

LEGISLATIVE COUNCIL BRIEF

Travel Agents Ordinance
(Chapter 218)

TRAVEL AGENTS (AMENDMENT) REGULATIONS 1988 (L.N. 240 of 1988) (COMMENCEMENT) NOTICE 1999

INTRODUCTION

A At the meeting of the Executive Council on 1 June 1999, the Council ADVISED and the Chief Executive ORDERED that the Travel Agents (Amendment) Regulations 1988 (L.N. 240 of 1988) (Commencement) Notice 1999, at Annex A, should be made in order to bring regulations 2, 3(g) and 4 of the Travel Agents (Amendment) Regulations 1988 into operation, thereby repealing the redundant provisions in the principal Ordinance.

BACKGROUND AND ARGUMENT

2. On 31 May 1988, the former Executive Council decided that the Travel Agents (Amendment) Bill 1988 should be introduced into the then Legislative Council. Among other things, the Bill sought to abolish the Travel Agents Reserve Fund (TARF). It contained delayed commencement provisions to phase out the TARF in two sequential steps –

- (a) a date was to be specified to prevent submissions of fresh claims for ex gratia compensation against the TARF; and
- (b) when all outstanding claims had been settled, the TARF would be abolished.

B 3. The Bill was subsequently passed by the then Legislative Council and was enacted as the Travel Agents (Amendment) Ordinance 1988 (the Amendment Ordinance) in July 1988 (copy at Annex B).

C 4. The Travel Agents (Amendment) Regulations 1988 (the Amendment Regulations) were made by the former Executive Council in August 1988 (copy at Annex C) to deal with consequential amendments to the Travel Agents Regulations. There were delayed commencement provisions in the Amendment Regulations corresponding to those in the Amendment Ordinance.

5. The Amendment Ordinance was brought into operation in phases from 31 July 1988 to 15 October 1993. Whilst the TARF was abolished on 15 October 1993, due to an oversight, regulations 2, 3(g) and 4 of the Amendment Regulations, which concern the application form and the transitional arrangements for compensation under it, were not brought into operation at the same time.

6. As a matter of good practice, we need to make good the omission by bringing the outstanding provisions into operation.

THE COMMENCEMENT NOTICE

7. The Travel Agents (Amendment) Regulations 1988 (L.N. 240 of 1988) (Commencement) Notice 1999 (the Commencement Notice) is to bring regulations 2, 3(g) and 4 of the Amendment Regulations into operation.

LEGISLATIVE TIMETABLE

8. The legislative timetable will be –

Publication in the Gazette	11 June 1999
Tabling at the Legislative Council	16 June 1999

BASIC LAW IMPLICATIONS

9. The Department of Justice advises that the proposed Commencement Notice is consistent with the Basic Law.

HUMAN RIGHTS IMPLICATIONS

10. The Department of Justice advises that the proposed Commencement Notice has no human rights implications.

BINDING EFFECT OF THE LEGISLATION

11. The proposed Commencement Notice will not affect the current binding effect of the Travel Agents Ordinance.

FINANCIAL AND STAFFING IMPLICATIONS

12. There are no financial or staffing implications for Government.

ECONOMIC IMPLICATIONS

13. There will be no economic implications.

PUBLIC CONSULTATION

14. In view of the technical nature of the issue, public consultation is not necessary.

PUBLICITY

15. Given the technical nature of the commencement notice, no other publicity is proposed, but a Government spokesman will be available to answer enquiries on the notice.

ENQUIRIES

16. Any enquiries on this brief can be directed to Mr Paul HUI, Registrar of Travel Agents, at telephone number 2918 7569.

Trade and Industry Bureau
10 June 1999

**TRAVEL AGENTS (AMENDMENT) REGULATIONS 1988 (L.N. 240
OF 1988) (COMMENCEMENT) NOTICE 1999**

Under regulation 1(2) of the Travel Agents (Amendment) Regulations 1988, after consultation with the Executive Council, I appoint 15 July 1999 as the day on which regulations 2, 3(g) and 4 of the Regulations shall come into operation.

Chief Executive

1999

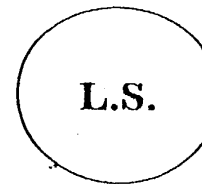
TRAVEL AGENTS (AMENDMENT) ORDINANCE 1988

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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 (香港華商旅遊協會有限公司).
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 (國際航空協會附屬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

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|---|--|--|
| 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。