

## LICENSING, REGULATION AND ALCOHOL STRATEGY

### Licence for Travel Agents

**This fact sheet has been developed to inform business and individuals of the responsibilities when operating as a Travel Agent in the Territory and details of the licensing requirements under the *Consumer Affairs and Fair Trading Act*.**

A person who carries on business as a Travel Agent must hold a licence in the Territory. Operating as a Travel Agent without a licence may incur a maximum fine of 2500 penalty units. The *Penalty Units Act* prescribes the monetary value of a penalty unit, its indexation and change of value by regulation. As at 1 July 2009, a penalty unit means \$130.

### Definition of a “Travel Agent” In the Northern Territory

Part 11 of the *Consumer Affairs and Fair Trading Act* defines a Travel Agent as a person who –

- “ in the course of a business, sells or arranges for the sale of, or advertises that he or she is willing to sell or arrange for the sale of –
- rights to travel; or
- rights to travel and accommodation”
- but does not include a person –
- by reason only of anything done by the person in the course of his or her employment;
- by reason only of selling, or arranging for the sale of, rights to travel in a vehicle owned by the person;
- by reason only of selling, or arranging for the sale of rights to accommodation at a place which the person owns; or
- by reason only of holding out, or advertising, that the person is willing to carry on an activity referred to in paragraph (b) or (c)

### Licence Categories

There are 2 different licence categories:

- 1) A category 1 business is a business involved in the sale or arrangement for the sale of rights to international travel.

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- 2) A category 2 business is a business, other than a category 1 business, involved in the sale or arrangement for the sale of rights to travel.

### **Qualified Manager**

A licensee shall not carry on business as a travel agent at a place unless there is present and in charge of the day-to-day conduct of the business at that place a person (whether or not the licensee) who has the prescribed qualifications.

Category 1 – The prescribed qualifications and experience for a manager are:

- a) Successful completion of Unit of Competency THTSOP20A provided or assessed by an organisation registered by a State or Territory to deliver training or conduct assessments and to issue nationally recognised qualifications in accordance with the Australian Quality Training Framework; or
- b) 1 year full time experience, obtained during the 5 year period immediately before starting to perform duties as a manager for the business:
  - i. Selling or arranging for the sale of rights to international travel; or
  - ii. In the employment as a manager for a category 1 business; or
  - iii. In employment as a person in charge of the day-to-day conduct of a place of business of a travel agent licensed under a corresponding law that involves the selling or arranging for the sale of rights to international travel.

Category 2 – There are no prescribed qualifications or experience for a manager for a category 2 business.

### **Obtaining a Travel Agent's Licence In The Territory**

The key requirement to obtaining a licence is that the applicant must satisfy certain character tests.

In the Northern Territory at the moment it is not compulsory that you obtain affiliation to an approved insurance and/or compensation scheme as it is currently under review.

If you are granted a licence you will be advised accordingly when membership of a compensation scheme is required.

### **Character Test**

Applicants (including directors of corporations) must be of good character and not have a criminal history containing, for example; dishonesty, fraud or physical violence offences. The Commissioner of Consumer Affairs will take into account the reputation of the applicant in deciding whether they are a fit and proper person to be granted a licence. Members of the public have an opportunity to object to the granting of a licence on specific criteria.

When applying for a licence, each applicant (including directors of corporations), and a proposed manager must provide two referee statements to attest to good character.

### **Fees and Duration of Licences**

An application fee\* applies when the application is lodged. This fee is non-refundable and cover the costs of assessment. A further licence fee\* applies upon the grant of a licence.

A Travel Agent's licence is continuous in the Northern Territory, subject to an Annual Return and continued affiliation to the applicable compensation scheme. A licence is not transferable. If a Travel Agent's business changes hands the new owner must apply separately for a licence.

An annual fee\* applies to retain the licence. This is payable upon lodgement of the annual return which is due on the 30th June each year. (All fees are GST exempt).

### **Undertaking a Criminal History Check**

Please note applicants for a criminal history check are required to attend a police station to lodge their criminal history check. The Police will photocopy your identification (drivers licence/ 18+ card, birth certificate/extract or passport) and witness the Authority to Release Criminal History. The criminal history check can only be witnessed by an authorised officer. Authorised officers are Northern Territory Police Fire and Emergency Services employees and interstate and overseas Police Officers.

The fee\* for lodging a criminal check is to be paid at the police station. Please supply a copy of a receipt showing payment of your criminal history check fee when lodging your application.

### **Advertising**

Applicants must place an advertisement in the Northern Territory News (and another local newspaper if available) notifying the public of the application and inviting objections within a period of 14 days. (Refer to the *Guide to Advertising* for further details and a pro-forma advertisement).

## **The Key Steps in Obtaining a Travel Agent's Licence**

Determine which type of application is required. A Travel Agent's licence can be granted to either an individual, a partnership, or a corporation. When considering the type of licence, the applicant should also consider the qualifications or experience of the manager who will be in charge of the day to day conduct of the business.

Obtain the relevant forms being;

- an application for licence form by an individual (form 1); or
- an application for licence form by a corporation (form 2); together with
- an Authority to Release Criminal History form for each corporate director or each individual identified in a form 1 application.

When lodging the completed application, the applicant must provide photographic proof of identity in the form of a current passport or drivers licence for each person covered by an Authority to Release Criminal History form and pay the prescribed fees\*. If the application is being lodged by post, the applicant should ensure the relevant fees are enclosed, and includes a certified true copy of proof of identity for each person covered by an Authority to Release Criminal History form.

Cheques payable to the Receiver of Territory Monies or electronic payment (Visa and Mastercard) can be made through Territory Business Centres, telephone (08) 8982 1700.

Please note the Commissioner of Consumer Affairs will only accept applications which have been completed in full. While the application can be assessed, any final decision is dependent upon advice of acceptance to the applicable compensation scheme.

Application for affiliation can be made concurrently with the lodgement of the application to the Commissioner.

## **Applications under the Mutual Recognition Act**

If the applicant holds a current individual (not corporate) equivalent licence to a Travel Agent's Licence issued in another State of Australia or the ACT, the applicant will be able to register and have a Travel Agent's Licence granted in the Northern Territory under the *Mutual Recognition Act*. Queries regarding applications under these criteria should be raised directly with Consumer Affairs.

## **The Key Obligations of a Travel Agent Once Licensed**

A Travel Agent must carry on his or her business honestly and fairly at all times and make reasonable arrangements, at each place where the licensee carries on business, for the safe custody and security against theft, loss, destruction, damage or unauthorised interference, of all sold tickets and moneys held by the licensee.

A Travel Agent must notify the Commissioner within 14 days of becoming aware of the alteration to the particulars supplied by them at the time of their application for the licence.

A Travel Agent must ensure that the person in charge of the day to day conduct of the business (the manager) meets the criteria relating to qualifications and experience (see above).

A Travel Agent must lodge by 30 June each year an annual return together with the prescribed fee\* and maintain affiliation to the applicable compensation scheme.

*\*Please refer to the relevant schedule of fees.*

#### **TERRITORY BUSINESS CENTRES**

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