

1995—No. 527

TRAVEL AGENTS ACT 1986—REGULATION

(Travel Agents Regulation 1995)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Travel Agents Act 1986, has been pleased to make the Regulation set forth hereunder.

FAYE LO PO' MP
Minister for Consumer Affairs.

Citation

1. This Regulation may be cited as the Travel Agents Regulation 1995.

Commencement

2. This Regulation commences on 1 September 1995.

Definition

3. In this Regulation:

“the Act” means the Travel Agents Act 1986.

Conveyances to which section 4 of Act does not apply

4. For the purposes of section 4 (1) (a) and (c) of the Act, a conveyance is a prescribed conveyance when it is intended to be, and is, used solely for the purpose of carrying passengers from a place and returning them to that place on the same day.

Business as travel agent includes making of travel related arrangement

5. (1) For the purposes of section 4 (1) (d) of the Act, the making, by a person who carries on an activity referred to in section 4 (1) (a), (b) or (c) of the Act, of a travel related arrangement, either separately from or in conjunction with the activity, is a prescribed activity.

(2) In this clause, “**travel related arrangement**” means an arrangement that may commonly be made in connection with an activity referred to in section 4 (1) (a), (b) or (c) of the Act, such as an arrangement for hotel or other accommodation, car hire or the provision of travellers cheques.

Application fee

6. For the purposes of section 8 (3) of the Act, the prescribed fee for an application is \$50.

Licence fees

7. (1) For the purposes of sections 8 (3), 10 (7) and 17 (1) of the Act, the prescribed fee for a licence is \$235 for each place in which the applicant proposes to carry on, or the licensee carries on, business as a travel agent.

(2) The prescribed fee payable under section 17 of the Act, in the case of 2 or more persons who carry on business in partnership with each other, is to be paid on the anniversary of the date, or the earlier or earliest of the dates, on which, at the commencement of the carrying on of the business in partnership, licences had been granted to the partners in the business, whether or not all those persons were at that date partners.

Matters to be included in applications for licences

8. For the purposes of section 8 (4) (h) and (i) of the Act, an application for a licence is to include the following matters:

- (a) the date of registration, under the Business Names Act 1962, of any business name under which it is intended to carry on the business of a travel agent;
- (b) a description of the proposed business;

- (c) date and place of birth of the applicant, if the applicant is a natural person;
- (d) date and place of birth of any person it is proposed to have in charge of the day-to-day conduct of the business at each place at which it is intended to carry on the business of a travel agent;
- (e) whether or not any one or more of the matters referred to in section 10 (3) of the Act applies to the applicant or any proposed person in charge;
- (f) particulars of courses attended by, and the qualifications and experience of, any proposed person in charge;
- (g) if a proposed person in charge is a member of a professional association—particulars of the membership;
- (h) if the applicant or a proposed partner of the applicant is a corporation—the name and address, and the date and place of birth, of each person who, within the meaning of the Corporations Law, is a director, secretary or executive officer of the corporation;
- (i) particulars of any application to contribute to the compensation scheme.

Licence condition relating to fees

9. It is a condition of the licence of a person who is carrying on the business of a travel agent in partnership that the person is not to commence to carry on business:

- (a) otherwise than in partnership; and
- (b) at a different place, or different places,

before an additional fee is paid to the Commissioner, being an amount equal to the prescribed fee for the licence of a person carrying on business at that place, or those places, otherwise than in partnership.

Duration of approval for licence

10. (1) The purpose of this clause is to prescribe the period for which an approval for a licence remains in force.

(2) For the purposes of section 10B (3) of the Act, a period of 6 weeks beginning on the date on which the approval is granted is prescribed.

Prescribed fees concerning address of business and prescribed particulars of person in charge

11. (1) For the purposes of section 14 (1) of the Act, the prescribed fee for:

- (a) the registration of a change of address of a principal place of business; or
- (b) the registration of the address of a new or additional place of business; or
- (c) the registration of the cessation of business at an address,

is, in each case, \$45.

(2) For the purposes of section 14 (2) of the Act, the prescribed particulars relating to a person it is proposed to have in charge at a place of business are those specified in clause 8 (d)–(g) in relation to such a person.

