

立法會參考資料摘要

旅行代理商條例
(第 218 號)

1988 年旅行代理商(修訂)規例(1988 年第 240 號法律公告) 1999 年(生效日期)公告

引言

在一九九九年六月一日的會議席上，行政會議**建議**、行政長官**指令**，應制定 1988 年旅行代理商(修訂)規例(1988 年第 240 號法律公告)1999 年(生效日期)公告(載於附件 A)，以實施《1988 年旅行代理商(修訂)規例》第 2、3(g)及 4 條，藉此廢除主體條例中失效的條文。

背景和論據

2. 一九八八年五月三十一日，前行政局決定應向前立法局提交 1988 年旅行代理商(修訂)條例草案。條例草案提出多項修訂，包括廢去旅行代理商儲備基金(儲備基金)。修訂條例載有延遲生效日期的條文，分兩個步驟逐步結束儲備基金，包括 —

(a) 指定日期，不再接納在該日期之後就儲備基金提出的特惠賠償申索；及

(b) 待結清所有尚未解決的特惠賠償申索後，結束儲備基金。

3. 前立法局其後通過條例草案，並於一九八八年七月制定《1988 年旅行代理商(修訂)條例》(修訂條例)(載於附件 B)。

4. 一九八八年八月，前行政局制定《1988 年旅行代理商(修訂)規例》(修訂規例)(載於附件 C)，對《旅行代理商規例》作出相應修訂。修訂規例也載有與修訂條例延遲生效日期條文一致的延遲生效日期條文。

5. 修訂條例在一九八八年七月三十一日至一九九三年十月十五日分階段實施。雖然當局已於一九九三年十月十五日結束儲備基金，但由於疏忽，修訂規例中與儲備基金的申請表格和過渡措施有關的第 2、3(g)及 4 條未有同時生效。

6. 因此，我們須實施仍未生效的條文，作為補救措施。

生效日期公告

7. 1988 年旅行代理商(修訂)規例(1988 年第 240 號法律公告)1999 年(生效日期)公告(生效日期公告)，旨在實施修訂規例第 2、3(g)及 4 條。

立法程序時間表

8. 立法程序時間表會如下 —

刊登憲報 一九九九年六月十一日

提交立法會 一九九九年六月十六日

與基本法的關係

9. 律政司表示，擬議的生效日期公告沒有抵觸《基本法》。

與人權的關係

10. 律政司表示，擬議的生效日期公告對人權並無影響。

法例的約束力

11. 擬議的生效日期公告不會影響《旅行代理商條例》的現有約束力。

對財政及人手的影響

12. 實施有關條文對政府的財政或人手並無影響。

對經濟的影響

13. 實施有關條文對經濟不會有影響。

公眾諮詢

14. 由於有關事宜屬於技術性質，我們毋須進行公眾諮詢。

宣傳安排

15. 由於生效日期公告屬於技術性質，我們建議不再作其他宣傳，但會安排政府發言人解答有關公告的查詢。

查詢

16. 如對這份摘要有任何疑問，請撥電 2918 7569 向旅行代理商註冊主任許先振先生查詢。

工商局

一九九九年六月十日

附件A

《〈1988年旅行代理商（修訂）規例〉（1988年第240號法律公告）1999年
（生效日期）公告》

本人在徵詢行政會議的意見後，根據《1988年旅行代理商（修訂）規例》第1(2)條，指定1999年7月15日為該規例第2、3(g)及4條實施的日期。

行政長官

1999年 月 日

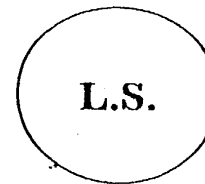
TRAVEL AGENTS (AMENDMENT) ORDINANCE 1988

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HONG KONG

No. 70 of 1988



I assent.

David Robert FORD,
Deputy to the Governor.
21 July 1988

An Ordinance to amend the Travel Agents Ordinance.

[31 July 1988]

Enacted by the Governor of Hong Kong, with the advice and consent
of the Legislative Council thereof.

1. (1) This Ordinance may be cited as the Travel Agents (Amend- Short title and
ment) Ordinance 1988. commencement

(2) Subject to subsection (3), this Ordinance shall come into operation
on a day to be appointed by the Governor by notice in the *Gazette* and the
Governor may appoint different days for different provisions.

(3) Sections 2(a), (b) and (c), 3, 4, 5, 6, 7, 8, 9, 10, 11, 14(a), (b) and (c),
15(2), 16 and 17 shall come into operation on 31 July 1988.

2. Section 2 of the Travel Agents Ordinance is amended -- Interpretation
and application
(Cap. 218)

(a) by adding after the definition of "Advisory Committee" --
"applicant", in relation to an application for a licence whether
by way of renewal or otherwise, includes a licensee;

Schedule "approved organization" means any body specified in Part I
of the Schedule;

Schedule "association member" means any body specified in Part II of
the Schedule.;

(b) in the definition of "licence" by repealing "issued" and substituting
"granted";

- (c) by adding after the definition of "licence"—
 "qualified" means qualified in accordance with the constitution, rules or articles of association of an approved organization or of an association member, as the case may be; and

- (d) by repealing the definition of "Reserve Fund".

