

Queensland



Explanatory Notes for SL 2003 No. 282

Tourism Services Act 2003

TOURISM SERVICES REGULATION 2003

GENERAL OUTLINE

Authorising Law

The *Tourism Services Regulation 2003* (the Regulation) is a regulation made under section 100 of the *Tourism Services Act 2003* (the Act).

Objectives of the Regulation

The objectives of the Act are to address problems in the inbound tourism industry such as controlled shopping, misrepresentations, overcharging for goods and services and unconscionable conduct. These practices have a negative impact on the State's tourism industry because tourists do not enjoy their holiday as much as they should and leave with a negative and distorted view of Queensland.

One of the ways the Act addresses the undesirable and unfair practices outlined above is by requiring inbound tour operators to be registered, except for those inbound tour operators who also sell travel packages to the domestic market and whose overseas sales account for less than 20% of the total number of travel packages sold during a 12 month period.

This Regulation prescribes the amount of fees payable by those inbound tour operators required to register under the Act and the fees payable for other purposes. Pursuant to section 100(2)(b) of the Act, the Regulation also outlines what records are required to be kept by inbound tour operators or former inbound tour operators and the period that these records must be kept.

The Regulation is consistent with the policy objectives of the Act and is a reasonable and appropriate way of achieving these policy objectives.

Administrative Costs

The introduction of a registration system for inbound tour operators will place an additional administrative burden on the Office of Fair Trading which, to some extent, will be covered by application and registration fees.

On 18 December 2002, the Honourable the Treasurer advised that, as a result of the 2002-03 Mid-Year Review, the Cabinet Budget Review Committee had approved additional funding of \$200,000 for 2002-03 and \$400,000 ongoing to support the implementation of new marketplace regulatory regimes, including the regulation of inbound tourism.

Fundamental Legislative Principles

The Regulation does not infringe Fundamental Legislative Principles.

Consultation

On 12 August 2002, the policy proposal underpinning the Act, together with a draft Public Benefit Test and proposed fees to be made under the Regulation (henceforth referred to as “the policy proposal”) was released for public comment. The policy proposal was also forwarded to interstate tourism and fair trading agencies.

The availability of the policy proposal was extensively publicised through media releases, newspaper advertisements and the websites of Queensland Tourism and the Office of Fair Trading. Approximately 270 stakeholders received a notice of the availability of the policy proposal.

Following consultation on the policy proposal, the draft Bill, together with a draft Regulation and draft Code of Conduct Regulation were released for public consultation during March 2003.

A letter advising of the availability of the draft proposed legislation on the Office of Fair Trading website was sent to approximately 300 community and industry stakeholders, including those who had provided feedback in August 2002 on the policy proposal.

The draft Bill, the draft Regulation and draft Code of Conduct was also forwarded to the Commonwealth and to fair trading and tourism agencies in the other States and Territories.

More than 35 responses were received from community, industry and Government stakeholders and these responses substantially informed the

development and finalisation of the Act, the Regulation and the Code of Conduct.

Concerns were raised by some businesses during consultation that the requirement on an inbound tour operator to register adds an additional cost to operating a tourism business. This concern is the primary reason why the Act provides that no application or registration fee is payable under the Act by those businesses that are licensed under the *Travel Agents Act 1988* or equivalent legislation in any Australian jurisdiction. The Act also addresses these concerns by only requiring registration of those inbound tour operators selling more than 20% of their travel packages to overseas entities during a 12 month period.

Although the Business Regulation Reform Unit advised no Regulatory Impact Statement was required, the Office of Fair Trading nevertheless consulted widely on the proposed fees.

NOTES ON PROVISIONS

Clause 1 sets out the short title of the Regulation.

Clause 2 provides that the Regulation will commence on 1 December 2003.

Clause 3 provides that the fees payable under the Act are stated in the schedule to the Regulation.

Clause 4 provides that an inbound tour operator or former inbound tour operator must keep their accounting records for at least 7 years. This provision applies regardless of whether the inbound tour operator is, or was, registered. A penalty applies to a contravention of this provision.

The clause also provides that the inbound tour operator or former inbound tour operator must keep documents relating to travel packages including itineraries, quotations and documents used to promote the travel package. These documents must be kept for 2 years after:

- the last day a tourist arrives, in the case of tourists who enter and leave the State on more than one occasion as part of the travel package; and
- the day the inbound tour operator or former inbound tour operator ceases to use the travel package or materially changes the travel package.

A penalty applies to a contravention of this provision.

SCHEDULE

The schedule outlines what fees are payable for various purposes under the Act.

ENDNOTES

1. Laid before the Legislative Assembly on . . .
2. The administering agency is the Department of Tourism, Racing and Fair Trading.