



Tourism Services Act 2003

Tourism Services (Code of Conduct for Inbound Tour Operators) Regulation 2003

Current as at 1 January 2012—revised version

Reprint note

Powers under the *Reprints Act 1992* have been used in this reprint to bring the legislation into line with current drafting practice or to make minor editorial changes.

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Queensland

Tourism Services (Code of Conduct for Inbound Tour Operators) Regulation 2003

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Tourism Services (Code of Conduct for Inbound Tour Operators) Regulation 2003

1 Short title

This regulation may be cited as the *Tourism Services (Code of Conduct for Inbound Tour Operators) Regulation 2003*.

2 Commencement

This regulation commences on 1 December 2003.

3 Code of conduct—Act, s 38

The schedule states the code of conduct for inbound tour operators.

Schedule

Tourism Services Code of Conduct for Inbound Tour Operators

section 3

1 Title

This code of conduct may be cited as the *Tourism Services Code of Conduct for Inbound Tour Operators*.

2 Definitions

In this code—

alternative supplier means a person from whom a tourist can buy goods or services, but whose goods or services are not promoted by the tourist's tour guide.

money includes foreign currency, credit cards and cheques and other negotiable instruments.

3 Knowledge of Act, code and other legislation

An inbound tour operator must have a reasonable knowledge and understanding of the Act, this code, the *Fair Trading Act 1989* and the *Competition and Consumer Act 2010* (Cwlth) in so far as they relate to the carrying on of the business of an inbound tour operator.

4 Policy about dispute resolution process

- (1) An inbound tour operator must have a written policy for resolving disputes between the inbound tour operator and a tourist who uses a travel package arranged by the inbound tour operator about goods or services supplied to the tourist under the travel package.

Maximum penalty—20 penalty units.

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- (2) The inbound tour operator must ensure that the policy—
- (a) allows the tourist to participate in a timely and appropriate dispute resolution process that has regard to the tourist's status as a person who is only temporarily in Australia; and
 - (b) states, in a prominent way, that—
 - (i) the tourist may contact the commissioner if the tourist is concerned about the conduct of the inbound tour operator; and
 - (ii) the dispute resolution process described in the policy does not stop a tourist from exercising the tourist's rights to other legal remedies.

Maximum penalty—20 penalty units.

- (3) The inbound tour operator must inform each tourist who uses a travel package arranged by the inbound tour operator, before the tourist enters Queensland, about the inbound tour operator's policy, and, if the tourist asks, give the tourist a copy of the policy.

Maximum penalty—20 penalty units.

- (4) The copy of the policy given to the tourist under subsection (3) must be in the tourist's first language.

5 Honesty, fairness and professionalism

- (1) An inbound tour operator must act honestly, fairly and professionally in carrying on the business of an inbound tour operator.

Editor's note—

Carry on the business of an inbound tour operator is defined in section 9(3) of the Act.

- (2) Without limiting subsection (1), an inbound tour operator must treat tourists honestly and fairly.

6 Skill, care and diligence

An inbound tour operator must exercise reasonable skill, care and diligence in carrying on the business of an inbound tour operator.

7 High-pressure tactics or harassment

An inbound tour operator must not, in dealing with a person in relation to a travel package arranged by the inbound tour operator—

- (a) use high-pressure tactics or harass the person; or
- (b) encourage or engage another person to use high-pressure tactics or harass the person; or
- (c) condone the use of high-pressure tactics or harassment of the person by any other person.

Examples—

- 1 engaging in conduct that unreasonably compels a tourist to comply with a request or demand
- 2 taking unfair advantage of a superior bargaining position relative to a retailer of souvenirs

8 False or misleading representation

(1) An inbound tour operator must not, in dealing with a tourist using a travel package arranged by the inbound tour operator—

- (a) make a false or misleading representation to the tourist; or
- (b) encourage or engage another person to make a false or misleading representation to the tourist; or
- (c) condone the making of a false or misleading representation to the tourist by any person.

(2) Without limiting subsection (1), an inbound tour operator must not make, encourage or engage another person to make, or condone the making of, a false or misleading representation about any of the following relating to the travel package—

- (a) the mode and standard of transport used for transfers and sightseeing;
 - (b) the existence or location of, or access to, a place or attraction;
 - (c) the time required or route used to go to a place or attraction;
 - (d) the standard, style or price of accommodation;
 - (e) the standard or price of food or beverages;
 - (f) guiding services;
 - (g) the price of entry to tourist attractions, tours, entertainment or other activities including, for example, whether the price is included in the travel package;
 - (h) restrictions that apply to the travel package, including, for example, restrictions about baggage, children, seat allocation or smoking;
 - (i) conditions about reservations, payment, refunds or cancellations;
 - (j) the management of tours included in the travel package.
- (3) Also, without limiting subsection (1), an inbound tour operator must ensure—
- (a) that a quotation given by the inbound tour operator for goods or a service included in a travel package discloses the total cost of the goods or service, including any taxes or other charges payable by a tourist; and
 - (b) that an advertisement or promotional material about goods or a service included in a travel package arranged by the inbound tour operator discloses any conditions or restrictions applying to the supply of the goods or service.

