) maximum or minimum fees or charges;
- (c) maximum and minimum fees or charges;
- (d) the payment of fees or charges either generally or under specified conditions or in specified circumstances;
- (e) the exemption of any person or class of persons from the payment of fees or charges; and
- (f) the reduction, waiver or refund, in whole or in part, of any such fees or charges, either upon the happening of a certain event or in the discretion of a specified person.

(2) Where any reduction, waiver or refund, in whole or in part, of any fee or charge is provided for by any subsidiary legislation, such reduction, waiver or refund may be expressed to apply or be applicable either generally or specially-

- (a) in respect of certain matters or transactions or classes of matters or transactions;
- (b) in respect of certain documents or classes of documents;
- (c) in respect of the occurrence or the termination of any event;
- (d) in respect of certain persons or classes of persons; or
- (e) in respect of any combination of such matters, transactions, documents, events or persons,

and may be expressed to apply or be applicable subject to such conditions as may be specified in the subsidiary legislation or in the discretion of any person specified therein.