

CHAPTER 373A

TRAVEL SERVICES

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CHAPTER 373A

TRAVEL SERVICES

- An Act to provide for the registration and control of persons providing travel services and for related matters.* 1982-3.
1984-2.
2004-24.
2005-2.
- [1st June, 1983] Commence-
ment.
1983/72.
1. This Act may be cited as the *Travel Services Act*. Citation.
 2. For the purposes of this Act, Definitions.
- "Community" means the Caribbean Community established by Article 2 of the Treaty; 2004-24.
- "general sales agent" means a person to whom an airline has delegated authority to act on its behalf for the purpose of providing sales of passenger air transportation; 2005-2.
- "Member State" means a Member State of the Community, excluding an Associate member within the meaning of Article 231 of the Treaty; 2004-24.
- "Minister" means the Minister responsible for travel services; 2005-2.
- "register" means the Register of Travel Services required to be kept and maintained under section 13;
- "Registrar" means the Registrar of Travel Services within the meaning of section 7;
- "tour operator" means a person who is engaged principally in development, planning, promotion and marketing of travel services and accommodation; 2005-2.

ss.3-4A

2005-2. "travel agent" means a person, including a general sales agent, engaged in the business of providing travel services to the public on behalf of the persons who provide such services, and "travel agency" has a corresponding meaning;

2005-2. "travel service" means transportation of passengers by air or sea;

2004-24. "Treaty" means the Revised Treaty of Chaguaramas establishing the Caribbean Community, including the CARICOM Single Market and Economy, that was signed in the Bahamas on 5th July, 2001.

Travel agents to be licensed.
2005-2.

3. (1) No person shall carry on business as a travel agent or tour operator unless he has obtained a licence for the purpose.

(2) No tour operator who is not resident in Barbados shall offer facilitation or other services in Barbados except through a travel agent licensed under this Act.

(3) For the purposes of subsection (2), a body corporate is resident in Barbados if it is originally incorporated in Barbados.

Application for licence.

4. A licence required by section 3 is obtainable from the Registrar on application made to him in such form as he approves and on payment to him of such fee as the Minister by order may prescribe; and different fees may be imposed in respect of different categories of travel agents and tour operators.

2005-2.

Payment of income tax, value added tax and national insurance.
2005-2.

4A. No licence shall be granted or renewed under this Act unless the applicant provides, at the time that he makes an application, certificates from

- (a) the Commissioner of Inland Revenue;
- (b) the Comptroller of Customs; and
- (c) the Director of National Insurance,

where appropriate,

- (i) attesting that at the last day of the month prior to the month in which the application is made liabilities for the payment of taxes payable under the *Income Tax Act* and the *Value Added Tax Act* and national insurance contributions payable under the *National Insurance Act* have been discharged; or Cap. 73.
Cap. 87.
Cap. 47.
- (ii) the application has made satisfactory arrangements with the authorities to pay any outstanding taxes and national insurance contributions; and that the payments are being made as agreed.

5. (1) An applicant must satisfy the Registrar that

- (a) he has attained the age of 18 years;
- (b) he is Qualifica-
tion
for
grant of
licence.
2004-24.
 - (i) a citizen, a permanent resident of Barbados or an immigrant within the meaning of the *Immigration Act*; or Cap. 190.
 - (ii) a national of a Member State;
- (c) the persons entrusted with the day-to-day management and control of a business referred to in section 3(1)
 - (i) possess a working knowledge of the business and the premises to which the licence relates;
 - (ii) have the resources necessary for the efficient running of the travel services to which the licence relates; and
- (d) he is of good character and is a fit and proper person to carry on business as a travel agent or a tour operator.

(2) Where the applicant is a body corporate, subsection (1) shall be deemed to have been complied with if the directors comply with the requirements of that subsection.

(3) For the purposes of subsection (1),

(a) the requirements specified in paragraphs (a) and (c) apply to a majority of directors and partners of a firm of travel agents;

(b) where the applicant is a company, the requirement specified in paragraph (b) shall be deemed to be satisfied if 75 per cent of the issued share capital carrying voting rights is owned by citizens of Barbados, permanent residents or immigrants within the meaning of the *Immigration Act* or a national of a Member State; and

(c) a certificate of character issued by the Commissioner of Police is sufficient to satisfy the requirement specified in paragraph (d).

(4) The Registrar may require an applicant to provide evidence that the requirements of paragraph (b) of subsection (3) are satisfied.

Cap. 190.
2005-2.

Disqualifi-
cations.

6. The following persons are disqualified from holding or obtaining a licence under this Act:

(a) undischarged bankrupts;

(b) companies in liquidation;

(c) persons under the age of 18 years;

(d) persons convicted of an offence involving fraud or corrupt practices within the period of 7 years immediately preceding the application for a licence; and

(e) persons of

(i) insufficient resources within the context of section 16;

(ii) insufficient training or experience necessary for carrying on business as a travel agent or tour operator.

2005-2.

Registrar
of Travel
Services.