3. Section 9(c) is amended by adding "imposed under section 11(1) or (1A)" after "licence".

4. Section 11 is amended—

- (a) by adding after subsection (1)—

"(1A) Subject to subsection (1B), any licence granted by the Registrar under subsection (1) shall be subject to the condition that the applicant shall be and remain a member of an approved organization during the period that the licence is in force.

(1B) The condition referred to in subsection (1A) shall apply—

(a) to any licence granted under subsection (1) after the specified date in respect of an application for a licence made under section 10; or

(b) to any licence granted under subsection (1) after the specified date in respect of an application for the renewal of a licence made under section 15; and

- (b) by adding after subsection (2)—

"(3) In the absence of any evidence to the contrary an applicant for the grant of a licence under this section who is a member of an association member shall, if the licence is granted, be treated as a member of an approved organization during the period that the licence is in force.

(4) In this section "specified date" means a date specified by the Governor by notice in the *Gazette* for the purposes of this section."

Section added

5. The following is added after section 11—

"Registrar's direction as to membership of an approved organization

11A. (1) If the Registrar is satisfied that an applicant who—

(a) is, or is qualified to be, a member of an association member; and

(b) is qualified to be a member of an approved organization; but

(c) has been refused membership of that approved organization,

is a fit and proper person to carry on business as a travel agent, the Registrar shall direct that approved organization to accept that applicant as a member of that approved organization in accordance with the constitution, rules or articles of association of that organization and subject to the payment of such membership fees (if any) as may be prescribed in that constitution or those rules or articles of association.

(2) If the Registrar is satisfied that a licensee whose membership of an approved organization has been suspended or revoked by that approved organization is a fit and proper person to carry on business as a travel agent, the Registrar shall direct that approved organization to reinstate or restore the membership of that licensee in accordance with the constitution, rules or articles of association of that approved organization as if that licensee's membership had not been suspended or revoked by that organization.

(3) For the purpose of determining whether an applicant or licensee is a fit and proper person under subsection (1) or (2), as the case may be, the Registrar shall have regard to the matters referred to in paragraphs (a) to (e) of section 12(2).

(4) The Registrar shall not direct an approved organization to accept the applicant as a member of that organization under subsection (1) or to reinstate or restore the membership of a licensee under subsection (2) without first giving that organization an opportunity of being heard.

(5) For the purpose of conducting a hearing under subsection (4) the Registrar may by notice in writing require the approved organization to furnish him with such information, verified in such manner, as the Registrar may specify, or to produce to him such documents relating to the refusal, suspension or revocation of the applicant's or licensee's membership, as the case may be, as are in the custody or under the control of that organization.

(6) On the acceptance of an applicant as a member of an approved organization under subsection (1) the Registrar shall grant a licence to that applicant subject to such conditions as he may impose under section 11(1)."

6. Section 12 is amended—

(a) in subsection (3) by adding "or (5)" after "(1)"; and

(b) by adding after subsection (4)—

"(5) The Registrar shall refuse to grant a licence if he is of the opinion that the applicant is in breach of, or is unable to comply with, the condition imposed under section 11(1A)."

7. Section 13 is amended by repealing paragraph (a) and substituting—

"(a) not enter into force except on payment to the Registrar of the prescribed fee;".

8. Section 14 is amended by adding "or (1A)" after "11(1)".

9. Section 15 is amended—

(a) in subsection (1) by repealing "of" in the second place where it appears and substituting "not exceeding"; and

Refusal of licence

Effect and duration of licence

Duties of licensee

Renewal of a licence

(b) by adding after subsection (2)—

"(3) Sections 11 and 12 shall apply to the renewal of a licence under this section as if for references to "grant a licence" in those sections there were substituted references to "renew a licence"."

Registrar's powers following request for change in ownership and control

10. Section 18(b) is amended by repealing "condition imposed" and substituting "conditions imposed under section 11(1)".

Suspension and revocation of licence

11. Section 19 is amended—

(a) by being renumbered as subsection (1); and

(b) by adding after subsection (1)—

"(2) The Registrar shall revoke a licence if he is of the opinion that the licensee is in breach of, or is unable to comply with, the condition imposed under section 11(1A).

(3) The Registrar shall not revoke a licence under subsection (2) without first giving the licensee an opportunity of being heard."

Payment of witness expenses

12. Section 26(2) is repealed.

Costs

13. Section 28 is amended—

(a) in subsection (2) by repealing "a civil debt due from the person ordered to pay it to the Registrar" and substituting "recoverable as a civil debt"; and

(b) in subsection (3) by repealing "the Reserve Fund" and substituting "general revenue".

Appeal

14. Section 32(1) is amended—

(a) in paragraph (a) by adding "(1)" after "12";

(b) in paragraph (c) by adding "or" at the end thereof;

(c) in paragraph (d) by repealing "19; or" and substituting "19(1)."; and

(d) by repealing paragraph (e).

Sections repealed

15. (1) Sections 33, 34 and 36 to 44 are repealed.

(2) Section 35 is repealed.

