

THE TRAVEL AGENCIES REGULATION ACT

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THE TRAVEL AGENCIES REGULATION ACT

Law
46 of 1956.
Acts
26 of 1967,
42 of 1969
3rd Sch.
5 of 1974,
18 of 2011.

[29th September, 1956.]

1. This Act may be cited as the Travel Agencies Regulation Act. Short title.

2. In this Act—

Interpreta-
tion.

“the appointed day” means the day declared under section 3 to be the appointed day for the purposes of this Act;

“the general agents in this Island of any steamship or aircraft company or firm” means the agents who have authority to act in Jamaica for such steamship or aircraft company or firm in all matters concerning the business carried on in Jamaica by such steamship or aircraft company or firm in connection with shipping or, as the case may be, with air transport services; 26/1967
S. 2 (a).

“Inspector” means an Inspector of Travel Agencies appointed under section 4;

“the proprietor of a travel agency” means the person by whom or on whose behalf the travel agency is being or is to be operated;

“the Register” means the Register of Travel Agencies kept under the authority of this Act;

“registered” means registered under this Act and “registration” shall be construed accordingly;

“the Registrar” means the Registrar of Travel Agencies appointed under section 4;

“travel agency” means an establishment in which is carried on the business of arranging, at the request and on behalf of persons proposing to travel from this Island by sea or by air, for the provision of passages for such persons by any steamship or aircraft company or firm or by the general agents in this Island of any steamship or aircraft company or firm; but does not include any such steamship or aircraft company or firm or the general agents in this Island of any steamship or aircraft company or firm, so far as the provision of passages by such company or firm is concerned.

26/1967
S. 2 (b).

All travel agencies to be registered from the appointed day.

3.—(1) The Minister shall by order declare a day, not being earlier than six weeks after the date of the order, to be the appointed day* for the purposes of this Act.

(2) From and after the appointed day no person shall operate or be concerned in the operation of a travel agency, whether or not it was in existence before that day, unless it is registered.

18/2011
S. 2.

(3) Any person who contravenes the provisions of subsection (2) shall be liable, on summary conviction before a Resident Magistrate, to imprisonment for a term not exceeding twelve months or to a fine not exceeding one million dollars, or to both such fine and imprisonment.

*By L.N. 254/1958 the Minister declared the 2nd February, 1959 to be the appointed day.

(4) Where a company is guilty of a contravention of the provisions of subsection (2), every director, manager, agent and officer of the company in this Island who is knowingly a party to the contravention shall be liable to the penalties prescribed by subsection (3).

4.—(1) The Minister shall appoint an officer of the Ministry to be the Registrar of Travel Agencies and such number of other officers of the Ministry as he may consider necessary to be Inspectors of Travel Agencies.

Appoint-
ment of
Registrar
and Inspec-
tors of
Travel
Agencies.
5/1974
S. 2.

(2) The Minister shall furnish the Registrar and every Inspector with a certificate of appointment.

5.—(1) The Registrar shall keep a register, to be known as the Register of Travel Agencies, in such form and manner and containing such particulars as may be prescribed.

Register of
Travel
Agencies.

(2) Whenever the Registrar is satisfied that there is any error in the Register, or any omission therefrom, he shall forthwith rectify the error or omission.

(3) The Register shall be open to inspection by any member of the public at any reasonable time upon payment of the prescribed fee.

(4) A list containing the names and addresses of all travel agencies appearing in the Register and of the proprietors thereof shall be published in the *Gazette* as soon as may be after the appointed day and thereafter in the month of January in each year, and additions to or alterations in the list shall be published from time to time.

6.—(1) If any person proposes to operate or to continue to operate a travel agency on or after the appointed day he shall apply to the Registrar for registration thereof.

Application
for regis-
tration.

(2) Every application under subsection (1) shall be in such form and shall contain such particulars as may be prescribed.

Duty of Registrar to examine application and inspect premises.

7.—(1) The Registrar shall, as soon as practicable after receiving an application under section 6, examine the application.

(2) If he is satisfied that the application is in order, he shall give notice in writing to the applicant of his intention to visit the premises on which the travel agency in respect of which the application is made is being or is to be operated, for the purpose of carrying out an inspection thereof on the date and at the hour mentioned in the notice.

(3) The Registrar shall visit the premises on the date and at the hour mentioned in the notice, for the purpose of carrying out the inspection, unless the applicant and the Registrar agree that the inspection should take place at some other time.

Powers of Registrar on any inspection under section 7—
duty to produce certificate of appointment.

