

LEGISLATIVE COUNCIL BRIEF

Travel Agents Ordinance (Chapter 218)

Travel Agents (Fee Concessions) Regulation 2016

INTRODUCTION

Annex A

At the meeting of the Executive Council on 10 May 2016, the Council ADVISED and the Chief Executive ORDERED that the Travel Agents (Fee Concessions) Regulation 2016 (Regulation) at **Annex A** should be made.

JUSTIFICATIONS

2. The travel trade of Hong Kong needs assistance amidst keen competition from neighbouring travel destinations and recent untoward incidents that tarnished our reputation as a hospitable city.

3. After a decade of growth, Hong Kong's inbound tourism sector has been experiencing considerable downward adjustment since mid-2015. Visitor arrivals decreased by 6.4% and 8% in the third and fourth quarters of 2015 respectively year-on-year, rendering a full year decrease of 2.5% in 2015 over 2014. Outbound tourism fared relatively better in 2015, with an increase by 13.1% in overall transaction in the first quarter of 2015 over that of 2014, but the increase then continued to shrink afterwards, with a growth of only 7.9% for the whole year of 2015. The outlook of 2016 for both inbound and outbound tourism is expected to be gloomy in the light of the less-than-certain global economic situation, keen competition in the region, and the changing travel pattern of Mainland visitors. A short-term financial relief to the travel trade is needed.

4. In 2003, the Government waived the travel agent 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 agent licence fees, as part of a package of relief measures in response to the economic downturn and human swine flu. In 2015, the Government waived various travel agent licence fees for six months to support the travel trade affected by the occupy movement which lasted for two and a half months.

5. For the current exercise, fees are proposed to be waived for one year because the effect of the negative factors mentioned in paragraph 3 above is expected to last for a longer, perhaps even continuous, period. The proposed waiving of the fees as proposed in paragraph 6 below is considered appropriate and proportionate.

THE REGULATION

6. To waive certain fees payable by a travel agent under the First Schedule to the Travel Agents Regulations (Cap. 218A) within the period from 20 November 2016 to 19 November 2017 (concession period), as part of the short-term measures announced by the Financial Secretary in his 2016-2017 Budget to reduce the costs of operation of the tourism industry, we propose 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 newly-issued licence or the renewal of a licence⁽²⁾ be waived if the term of the licence or the renewed term of the licence begins within the concession period, subject to a maximum amount of \$5,820 [i.e. \$485 (per month) x 12] in aggregate;
- (c) the fee of \$665 be fully waived for amending a licence to permit, from a date within the concession period, the carrying on of the business of the travel agent at an additional address⁽³⁾; and

Notes ⁽¹⁾ This is the fee specified in item 1 of the First Schedule to the Travel Agents Regulations (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.

⁽³⁾ A travel agent needs to apply for the amendment of its licence to add an additional business

- (d) the fee of \$925 for the issue of a duplicate of a licence⁽⁴⁾ be fully waived if the term or renewed term of the licence indicated on the duplicate begins within the concession period, or if the duplicate is for display at an additional branch address permitted, from a date within the concession period, for carrying on the business of the travel agent⁽⁵⁾.

Annex B

7. 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**.

8. The Regulation seeks to provide for concessions on certain fees, as described under paragraph 6 above, payable by a travel agent under Cap. 218A within the period from 20 November 2016 to 19 November 2017. The proposed concession period dovetails the existing concession period from 20 November 2015 to 19 November 2016 under the Travel Agents (Fee Concessions) Regulation 2015 (L.N. 130 of 2015).

LEGISLATIVE TIMETABLE

9. The legislative timetable is set out below –

Publication in the Gazette	20 May 2016
Tabling at Legislative Council for negative vetting	25 May 2016
Regulation taking effect	20 November 2016

IMPLICATIONS OF THE PROPOSAL

10. This proposal is in conformity with the Basic Law, including the

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⁾ A travel agent needs to apply for a duplicate of a licence for display at the branch address. The fee payable for the issue of such a duplicate is the fee 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 existing branches. Likewise, upon amendment to the licence to add a branch address, the travel agent needs to apply for a duplicate of the amended licence for the said new branch.

provisions concerning human rights. It will not affect the current binding effect of existing provisions of Cap. 218 and its subsidiary legislation. The proposed waivers would lead to revenue forgone of about \$11.4 million. It has no civil service, economic, productivity, family, gender, environmental or sustainability implications.

PUBLIC CONSULTATION

11. The proposed financial relief is expected to be generally welcome by the travel trade. There have been no adverse comments on these waivers after their announcement in the Budget speech. Given that it has no direct effect on the livelihood of the general public and only minimal impact on government revenue, we do not consider that there is a need to conduct public consultation on this short-term measure.

PUBLICITY

12. Subject to the making of the Regulation, it will be published in Government gazette on 20 May 2016 and a press release will be issued on the same day. 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
17 May 2016

Travel Agents (Fee Concessions) Regulation 2016

(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 2016.

2. Interpretation

In this Regulation—

concession period (寬免期) means the 12 months beginning on 20 November 2016;

Fee Schedule (收費表) means the First Schedule to the principal Regulations;

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 waived for application for licence

The fee specified in item 1 of the Fee Schedule is waived for an application for a licence made within the concession period.

5. Fee waived for licence or renewal of licence

- (1) The fee specified in item 2 of the Fee Schedule is waived for a licence if the term of the licence begins within the concession period.

- (2) The fee specified in item 2 of the Fee Schedule is waived for the renewal of a licence if the renewed term of the licence begins within the concession period.
- (3) However, the total amount of fees waived under this section for a licence and its renewal within the concession period (whether renewed for one or more times) is subject to a maximum amount of \$5,820.

6. Fee waived for amending licence for additional address

The fee specified in item 4(a) of the Fee Schedule is waived for amending a licence to permit, from a date within the concession period, the carrying on of the business of a travel agent at an additional address.

7. Fee waived for issuing duplicate of licence

- (1) The fee specified in item 5 of the Fee Schedule is waived for issuing a duplicate of a licence under regulation 12(a) of the principal Regulations if the term or renewed term of the licence indicated on the duplicate begins within the concession period.
- (2) However, if a licence is amended to permit, from a date within the concession period, the carrying on of the business of a travel agent at an additional address as mentioned in regulation 12(b) of the principal Regulations, the fee specified in item 5 of the Fee Schedule is waived for issuing a duplicate of the licence for display at that address.

Explanatory Note

This Regulation provides for concessions on certain fees payable in relation to a travel agent's licence under the Travel Agents Regulations (Cap. 218 sub. leg. A) within the 12 months beginning on 20 November 2016.

Clerk to the Executive Council

COUNCIL CHAMBER

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.