

Western Australia

Travel Agents Amendment and Expiry Act 2014

As at 29 Aug 2014

No. 21 of 2014

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Travel Agents Amendment and Expiry Act 2014

(No. 21 of 2014)

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Travel Agents Amendment and Expiry Act 2014

No. 21 of 2014

An Act —

- **to amend the *Travel Agents Act 1985* to deregulate the travel industry; and**
- **to make consequential amendments to the *Fair Trading Act 2010* and the *State Administrative Tribunal Act 2004*, and for related purposes.**

[Assented to 29 August 2014]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary matters

1. Short title

This is the *Travel Agents Amendment and Expiry Act 2014*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) Part 2 — on a day fixed by proclamation, and different days may be fixed for different provisions;
- (c) Part 3 — on the day after the day on which the *Travel Agents Act 1985* expires under section 61(1) of that Act as amended by section 7 of this Act.

Part 2 — *Travel Agents Act 1985* amended

3. Act amended

This Part amends the *Travel Agents Act 1985*.

4. Long title replaced

Delete the long title and insert:

An Act relating to the regulation of the travel industry.

5. Section 3 amended

- (1) In section 3(1) delete the definition of *Compensation Scheme*.
- (2) In section 3(1) insert in alphabetical order:

Compensation Scheme means the scheme for compensating persons who suffer loss by reason of an act or omission by a person who carries on, or carried on, business as a travel agent that is set out in the Trust Deed;

Note for the definition of ***Compensation Scheme***:

A copy of the Trust Deed can be found on the Travel Compensation Fund's website at <<http://www.tcf.org.au>>.

transition day means the day on which the *Travel Agents Amendment and Expiry Act 2014* section 6 comes into operation;

Trust Deed means the Travel Compensation Fund Substitution Trust Deed (which was executed by the Minister for and on behalf of the State and which came into effect on 1 July 2013) as amended and in force from time to time.

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- (3) In section 3(1) in the definition of *records* delete “means.” and insert:

means;

- (4) After section 3(2) insert:

- (3) A note set out at the foot of a provision of this Act does not form part of this Act.

6. Section 5A inserted

After section 4 insert:

5A. Application of Act limited

This Act does not apply on or after transition day except as provided by Part V.

7. Part V inserted

After section 60 insert:

**Part V — Expiry of Act and related
transitional arrangements**

Division 1 — Expiry of Act

61. When Act to expire

- (1) This Act expires as stated in the notice published under subsection (2).

- (2) When satisfied of the matters specified in subsection (3), the Minister must publish a notice in the *Gazette* stating —
- (a) that the Minister is satisfied of those matters;
and
 - (b) that this Act expires at the end of the day specified in the notice.
- (3) For subsection (2), the Minister must be satisfied —
- (a) that the Compensation Scheme has been terminated in accordance with the Trust Deed;
and
 - (b) that there is no reason for this Act to continue.

Division 2 — Transitional arrangements on and after transition day

62. Purposes for which Act continues to apply

This Act continues to apply on and after transition day for the following purposes —

- (a) the assessment of claims for, and the payment of, compensation under the Compensation Scheme in respect of any act done or omission made before transition day;
- (b) the investigation of, or inquiry into, any matter by the Commissioner under Part II Division 3 the grounds for which arose before transition day;
- (c) the request for, the giving of and compliance with undertakings under section 37 in connection with unjust conduct allegedly engaged in before transition day;
- (d) the investigation and prosecution of any offence under this Act alleged to have been committed before transition day;

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- (e) the giving and withdrawal of, and the payment of the modified penalty specified in, any infringement notice in respect of any offence under this Act alleged to have been committed before transition day;
- (f) the commencement, conduct and disposal of proceedings before the State Administrative Tribunal under Part II Division 3 in respect of any allegation the grounds for which arose before transition day;
- (g) the review by the State Administrative Tribunal under Part II Division 4 of any reviewable decision made before transition day;
- (h) the commencement, conduct and disposal of proceedings before the State Administrative Tribunal under Part III in respect of —
 - (i) any unjust conduct engaged in before transition day; or
 - (ii) any failure to observe an undertaking whenever given.

63. Refund of licence fees

- (1) In this section —

licence fee, for a licence, means —

- (a) the prescribed fee for the licence referred to in sections 9(2) and 12(7)(b)(i); or
- (b) the prescribed fee for the licence referred to in section 19(1);

licence period, for a licence, means the period (expressed in days) in respect of which a licence fee for the licence was last paid before transition day;

refundable portion, of a licence fee, means so much of the licence fee as is in the same proportion to the

licence fee as the unexpired portion of the licence period is to the licence period;

unexpired portion, of a licence period, means —

- (a) if the licence period had commenced but not expired before transition day — the portion (expressed in days) of the licence period that had not expired before transition day; or
 - (b) if the licence period had not commenced before transition day — the licence period.
- (2) Subsection (3) applies if, immediately before transition day, the unexpired portion of the licence period for a licence was greater than one year.
- (3) The person who held the licence immediately before transition day is entitled to a refund of an amount that is equal to the refundable portion of the licence fee paid in respect of the licence period less the cost of calculating, and processing the payment of, the refund.

64. Refund of application fees

- (1) This section applies if, immediately before transition day —
- (a) a person had applied for a licence and paid the prescribed fee referred to in section 9(2); but
 - (b) the Commissioner had not granted or refused the application.
- (2) The person is entitled to a refund of an amount equal to the fee paid less the cost of calculating, and processing the payment of, the refund.

65. Transitional regulations

- (1) In this section —
publication day, for regulations referred to in subsection (2), means the day on which those regulations are published in the *Gazette*;
specified means specified or described in regulations referred to in subsection (2);
transitional matter means any matter of a transitional or savings nature arising from the enactment of the *Travel Agents Amendment and Expiry Act 2014*.
- (2) If there is no sufficient provision in this Division for dealing with a transitional matter, regulations made under section 59 may prescribe matters necessary or convenient to be prescribed for the purpose of dealing with the transitional matter.
- (3) Regulations referred to in subsection (2) may provide that specified provisions of a written law —
 - (a) do not apply to or in relation to a specified matter; or
 - (b) apply with specified modifications to or in relation to a specified matter.
- (4) If regulations referred to in subsection (2) provide that a specified state of affairs is taken to have existed, or not to have existed, on and from a day that is earlier than the publication day for those regulations but not earlier than transition day, the regulations have effect according to their terms.
- (5) If regulations referred to in subsection (2) contain a provision referred to in subsection (4), the provision does not operate so as —
 - (a) to affect in a manner prejudicial to a person, other than the State or an authority of the State,

- the rights of that person existing before the publication day for those regulations; or
- (b) to impose liabilities on a person, other than the State or an authority of the State, in respect of an act done or omission made before the publication day for those regulations.

Note: The heading to section 5 is to read:

Application of Act to Crown

Part 3 — Other Acts amended

8. *Fair Trading Act 2010* amended

- (1) This section amends the *Fair Trading Act 2010*.
- (2) In Schedule 2 delete “*Travel Agents Act 1985*”.

9. *State Administrative Tribunal Act 2004* amended

- (1) This section amends the *State Administrative Tribunal Act 2004*.
- (2) In Schedule 1 delete “*Travel Agents Act 1985*”.

