

Money Changers Ordinance

(Cap. 34)

Contents

Section		Page
1.	Short title	2
2.	Interpretation	2
3.	Application of Ordinance	4
4.	Money changer to provide transaction note	6
5.	Right to rescind	10
6.	Money changer to display rates	10
7.	Exchange of other currencies	12
8.	Advertising rates of exchange	14
9.	Chief Executive may amend Schedules	16
10.	False or misleading representations	16
11.	Criminal liability	18
Schedule 1	Transaction Note	S1-2
Schedule 2	Permitted Statements	S2-2
Schedule 3	Prescribed Currencies	S3-2

To provide for the disclosure by money changers of exchange rates on exchange transactions and for the obtaining of consent thereto.

(Amended 9 of 1989 s. 2)

[1 April 1985] *L.N. 57 of 1985*

(Format changes—E.R. 5 of 2018)

1. Short title

This Ordinance may be cited as the Money Changers Ordinance.

(Amended 9 of 1989 s. 3)

2. Interpretation

In this Ordinance, unless the context otherwise requires—

board (告示牌) means a device used for displaying the net rates of exchange required under this Ordinance and includes a video display screen; *(Added 9 of 1989 s. 4)*

buy (買入) means, in relation to a Hong Kong dollar exchange transaction, to buy foreign currency from a customer and includes an offer to buy; *(Added 9 of 1989 s. 4)*

currency (貨幣) includes a cheque and a traveller's cheque;

exchange transaction (兌換交易) means a transaction between a money changer and another person relating to the exchange of different currencies;

hotel (酒店) has the meaning assigned to it by section 2 of the Hotel Proprietors Ordinance (Cap. 158);

money changer (貨幣兌換商) means a person who carries on in Hong Kong the business of exchanging currencies, not being a business which—

- (a) is a service provided and operated by that person primarily for the convenience of guests of an hotel managed by him;
- (b) is carried on within the hotel premises; and
- (c) consists solely of transactions for the purchase by that person of other currencies in exchange for Hong Kong currency;

net rate of exchange (淨匯率) means when a money changer buys or sells Hong Kong dollars, the net price per unit of foreign currency, expressed in Hong Kong dollars, that the money changer is prepared to exchange for the foreign currency tendered or requested by the customer, after deducting all charges and commissions; (*Added 9 of 1989 s. 4*)

sell (賣出) means, in relation to a Hong Kong dollar exchange transaction, to sell foreign currency to a customer and includes an offer to sell; (*Added 9 of 1989 s. 4*)

sign (簽署) includes to affix a chop or mark; (*Added 9 of 1989 s. 4*)

transaction note (交易單據) means a note of an exchange transaction. (*Added 9 of 1989 s. 4*)

3. Application of Ordinance

- (1) Nothing in this Ordinance shall apply to—
 - (a) an authorized institution within the meaning of section 2 of the Banking Ordinance (Cap. 155); or (*Replaced 49 of 1995 s. 53*)
 - (b) (*Repealed 49 of 1995 s. 53*)
 - (c) an exchange transaction where the amount of the currency tendered for exchange exceeds the sum of \$100,000 in Hong Kong currency or the equivalent of such sum.

- (2) The sum specified in subsection (1)(c) may be amended by the Chief Executive by notice in the Gazette. (*Amended 65 of 2000 s. 3*)

4. Money changer to provide transaction note

- (1) A money changer, before completing an exchange transaction by handing any currency to a customer in exchange for currency tendered by the customer, shall—
- (a) legibly make out in duplicate a transaction note in the form prescribed in Schedule 1, with such inclusions as are required or permitted by this section, by correctly completing the details of the exchange transaction by using Arabic numerals and an abbreviation commonly used by money changers to signify the type of currency;
 - (b) sign the transaction note;
 - (c) explain, in so far as is practicable, the transaction note to the customer and indicate each detail of the exchange transaction set out in the transaction note; and
 - (d) request the customer to sign the front of the original transaction note in the place reserved for his signature and, unless a copy of the signature is recorded on the duplicate, to sign the front of the duplicate transaction note in the place reserved for his signature.
- (2) The details referred to in subsection (1)(a) are—
- (a) the date of the transaction;
 - (b) the type of currency tendered by the customer;
 - (c) the amount of currency tendered by the customer;
 - (d) the net rate of exchange, which shall be stated without reference to any charge or commission;
 - (e) the equivalent amount of the currency to be issued to the customer; and