Register of licensees

12. For the purposes of section 15 (2) of the Act, the prescribed particulars to be contained in the register of licensees kept by the Commissioner are, in relation to a licensee the following:

- (a) the licensee's name;
- (b) the licence number;
- (c) the date on which the licence was granted;
- (d) the conditions and restrictions, if any, to which the licence is subject;
- (e) if any partner of the licensee is a natural person—the name and address of that person;
- (f) if the licensee or a partner of the licensee is a corporation—the address of its registered office and the names and addresses of each person who, within the meaning of the Corporations Law, is a director, secretary or executive officer of the corporation;
- (g) the name under which the licensee carries on business as a travel agent.

Fee for search of register of licensees

13. For the purposes of section 15 (4) of the Act, the prescribed fee is \$15.

Late fee

14. For the purposes of section 17 (8) of the Act, the prescribed late fee is \$40.

Fee for duplicate licence

15. For the purposes of section 19 (1) of the Act, the prescribed fee for the issue of a duplicate licence is \$20.

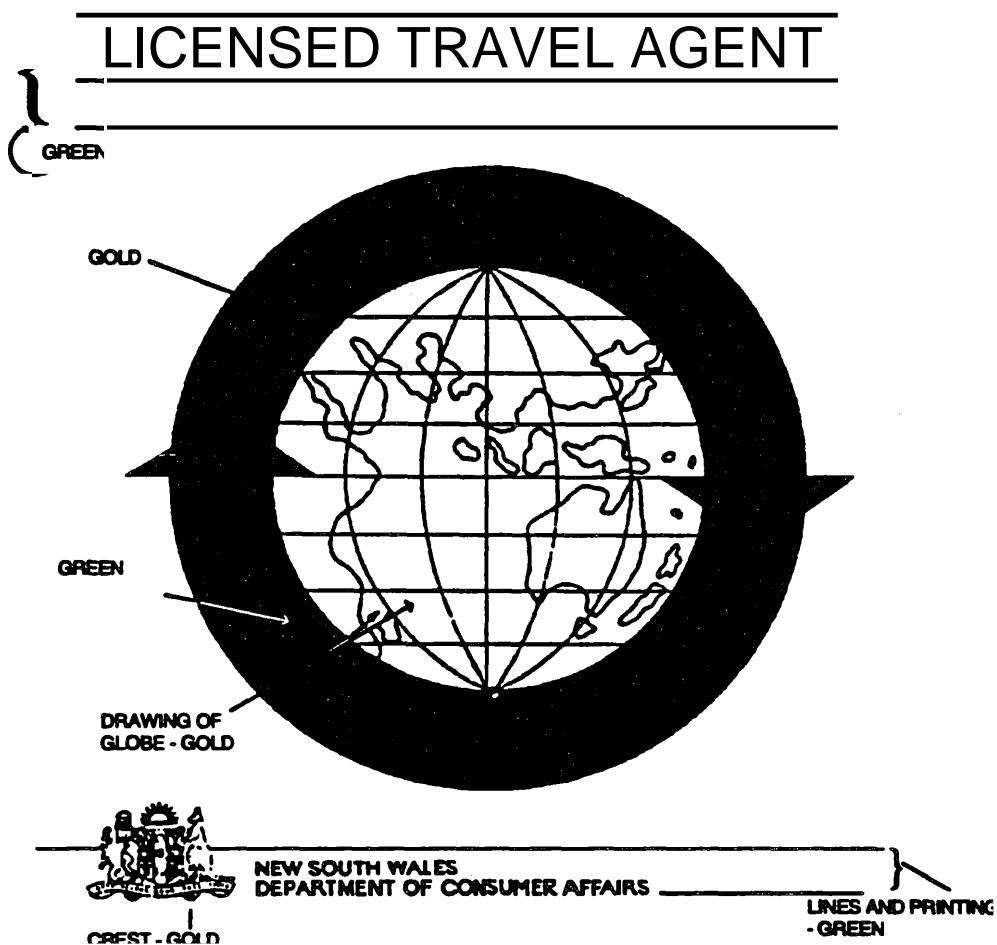
Register of Undertakings

16. The prescribed particulars to be contained in the Register of Undertakings kept by the Commissioner under section 30 (2) of the Act are the following:

- (a) the name and address of the person executing the deed;
- (b) the name in which the person carries on business;
- (c) the date on which the deed was executed;
- (d) brief particulars of the circumstances and unjust conduct the subject of the deed;
- (e) a summary of the undertakings given by the person.