7. For the purposes of this Act, the Minister may assign a public officer to be the Registrar of Travel Services.

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- 8.** The functions of the Registrar are
- (a) to grant, renew, suspend, vary or revoke licences;
- (b) to hear and determine complaints;
- (c) to inspect the business affairs, books, records and premises of travel agents and tour operators; and
- (d) generally to administer the provisions of this Act.
- 9.** (1) The Registrar must, on receiving an application for a licence, examine the application to determine whether it accords with the provisions of this Act and whether the applicant is qualified to hold or obtain a licence.
- (2) Where the Registrar is satisfied that the application accords with the provisions of this Act and that the applicant is qualified to hold or obtain a licence, he must grant the application and issue a licence to the applicant; otherwise, he must refuse the application.
- (3) A licence issued under this section
- (a) is issued subject to the conditions specified in the licence;
- (b) is valid for a period of one year from the date of the issue thereof; and
- (c) is renewable for a like period, subject to the payment to the Registrar of such fee as the Minister, by order, may prescribe.
- 10.** (1) Every travel agent and tour operator shall display the licence issued to that agent or operator in a conspicuous position at his principal place of business.
- (2) Where the travel agent or tour operator has more than one place of business, he shall display a duplicate licence issued by the Registrar in a conspicuous place at each of his places of business.
- 11.** A licence issued under this Act is not transferable.

Functions of Registrar.
2005-2.

2005-2.

Consideration of applications and issue of licences.

2005-2.

Licence to be prominently displayed.
2005-2.

Transferability.

- Duplicate licence.
2005-2.
- 12.** Where an original licence is lost, destroyed, defaced or otherwise rendered illegible, the Registrar may issue a duplicate licence on payment to him of such fee as the Minister, by order, may prescribe.
- Register of Travel Services.
2005-2.
- 13.** (1) The Registrar shall keep and maintain a register, to be known as the "Register of Travel Services", in which there are recorded
- (a) the name and address in Barbados of every travel agent and tour operator to whom a licence has been issued; and
- (b) the type of travel service in respect of which the licence was issued.
- (2) The register is open to inspection during office hours.
- Change of address.
2005-2.
- 14.** Any travel agent or any tour operator who changes his name or address shall notify the Registrar of the change, and the Registrar must record the change in the register.
- Publication of list.
2005-2.
- 15.** (1) The Registrar shall during the month of February in each year publish in the *Official Gazette* and in a daily newspaper printed and published in Barbados the names of travel agents and tour operators who possess valid licences issued under this Act.
- (2) Where the Registrar has cancelled or suspended the licence of a travel agent or tour operator, notice of such cancellation or suspension shall be published in the *Official Gazette* and in a daily newspaper printed and published in Barbados.
- Security.
2005-2.
- 16.** (1) Every travel agent or tour operator licensed under this Act shall provide, in such manner, within such period and in such amount as may be prescribed, security to satisfy claims for refunds and to settle obligations arising in the course of his professional activity.
- (2) The amount prescribed under subsection (1) may vary with the type of travel service to which the licence relates.

- (3) Information as to the amount of security provided by a travel agent or a tour operator is obtainable from the Registrar. 2005-2.
- 17.** The liability of a travel agent or a tour operator is not limited to the amount of his security. Liability not limited to amount of security. 2005-2.
- 18.** (1) The amount of security provided by a travel agent or a tour operator must not be decreased except by way of a withdrawal for the purpose of making a payment to satisfy a claim for refund or to settle an obligation that arose in the course of his professional activity. Decrease in amount of security. 2005-2.
- (2) A decrease in the amount of any security shall be made good by a travel agent within 2 months of the date of the making of the withdrawal that resulted in the decrease.
- (3) Where a decrease in the amount of any security is not made good within the time stipulated in subsection (2), the Registrar shall suspend the licence of the travel agent or tour operator for a period of 60 days. 2005-2.
- (4) Where the travel agent or tour operator 2005-2.
- (a) makes good the decrease referred to in subsection (2) before the expiry of the period of suspension, the Registrar shall revoke the suspension immediately;
- (b) fails to make good the decrease referred to in subsection (2) by the end of the period of suspension referred to in subsection (3), the Registrar shall revoke the licence.
- 19.** Every travel agent and tour operator shall establish and utilise a trust account approved by the Registrar for the deposit of moneys for which they are trustees, whether or not those moneys Trust fund. 2005-2.
- (a) have been collected by them on the account of a customer; or
- (b) have been received by them from a customer for payment over to another person.

Accounts
and audit.
2005-2.

20. (1) Every travel agent and tour operator shall keep such books, registers and accounts in respect of their business operations as the Registrar may direct.

2005-2.

(2) Accounts kept in pursuance of subsection (1) must be audited at least once a year by an auditor who is a certified chartered accountant, and a certified copy of the auditor's report shall be lodged by the travel agent or tour operator with the Registrar within one month from the date of that report.

2005-2.

