

Travel Agents Amendment and Expiry Bill 2014

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Western Australia

LEGISLATIVE ASSEMBLY

Travel Agents Amendment and Expiry Bill 2014

A Bill for

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.**

The Parliament of Western Australia enacts as follows:

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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.

1 **Part 2 — *Travel Agents Act 1985* amended**

2 **3. Act amended**

3 This Part amends the *Travel Agents Act 1985*.

4 **4. Long title replaced**

5 Delete the long title and insert:

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7 **An Act relating to the regulation of the travel industry.**

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9 **5. Section 3 amended**

10 (1) In section 3(1) delete the definition of *Compensation Scheme*.

11 (2) In section 3(1) insert in alphabetical order:

12

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

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

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

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

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

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

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4 means;

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

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

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11 **6. Section 5A inserted**

12 After section 4 insert:

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14 **5A. Application of Act limited**

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

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18 **7. Part V inserted**

19 After section 60 insert:

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

23 **Division 1 — Expiry of Act**

24 **61. When Act to expire**

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

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

13 **Division 2 — Transitional arrangements on and after**
14 **transition day**

15 **62. Purposes for which Act continues to apply**

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

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

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- 1 (e) the giving and withdrawal of, and the payment
2 of the modified penalty specified in, any
3 infringement notice in respect of any offence
4 under this Act alleged to have been committed
5 before transition day;
- 6 (f) the commencement, conduct and disposal of
7 proceedings before the State Administrative
8 Tribunal under Part II Division 3 in respect of
9 any allegation the grounds for which arose
10 before transition day;
- 11 (g) the review by the State Administrative Tribunal
12 under Part II Division 4 of any reviewable
13 decision made before transition day;
- 14 (h) the commencement, conduct and disposal of
15 proceedings before the State Administrative
16 Tribunal under Part III in respect of —
- 17 (i) any unjust conduct engaged in before
18 transition day; or
- 19 (ii) any failure to observe an undertaking
20 whenever given.

21 **63. Refund of licence fees**

- 22 (1) In this section —
- 23 **licence fee**, for a licence, means —
- 24 (a) the prescribed fee for the licence referred to in
25 sections 9(2) and 12(7)(b)(i); or
- 26 (b) the prescribed fee for the licence referred to in
27 section 19(1);
- 28 **licence period**, for a licence, means the period
29 (expressed in days) in respect of which a licence fee for
30 the licence was last paid before transition day;
- 31 **refundable portion**, of a licence fee, means so much of
32 the licence fee as is in the same proportion to the

- 1 licence fee as the unexpired portion of the licence
2 period is to the licence period;
- 3 ***unexpired portion***, of a licence period, means —
- 4 (a) if the licence period had commenced but not
5 expired before transition day — the portion
6 (expressed in days) of the licence period that
7 had not expired before transition day; or
- 8 (b) if the licence period had not commenced before
9 transition day — the licence period.
- 10 (2) Subsection (3) applies if, immediately before transition
11 day, the unexpired portion of the licence period for a
12 licence was greater than one year.
- 13 (3) The person who held the licence immediately before
14 transition day is entitled to a refund of an amount that
15 is equal to the refundable portion of the licence fee
16 paid in respect of the licence period less the cost of
17 calculating, and processing the payment of, the refund.
- 18 **64. Refund of application fees**
- 19 (1) This section applies if, immediately before transition
20 day —
- 21 (a) a person had applied for a licence and paid the
22 prescribed fee referred to in section 9(2); but
- 23 (b) the Commissioner had not granted or refused
24 the application.
- 25 (2) The person is entitled to a refund of an amount equal to
26 the fee paid less the cost of calculating, and processing
27 the payment of, the refund.

- 1 **65. Transitional regulations**
- 2 (1) In this section —
- 3 *publication day*, for regulations referred to in
- 4 subsection (2), means the day on which those
- 5 regulations are published in the *Gazette*;
- 6 *specified* means specified or described in regulations
- 7 referred to in subsection (2);
- 8 *transitional matter* means any matter of a transitional
- 9 or savings nature arising from the enactment of the
- 10 *Travel Agents Amendment and Expiry Act 2014*.
- 11 (2) If there is no sufficient provision in this Division for
- 12 dealing with a transitional matter, regulations made
- 13 under section 59 may prescribe matters necessary or
- 14 convenient to be prescribed for the purpose of dealing
- 15 with the transitional matter.
- 16 (3) Regulations referred to in subsection (2) may provide
- 17 that specified provisions of a written law —
- 18 (a) do not apply to or in relation to a specified
- 19 matter; or
- 20 (b) apply with specified modifications to or in
- 21 relation to a specified matter.
- 22 (4) If regulations referred to in subsection (2) provide that
- 23 a specified state of affairs is taken to have existed, or
- 24 not to have existed, on and from a day that is earlier
- 25 than the publication day for those regulations but not
- 26 earlier than transition day, the regulations have effect
- 27 according to their terms.
- 28 (5) If regulations referred to in subsection (2) contain a
- 29 provision referred to in subsection (4), the provision
- 30 does not operate so as —
- 31 (a) to affect in a manner prejudicial to a person,
- 32 other than the State or an authority of the State,

- 1 the rights of that person existing before the
2 publication day for those regulations; or
3 (b) to impose liabilities on a person, other than the
4 State or an authority of the State, in respect of
5 an act done or omission made before the
6 publication day for those regulations.
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8 Note: The heading to section 5 is to read:

9 **Application of Act to Crown**

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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*”.

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