Particulars to be displayed

17. For the purposes of section 33 of the Act, the prescribed form of notice is a notice in the form set out below and the prescribed particulars are those required by the form:



- ALL COLOURS ON WHITE BACKGROUND
- DIMENSIONS - NOT LESS THAN 200mm
IN LENGTH AND HEIGHT

Qualifications of person in charge

18. (1) For the purposes of section 36 of the Act, the prescribed qualifications for a person in charge of the day-to-day conduct of the business of a travel agent are the following:

- (a) if the business involves the sale of tickets or the arrangement of rights of passage by aircraft to or from a place outside Australia, whether or not it also involves the sale of tickets or arrangements referred to in paragraph (b) or (c), or both:
 - (i) 5 years of experience in the selling of tickets or the arrangement of rights of passage by aircraft to or from a place outside Australia; or
 - (ii) 2 years of experience in the selling of tickets or the arrangement of rights of passage by aircraft to or from a place outside Australia, together with the qualification set out in subclause (2);
- (b) if the business involves the sale of tickets or the arrangement of rights of passage for travel (other than by aircraft) to or from a place outside Australia, whether or not it also involves the sale of tickets or arrangements referred to in paragraph (c):
 - (i) any of the qualifications referred to in paragraph (a); or
 - (ii) 2 years of experience in the selling of tickets or the arrangement of rights of passage for travel to or from a place outside Australia;
- (c) if the business involves the sale of tickets or the arrangement of rights of passage by aircraft to or from a place within Australia:
 - (i) any of the qualifications referred to in paragraph (a) or (b); or
 - (ii) 1 year of experience in the selling of tickets or the arrangement of rights of passage by aircraft to or from a place within Australia.

(2) The qualification referred to in subclause (1) (a) (ii) is completion of a travel agent's course that deals (whether wholly or in part) with the selling of tickets or the arrangement of rights of passage by aircraft to or from a place outside Australia and:

- (a) was recognised by the Australian Travel Training Review Panel (or any similar national body that succeeds that Panel) at the time the course was completed; or
- (b) is approved by the Commissioner.

Proceedings for offences

19. For the purposes of section 49 (1) (b) of the Act, the Commissioner for Consumer Affairs is a prescribed officer.

Compensation scheme

20. (1) For the purposes of section 57 (2) (a) of the Act, the compensation scheme for compensating persons who suffer a pecuniary loss by reason of an act or omission by a person who carries on, or carried on, business as a travel agent is the compensation scheme established by the trust deed made on 12 December 1986 by Deirdre Mary Grusovin, Peter Cornelis Spyker, Christopher John Sumner and Keith James Wilson, as amended from time to time.

(2) A copy of the trust deed may be obtained from the Commissioner.

Repeal

21. (1) The Travel Agents Regulation 1987 is repealed.

(2) Any act, matter or thing that was done for the purposes of the Travel Agents Regulation 1987 or, immediately before the repeal of that Regulation, had effect under that Regulation is taken to have been done for the purposes of or to have effect under this Regulation.

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EXPLANATORY NOTE

The object of this Regulation is to repeal and remake, in substantially the same form, the Travel Agents Regulation 1987. The Travel Agents Act 1986, under which the Regulation is made, is substantially uniform with legislation of certain other States (e.g. Victoria).

The Regulation prescribes the following:

- (a) the fees payable under the Travel Agents Act 1986 (e.g. for an application for, and for the issue and annual renewal of, a travel agent's licence) (clauses 6, 7, 9, 11 and 13–15);
- (b) the matter that must be included in an application for such a licence (clause 8);
- (c) the particulars that are to be contained in certain registers (e.g. the register of licensed travel agents kept by the Commissioner for Consumer Affairs) (clauses 12 and 16);
- (d) the form and content of the notice that must be displayed at each place at which a licensed travel agent carries on business, and the qualifications that must be held by a person in charge of such a place (clauses 17 and 18);
- (e) a scheme for compensating persons who suffer a pecuniary loss by reason of an act or omission by a travel agent (clause 20);
- (f) other miscellaneous matters (clauses 4, 5, 10 and 19).

The Regulation also contains provisions of a formal and technical nature (clauses 1–3 and 21).

This Regulation is made under the Travel Agents Act 1986, in particular sections 4, 8, 10, 14, 15, 17, 19, 30, 33, 36, 49 and 57 (the general regulation-making power) and in connection with the staged repeal of legislation under the Subordinate Legislation Act 1989.