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- (f) where more than one currency is tendered by the customer, the total amount of the exchanged currency to be issued to the customer.
- (3) A money changer shall include in the form of transaction note used by him the money changer's name, address and telephone number both in English and Chinese and may include in the form—
- (a) a serial number for the note;
 - (b) a transaction number;
 - (c) provision for evidence of the customer's identification to be recorded and details of that evidence; and
 - (d) statements to the effect of the form set out in Schedule 2.
- (4) A money changer shall not include in a transaction note any statement other than a statement authorized by this Ordinance.
- (5) If a money changer sells more than one type of currency to a customer, the money changer shall issue a separate transaction note for each currency sold.
- (6) A money changer shall hand over to the customer the total of the equivalent amount of the currency shown in the transaction note as the currency to be issued to the customer without any deduction.
- (7) A money changer shall, on handing over the exchanged currency, issue the original of a transaction note to the customer.
- (8) A money changer shall retain the duplicate copy of a completed transaction note for not less than 12 months and shall produce the duplicate for inspection and copying on demand by a police officer.

- (9) Without derogation from section 5, a customer may, at any time before the money changer completes the transaction by complying with this section and handing the total of the exchanged currency to the customer, refuse to proceed with an exchange transaction.
- (10) If a customer refuses to proceed with an exchange transaction under subsection (9), the money changer shall immediately hand back to the customer the currency tendered by the customer for the exchange transaction without any deduction.
- (11) A money changer who contravenes subsection (1), (3), (4), (5), (6), (7), (8) or (10) or who fails to comply with a demand under subsection (8) commits an offence and is liable to a fine at level 1 for a first offence and to a fine at level 2 and to imprisonment for 6 months for a second or subsequent offence. *(Amended E.R. 2 of 2021)*

(Replaced 9 of 1989 s. 5)

5. Right to rescind

Where a money changer contravenes section 4 in respect of an exchange transaction the other party to the transaction may, on the ground of such contravention and without prejudice to any other right or remedy, rescind the transaction within 3 days after the date thereof.

(Amended 9 of 1989 s. 6)

6. Money changer to display rates

- (1) If a money changer is prepared to enter into a Hong Kong dollar exchange transaction for any of the currencies prescribed in Schedule 3, the money changer shall maintain a board displaying the current net rate of exchange offered by him to customers for both buying and selling the currencies.

- (2) If a money changer maintains more than one board displaying net rates of exchange, he shall display, on all of the boards, identical information relating to the net rates of exchange displayed.
- (3) A money changer shall—
 - (a) provide a sufficiently large board to display the net rates of exchange in a clearly visible and legible manner to the customer; and
 - (b) place the board in a well lit place where the customer has an unobstructed view of the board.
- (4) A money changer shall display on the board the net rate of exchange which is least favourable to the customer and may offer a net rate of exchange that is not shown on the board if the offered rate is more favourable to a customer.
- (5) A money changer shall display on the board, and set out in any note issued under section 7(1), the buying and selling net rates of exchange under the headings “we buy” and “we sell” respectively.
- (6) A money changer may display a net rate of exchange in multiple units of 10 or 100 units of foreign currency with a corresponding adjustment to the Hong Kong dollar figure.
- (7) A money changer who contravenes this section commits an offence and is liable to a fine at level 2 and to imprisonment for 6 months. (*Amended E.R. 2 of 2021*)

(Replaced 9 of 1989 s. 7)

7. Exchange of other currencies

- (1) If a money changer is prepared to enter into an exchange transaction involving a currency other than one of those set out in Schedule 3, he shall give the potential customer a note in writing of both—

- (a) the net rate at which he is prepared to buy the currency nominated by the potential customer; and
 - (b) the net rate at which he is prepared to sell the currency nominated by the potential customer,
- before he accepts any currency from the potential customer.
- (2) The note referred to in subsection (1) is not a transaction note and the money changer shall issue a transaction note in addition to the subsection (1) note in an exchange transaction referred to in subsection (1).
 - (3) A money changer who contravenes this section commits an offence and is liable to a fine at level 2 and to imprisonment for 6 months. (*Amended E.R. 2 of 2021*)

(Added 9 of 1989 s. 8)

8. Advertising rates of exchange

- (1) Where a money changer advertises the rates of exchange for any currency, whether on a board or otherwise, the money changer shall—
 - (a) give equal prominence to buying rates and selling rates for each currency; and
 - (b) display the buying and selling rates in such a way that a potential customer is able to compare the buying rate with the selling rate for any currency without the need to refer to more than one board.
- (2) A money changer shall not advertise—
 - (a) that he charges a commission on an exchange transaction;
 - (b) that he charges no commission on an exchange transaction;

- (c) that he makes any other charge on an exchange transaction; or
 - (d) that he does not make any other charge on an exchange transaction.
- (3) A money changer who contravenes this section commits an offence and is liable to a fine at level 2 and to imprisonment for 6 months. *(Amended E.R. 2 of 2021)*

(Added 9 of 1989 s. 8)

9. Chief Executive may amend Schedules

The Chief Executive may amend the Schedules by notice in the Gazette— *(Amended 65 of 2000 s. 3)*

- (a) to alter the form of the transaction note prescribed in Schedule 1 by including further or different information relevant to the exchange transaction;
- (b) to add or delete information which may be included in permitted statements prescribed in Schedule 2; and
- (c) to add to or delete from the list of currencies prescribed in Schedule 3.

