



New South Wales

# Travel Agents Amendment (Amendment of Trust Deed) Regulation 2002

under the

Travel Agents Act 1986

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Travel Agents Act 1986*.

JOHN AQUILINA, M.P.,

Minister for Fair Trading

## Explanatory note

The object of this Regulation is to amend the *Travel Agents Regulation 2001* to incorporate amendments to the trust deed set out in Schedule 1 to the principal Regulation.

The trust deed establishes a 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. The trustees of the compensation fund have resolved to amend the trust deed to provide:

- (a) that the fund's power to pay emergency compensation extends to those claims where the travel agent was not licensed to carry on business as a travel agent and was not a participant in the fund, and
- (b) for the power to appoint a person to act in the position of Acting Chief Executive Officer.

The Regulation incorporates those amendments and certain other amendments relating to matters such as the giving of notices relating to the Travel Agents Compensation Fund.

**2002 No 461**

Travel Agents Amendment (Amendment of Trust Deed) Regulation 2002

Explanatory note

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This Regulation is made under the *Travel Agents Act 1986*, including section 57 (the general regulation-making power).

## **Travel Agents Amendment (Amendment of Trust Deed) Regulation 2002**

### **1 Name of Regulation**

This Regulation is the *Travel Agents Amendment (Amendment of Trust Deed) Regulation 2002*.

### **2 Commencement**

This Regulation commences on 5 July 2002.

### **3 Amendment of Travel Agents Regulation 2001**

The *Travel Agents Regulation 2001* is amended as set out in Schedule 1.

**2002 No 461**

Travel Agents Amendment (Amendment of Trust Deed) Regulation 2002

Schedule 1 Amendments

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**Schedule 1 Amendments**

(Clause 3)

**[1] Clause 20 Compensation scheme**

Omit “3 March 2000” from clause 20 (1). Insert instead “5 July 2002”.

**[2] Schedule 1 Compensation scheme**

Insert in alphabetical order in clause 1.1:

“*Acting Chief Executive Officer*” means the person employed or appointed as such under clause 4A.1 (c) (ii).

**[3] Schedule 1, clause 2.2**

Omit “travel agent.” from clause 2.2 (b) (ii).

Insert instead “travel agent, or”.

**[4] Schedule 1, clause 2.2**

Insert after clause 2.2 (b) (ii):

- (iii) it appears likely that the travel agent or other travel agent will fail to account for that money or consideration as set out in clause 2.2 (b) (i) or (ii).

**[5] Schedule 1, clause 4.2 (d) (iii)**

Omit “Inbound Tourism Organisation of Australia Limited”.

Insert instead “Australian Tourism Export Council Limited”.

**[6] Schedule 1, clause 4A.1 (c)**

Omit the paragraph. Insert instead:

- (c) (i) to employ a person as a Chief Executive Officer, to manage the administration of the Fund, or
- (ii) to employ or appoint a person as an Acting Chief Executive Officer to manage the administration of the Fund,

**[7] Schedule 1, clause 4A.4 (a)**

Insert “subject to clause 20.2,” before “powers”.

**[8] Schedule 1, clause 4A.4 (b)**

Insert “or the Acting Chief Executive Officer” after “Officer”.

**[9] Schedule 1, clause 4A.4 (b)**

Omit “4A.1 (c)”. Insert instead “4A.1 (c) (i)”.

**[10] Schedule 1, clause 12.4**

Insert at the end of the clause:

- (d) if the participant has become a member, or ceased to be a member, of any franchised group of travel agents, or a group of travel agents trading under a common or substantially common trading name,
- (e) if the participant has become, or ceased to be, a travel agent accredited by the International Air Transport Association.

**[11] Schedule 1, clause 12.5**

Omit clause 12.5 (a) and (b). Insert instead:

- (a) the participant, or where the participant is a partnership or a body corporate, any partner or statutory officer of the participant, becomes bankrupt or makes any arrangement or composition with creditors,
- (b) the winding up, receivership or administration of, or execution of a deed of administration in respect of, the participant or, where the participant is a partnership in which a partner is a body corporate, the winding up, receivership or administration of, or execution of a deed of administration, in respect of that body corporate,
- (c) a court or tribunal, or an authority of the Commonwealth, or of a State, has ordered:
  - (i) that the participant, or where the participant is a partnership or a body corporate, any partner or statutory officer of the participant,

**2002 No 461**

Travel Agents Amendment (Amendment of Trust Deed) Regulation 2002

Schedule 1 Amendments

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- (ii) that a manager employed by the participant in the participant's business, or
  - (iii) where the participant is a partnership in which a partner is a body corporate, that a statutory officer or manager of that body corporate,
- is not to hold office in or manage the affairs of a body corporate either indefinitely or for a specified period.

**[12] Schedule 1, clause 15.3**

Omit "clause 15.2".

Insert instead "clause 15.2, including emergency compensation under clause 18.1".

**[13] Schedule 1, clause 17.2**

Omit "suffered".

Insert instead "suffered, except insofar as the payment is made by way of emergency compensation under clause 18".

**[14] Schedule 1, clause 18.1**

Insert "or former participant or other travel agent" after "participant".

**[15] Schedule 1, clause 18.3**

Omit "clause".

Insert instead "clause, and likewise the Management Committee is not liable for anything done in good faith under this clause".

**[16] Schedule 1, clause 19.1**

Omit "Fair Trading Tribunal of New South Wales" from clause 19.1 (d).

Insert instead "Consumer, Trader and Tenancy Tribunal of New South Wales".

**[17] Schedule 1, clause 19.1**

Omit clause 19.1 (e). Insert instead:

- (e) if the person resides in Victoria or the matter to which the appeal relates is alleged to have taken place in Victoria, to the Victorian Civil and Administrative Tribunal, or
- (f) if the person resides in any other State or the matter to which the appeal relates is alleged to have taken place in any other State, to the Appeal Committee in either State.

**[18] Schedule 1, clause 20.1 (b)**

Insert “or the Acting Chief Executive Officer” after “Officer”.

**[19] Schedule 1, clauses 20.2 and 21.4**

Omit “4A.1 (c)” wherever occurring. Insert instead “4A.1 (c) (i)”.

**[20] Schedule 1, clause 26**

Omit the clause. Insert instead:

**26 Notices**

- 26.1 The Fund is to publish in the Government Gazette of each State a postal, facsimile or E-mail address to which notices to the Fund can be delivered or sent.
- 26.2 A notice sent to the Fund is duly given if it is:
  - (a) delivered or sent by prepaid post to an address published under clause 26.1, or
  - (b) sent by facsimile to an address published under clause 26.1, or
  - (c) transmitted by E-mail to an address published under clause 26.1.
- 26.3 A notice from the Fund to a participant is duly given if it is delivered or sent by prepaid post, sent by facsimile or transmitted by E-mail to the last known postal, facsimile or E-mail address of the participant.
- 26.4 A notice sent by post is taken to have been delivered on the third day following the day on which it was posted.

**2002 No 461**

Travel Agents Amendment (Amendment of Trust Deed) Regulation 2002

Schedule 1      Amendments

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- 26.5 A notice sent to a facsimile address is taken to have been delivered on the next business day after it was sent.
- 26.6 A notice transmitted by E-mail is taken to have been delivered on the next business day after transmission.

BY AUTHORITY