(3) All audited financial statements shall be submitted to the Registrar by a travel agent or tour operator not later than 4 months after the end of each financial year.

2005-2.

(4) Where a travel agent or tour operator fails to comply with the provisions of this section, the Registrar may suspend the licence of the travel agent or the tour operator.

2005-2.

(5) Where the travel agent or tour operator whose licence has been suspended fails to submit the audited financial statement within the period of the suspension, the Registrar shall revoke the licence.

Inspection.

2005-2.

21. The Registrar or a person authorised by him may during office hours enter and inspect premises on which a travel agent or tour operator carries on business, and the travel agent or tour operator shall give the Registrar or that other person such assistance as may be necessary to facilitate the inspection.

Confidenti-
ality.

22. All information acquired by the Registrar or by his staff or by a person authorised by the Registrar under section 21 in the performance of their functions is confidential.

Suspension
and
revocation
of licence.
2005-2.

23. (1) Subject to sections 18 and 20, the Registrar

(a) may suspend a licence where the licensee

(i) fails to comply with a condition specified in the licence;

(ii) is convicted of an offence specified in section 26 other than in paragraph (a), (e) or (g) of that section;

(b) shall revoke a licence where a licensee

- (i) is convicted of an offence specified in paragraph (a), (e) or (g) of section 26;
- (ii) fails to collect the travel tax required to be collected by the *Travel Ticket Tax Act* or to pay the amounts collected to the Commissioner within the time prescribed by that Act;
- (iii) whose licence has been suspended fails, by the expiry of the period of suspension, to remedy the matter that led to the suspension.

(2) Where the Registrar decides to suspend a licence, the Registrar shall give to the licensee 14 days notice in writing that the licence is to be suspended unless the licensee can satisfy the Registrar that there are good and substantial reasons why the licence should not be suspended.

(3) Where after the expiry of the notice referred to in subsection (2) the licensee fails to satisfy the Registrar that the suspension should not be effected, the Registrar shall suspend the licence.

(4) The Registrar shall, in writing, give a person whose licence has been suspended or revoked the reason for the suspension or revocation.

24. The Registrar may, on application made to him in such form as he approves, and on payment to him of the prescribed fee, vary a licence issued under this Act to permit the holder of the licence to operate other travel services than those to which the original licence related. Variation
of licence.

25. A person aggrieved by a decision of the Registrar may appeal to a committee appointed by the Minister for the purpose, or to a tribunal established by law to hear appeals. Appeals.

- Offences. **26.** (1) A person is guilty of an offence who
- (a) makes a false statement on application for the purpose of obtaining a licence;
- 2005-2. (b) carries on the business of a travel agent or tour operator without obtaining a licence to do so;
- (c) falsely advertises or makes use of any advertisement that he knows is false;
 - (d) fails to display his licence in a conspicuous position at his place of business;
 - (e) obstructs the Registrar or a person authorised by him in the performance of his functions;
 - (f) fails to carry out any instructions given by the Registrar under this Act or the regulations;
 - (g) by the offer of any gratuity, bribe or other inducement prevents or attempts to prevent the Registrar or a person authorised by him from carrying out his functions; or
 - (h) contravenes any other provision of this Act or the regulations.
- (2) A person guilty of an offence under subsection (1) is liable,
- (a) in the case of paragraphs (a) to (c) and (e) to (h), to a fine of \$5 000, or to imprisonment for a term of 12 months, or to both;
 - (b) in the case of paragraph (d), to a fine of \$2 500, or to imprisonment for a term of 6 months, or to both; and
 - (c) in the case of a continuing offence under paragraph (b), (c), (d), (f), or (h) to a fine of \$200 for each day the offence continues after the day on which a conviction was first obtained.

(3) Subsection (1)(h) is not applicable if the act complained of has not been forbidden or required to be done otherwise than by use of the imperative auxiliary “shall”, or it is otherwise inconsistent with the purpose of this Act that the act is regarded as an offence.

- 27.** The Minister may make regulations Regulations.
- (a) prescribing the conditions for the grant of licences;
 - (b) prescribing the method of the providing of security by travel agents and tour operators; 2005-2.
 - (c) prescribing the different categories of travel agents and tour operators; 2005-2.
 - (d) prescribing the manner of keeping of accounts by travel agents or tour operators; 2005-2.
 - (e) regulating the publication of advertisement material in Barbados and abroad;
 - (f) prohibiting the carrying on of any specified trade, profession or calling on premises where the business of a travel agent or a tour operator is carried on; 2005-2.
 - (g) exempting from any provision of this Act any category of travel agent or tour operator; 2005-2.
 - (h) respecting any other matter that is necessary or appropriate for the proper administration of this Act; and
 - (i) prescribing anything that is by this Act authorised or required to be prescribed otherwise than by order.
- 28.** All moneys collected under this Act shall be paid into the Consolidated Fund. Disposal of funds.
- 29.** Registration under this Act operates as exemption from the operation of the *Profession, Trade and Business Registration Act*. Application of Cap. 373.