Section added

16. The following is added after section 52—

"Financial Secretary may amend Schedule
53. The Financial Secretary may by notice in the *Gazette* amend the Schedule."

Schedule substituted

17. The Schedule is repealed and the following substituted—

"SCHEDULE

[ss. 2 & 53]

PART I

APPROVED ORGANIZATIONS

Item	Description
1.	Travel Industry Council of Hong Kong (香港旅遊業議會)

PART II

ASSOCIATION MEMBERS

Item	Description
1.	Hong Kong Association of Travel Agents Limited (香港旅行社協會有限公司)
2.	The Federation of Hong Kong Travellers Limited (香港旅遊協會有限公司)
3.	International Chinese Tourist Association Limited (國際華商觀光協會有限公司)
4.	Society of IATA Passenger Agents Limited (國際航空協會訂旅行社商會有限公司)
5.	Hongkong Taiwan Tourist Operators Association Limited (港台旅行社同業商會有限公司)
6.	Hong Kong Association of China Travel Organisers Limited (香港中國旅遊協會有限公司)

18. (1) Notwithstanding the repeal of
(a) section 32(1)(e) of the Ordinance by section 14(d); and
(b) sections 33, 34 and 36 to 44 of the Ordinance by section 15(1),

those provisions shall, in the case of an application for an *ex gratia* payment made under section 43 of the Ordinance prior to the specified date, continue to apply to such application to the same extent that they applied immediately before their repeal.

(2) In this section "specified date" means a date specified by the Governor by notice in the *Gazette* for the purposes of this section.

Passed by the Hong Kong Legislative Council this 20th day of July 1988.

LAW KAM-sung,
Clerk to the Legislative Council.

A430

Ord. No. 70/88

TRAVEL AGENTS (AMENDMENT)

This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.

LAW KAM-sang,
Clerk to the Legislative Council.

L.N. 240 of 1988

TRAVEL AGENTS ORDINANCE

(Chapter 218)

TRAVEL AGENTS (AMENDMENT) REGULATIONS 1988

Made by the Governor in Council under section 50

- | | | |
|---|--|--|
| 1. | (1) These regulations may be cited as the Travel Agents (Amendment) Regulations 1988. | Citation and commencement |
| | (2) These regulations shall come into operation on a day to be appointed by the Governor by notice in the <i>Gazette</i> | |
| and the Governor may appoint different days for different provisions. | | |
| 2. | Regulation 17 of the Travel Agents Regulations is repealed. | Application for <i>ex gratia</i> payment (Cap. 218, sub. leg.) |
| 3. | The Second Schedule is amended-- | Second Schedule amended |
| (a) | in Form 1-- | |
| | (i) in condition (1) by repealing "his" and substituting "the licensee"; and | |
| | (ii) by adding after condition (1)-- | |
| | <p style="margin-left: 40px;">“(2) The licensee shall, prior to the expiry of this licence, submit to the Registrar of Travel Agents the latest statement of accounts in respect of the licensee’s business as a travel agent.</p> <p style="margin-left: 40px;">(3) The licensee shall, during the period that this licence is in force, be and remain a member of an approved organization specified in Part I of the Schedule to the Travel Agents Ordinance (Chapter 218).”;</p> | |
| (b) | in the Chinese version of Form 1, by adding after (1)-- | |
| | <p style="margin-left: 40px;">“(2) 持牌人須在牌照期滿前向旅行代理商註冊主任呈交持牌人經營旅行代理商業務的最新帳目結算表。</p> <p style="margin-left: 40px;">(3) 持牌人在牌照有效期間須持續為旅行代理商條例（香港法例第218章）附表第1部所列的核准機構的成員。”；</p> | |
| (c) | in Form 2, by repealing in note 7 “and a levy of \$2,500 under section 13(a) of the Travel Agents Ordinance”; | |
| (d) | in the Chinese version of Form 2, by repealing in 附註7 “和旅行代理商條例第十三條(a)款所規定的2,500元附加費”； | |
| (e) | in Form 3, by repealing in note 8 “and a levy of \$2,500 under section 13(a) of the Travel Agents Ordinance”; | |
| (f) | in the Chinese version of Form 3, by repealing in 附註8 “和旅行代理商條例第十三條(a)款所規定的2,500元附加費”；and | |
| (g) | by repealing Form 17 and 表格17. | |

Transitional

4. Notwithstanding the repeal of regulation 17 of, and Form 17 of the Second Schedule to, the regulations that regulation and that form shall, in the case of an application for an *ex gratia* payment made under section 43 of the Ordinance, continue to have effect in relation to that application for so long as that section continues to apply to such application by virtue of section 18 of the Travel Agents (Amendment) Ordinance 1988.

(70 of 1988)

R. C. GILL,
Clerk of Councils.

COUNCIL CHAMBER,
23 August 1988.

Explanatory Note

These regulations amend the Travel Agents Regulations as a consequence of amendments to the Travel Agents Ordinance (Cap. 218).

旅行代理商條例（香港法例第218章）

1988年旅行代理商（修訂）規例

註 釋

由於旅行代理商條例（香港法例第218章）作出修訂，本規例亦對旅行代理商規例作出因應修訂。