(Added 9 of 1989 s. 8)

10. False or misleading representations

- (1) A money changer shall not make a false or a misleading statement as to the rate of exchange offered to a customer or potential customer.
- (2) A money changer shall not make a false or a misleading statement as to—
 - (a) the terms of an exchange transaction; or
 - (b) the application of this Ordinance, to a customer or a potential customer.

- (3) A money changer who contravenes this section commits an offence and is liable to a fine at level 2 and to imprisonment for 6 months. *(Amended E.R. 2 of 2021)*

(Added 9 of 1989 s. 8)

11. Criminal liability

- (1) If a person employed by a money changer does an act which would be an offence under this Ordinance if done by a money changer, each of the following persons is guilty of that offence as if he were a money changer who had committed the offence and each person is liable to the penalty prescribed for the offence—
- (a) the person employed by the money changer;
 - (b) the money changer, unless the money changer took reasonable steps to prevent the commission of the offence; and
 - (c) where the employer of the person is a corporation, each director, manager, secretary and other similar officer of the corporation and any person purporting to act in any of those capacities unless he took reasonable steps to prevent the commission of the offence.
- (2) Subject to subsection (3), for the purposes of this section, a person is deemed to be a director of a corporation if he occupies the position of a director by whatever name he may be called or is a person in accordance with whose directions or instructions a director of the corporation acts.
- (3) A person shall not, by reason only that a director of the corporation acts on advice given by him in a professional capacity, be taken to be a person in accordance with whose directions or instructions a director acts.

- (4) If a partner in a partnership of money changers commits an offence under this Ordinance, each other partner shall be guilty of the offence unless he took reasonable steps to prevent the commission of the offence.
- (5) Where under this section a person employed by a money changer is deemed to have committed an offence—
- (a) his employer; and
 - (b) where the employer is a corporation, each director, manager, secretary, person purporting to act as a director, manager or secretary of the corporation,
- is presumed, in the absence of evidence to the contrary, to have not taken reasonable steps to prevent the commission of the offence.
- (6) Where a money changer who is in a partnership with another money changer commits an offence, the partner of that money changer is presumed, in the absence of evidence to the contrary, to have not taken reasonable steps to prevent the commission of the offence.

(Added 9 of 1989 s. 8)

Money Changers Ordinance

Schedule 1

S1-2

Cap. 34

Schedule 1

[ss. 4 & 9]

(Replaced 21 of 2020 s. 66)

Transaction Note

Money Changer's Name:

Money Changer's Address:

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Money Changer's Telephone No.:

Date:

Currency	Amount	Net Rate of Exchange	Equivalent Amount
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Total

.....
Cashier's Signature
for the Money Changer

.....
Customer's Signature

(Amended E.R. 5 of 2018)

Money Changers Ordinance

Schedule 1

S1-4

Cap. 34

A customer may cancel an exchange transaction within 3 days and obtain a refund of the original currency tendered in exchange for the Equivalent Amount shown above if the money changer fails to comply with the Money Changers Ordinance (Cap. 34).

(Added 9 of 1989 s. 8. Amended L.N. 171 of 1996)

Schedule 2

[ss. 4 & 9]

(Replaced 21 of 2020 s. 67)

Permitted Statements

A transaction note may contain the following statements—

The Money Changer accepts no responsibility for the customer's failure to comply with any country's or territory's currency controls.

Please check all money before leaving the counter.

(Added 9 of 1989 s. 8. Amended L.N. 612 of 1995; L.N. 171 of 1996)

Schedule 3

[ss. 6, 7 & 9]

(Replaced 21 of 2020 s. 68)

Prescribed Currencies

Currencies of the following countries or territories—

Australia

Canada

China

Federal Republic of Germany

France

India

Japan

Malaysia

Philippines

Singapore

South Korea

Switzerland

Taiwan

Thailand

United Kingdom

United States of America

(Added 9 of 1989 s. 8. Amended L.N. 612 of 1995)