Maximum penalty for subsection (3)—20 penalty units.

9 Tour not to be dominated by shopping

- (1) An inbound tour operator must not use undue influence or high-pressure tactics to have a tourist go shopping instead of doing all or a part of another activity the tourist may reasonably have expected to do as part of the tourist's travel package.
- (2) An inbound tour operator must ensure that a travel package arranged by the inbound tour operator for a tourist does not consist predominantly of shopping excursions unless—
 - (a) the inbound tour operator and tourist agree, before the travel package starts, that the package is to consist predominantly of shopping excursions; or
 - (b) the tourist consents, during the course of the travel package, to it consisting predominantly of shopping excursions.

10 Inbound tour operator not to charge for free goods or service

An inbound tour operator must not charge a tourist for goods or a service that are available free of charge to the public.

Examples—

- 1 charging for a brochure or map that is available free of charge
- 2 charging for entry to a beach or public park for which no entry fee is payable

Maximum penalty—20 penalty units.

11 Provision of goods or services included in travel package

- (1) An inbound tour operator must ensure that goods or a service included in a travel package arranged by the inbound tour operator are provided in accordance with any representation about the goods or service made in an itinerary, quotation or promotional material for the package.
- (2) Despite subsection (1), if, because of circumstances reasonably beyond the inbound tour operator's control, goods or a service (the *unavailable component*) are unavailable

when required to be provided under the package, the inbound tour operator must—

- (a) provide, as far as reasonably practicable, goods or a service of a similar type, value and quality as the unavailable component; or
 - (b) if the inbound tour operator can not reasonably comply with paragraph (a), refund the cost of the unavailable component.
- (3) However, if goods or a service of a similar type, value and quality are unavailable, an inbound tour operator may, with the informed consent of the tourist who purchased the travel package, substitute other goods or another service of similar value.

12 Inbound tour operator's responsibilities about guiding services

- (1) An inbound tour operator must ensure, as far as reasonably practicable, that a tour guide, in providing guiding services arranged by the inbound tour operator—
- (a) displays the tour guide's identification so it is clearly visible to other persons; and
Maximum penalty—20 penalty units.
 - (b) does not stop a tourist—
 - (i) shopping in a retail outlet; or
 - (ii) gaining access to or buying goods or a service, including, for example, a travel service offered by an alternative supplier; and
 - (c) does not—
 - (i) obstruct a person lawfully advertising or giving information to a tourist about travel or other services; or
 - (ii) obstruct a tourist's access to an advertisement or information about travel or other services,

Schedule

- including, for example, travel services offered by an alternative supplier; and
- (d) does not confiscate or withhold a tourist's money, passport, personal documents or other property; and
 - (e) does not exert or use unfair pressure, undue influence or unfair tactics on a tourist; and
 - (f) does not make a false or misleading representation to a tourist, including, for example, a false or misleading representation about any of the following—
 - (i) the existence or location of, or access to, a place or attraction;
 - (ii) the time required or route used to go to a place or attraction;
 - (iii) the characteristics of an alternative supplier;
 - (iv) the quality or availability of products or services offered by an alternative supplier;
 - (v) a reason, including the existence of any lawful requirement, for confiscating or withholding a tourist's money, passport, personal documents or other property.
- (2) In this section—
- identification***, of a tour guide, means a form of identification that—
- (a) is in English and the language used predominantly by the tourists for whom the tour guide is providing the guiding services; and
 - (b) includes—
 - (i) the tour guide's full name and business address; and
 - (ii) the inbound tour operator's name, and business name or trading name, if any; and
 - (iii) a recent colour photograph of the tour guide.

obstruct includes hinder and attempt to obstruct.

13 **Inbound tour operator's responsibilities about other persons providing goods or services**

An inbound tour operator must, as far as reasonably practicable, ensure that a person including, for example, a tour guide, employed or engaged by the inbound tour operator to provide goods or a service to a tourist—

- (a) is entitled, under the laws of the Commonwealth or the State, to work, or provide the goods or service, in the State; and

Example of entitlement to work—

The person holds a visa that allows the person to be employed, or engaged to provide goods or services, in Australia.

Example of entitlement to provide a service—

The person holds a licence of the appropriate class to operate a vehicle to transport tourists.

- (b) is aware of, and carries out, the person's duties and obligations under the *Work Health and Safety Act 2011*; and
- (c) has a level of fluency in a language used by the tourist that is appropriate for providing the goods or service to the tourist; and
- (d) if the person employed or engaged by the inbound tour operator is a tour guide—is, while the tour guide is working in Queensland, employed under the Tour Guides Award—State (the *award*) as in force from time to time, or on conditions not less favourable to the tour guide than the award.