8.—(1) The Registrar may, for the purpose of carrying out an inspection under section 7—

- (a) enter and examine the premises on which the travel agency in respect of which the application is made is being or is to be operated;
- (b) request any person on the premises to produce for his examination any books, records, vouchers, and other documents in his custody which may contain information that he reasonably believes will assist him in arriving at a decision as to whether the travel agency in respect of which the application is made should be registered or not;
- (c) make copies of, and extracts from, any books, records, vouchers or documents produced to him during the course of the inspection;

(d) put to any person on the premises any questions relating to the application for registration or to the affairs of the travel agency if he reasonably believes that any information which will assist him in arriving at a decision as to whether the travel agency should be registered or not may be so obtained.

(2) The Registrar shall produce his certificate of appointment to any person on the premises reasonably requiring him to do so.

9. The Registrar, after inspecting the premises on which the travel agency is being or is to be operated, shall consider the application for registration thereof, and shall, subject to the provisions of section 10, either grant or refuse the application and in the event of refusal shall notify the applicant in writing the grounds of such refusal.

Registrar to consider application and either grant or refuse the same.

10. The Registrar shall not grant any application for registration of a travel agency unless—

Special conditions precedent to grant of application for registration.

(a) the proprietor of the travel agency furnishes him, in such form and manner as may be prescribed, with—

- (i) evidence of his good character and integrity or in the case of a company evidence of the good character and integrity of its Directors;
- (ii) evidence of his financial ability to operate the travel agency;
- (iii) a bond, with surety, in the prescribed amount, entered into by him as a guarantee of his financial ability to operate the travel agency and to meet and satisfy any claims for the refund of passage money paid into the travel agency;

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(iv) bonds, with surety, in the prescribed amount, entered into by such members of the staff of the travel agency and by such agents of the proprietor thereof, as the Registrar may determine with the approval of the Minister, as a guarantee of their honesty and fidelity in carrying out their duties in connection with the operations of the travel agency;

(b) the proprietor of the travel agency has a supply of such books, records, vouchers and other documents as may be prescribed;

(c) the prescribed fee has been paid.

Registrar to inform applicant of his decision.

11. The Registrar shall, as soon as practicable, inform the applicant by registered letter of his decision to grant or refuse the application.

Registration of travel agency and issue of certificate of registration.

12. Whenever the Registrar grants an application for registration of a travel agency he shall enter that agency in the Register and issue a certificate of registration in the prescribed form to the proprietor.

Duty of proprietor to exhibit certificate of registration in conspicuous place.

13. The proprietor of a registered travel agency shall, while the certificate of registration remains valid, exhibit the same in a conspicuous place in the travel agency.

Power of Registrar and of Inspectors to inspect travel agency at any time.

14. Every travel agency shall be subject to inspection at any reasonable time by the Registrar or by an Inspector.

- 15.—(1)** The Registrar and every Inspector may, for the purpose of carrying out an inspection under section 14—
- (a) enter and examine the premises on which the travel agency is being operated;
 - (b) request any person on the premises to produce for examination any books, records, vouchers and other documents in his custody which may contain information that he reasonably believes will assist him in ascertaining whether or not the travel agency is being operated honestly and efficiently;
 - (c) make copies of and extracts from, or impound, any books, records, vouchers or documents produced during the course of the inspection;
 - (d) put to any person on the premises any questions relating to the operations or affairs of the travel agency if he reasonably believes that any information which will assist him in ascertaining whether or not the travel agency is being operated honestly and efficiently may be so obtained.

Powers of Registrar and of Inspectors for the purpose of an inspection under section 14—duty to produce certificate of appointment.

(2) The Registrar or any Inspector carrying out an inspection under section 14 shall produce his certificate of appointment to any person on the premises reasonably requiring him to do so.

16.—(1) The Registrar may, by registered letter addressed to the proprietor of any travel agency, request the proprietor to give to him within such reasonable time as may be specified in the letter, such information and particulars with respect to the operations and affairs of the travel agency as the Registrar may consider necessary.

Power of Registrar to require information by registered letter.

(2) The information and particulars which the Registrar may require under subsection (1) include information and particulars relating to the terms and conditions of

any agreement entered into by or on behalf of the proprietor of a travel agency with any steamship or aircraft company or firm with respect to the provision in any ship or aircraft of passages for persons of any description.

Cancellation
of registra-
tion of travel
agency.

17.—(1) The Registrar shall cancel the registration of a travel agency—

- (a) if the proprietor is convicted of a criminal offence involving fraud or dishonesty; or
- (b) if the proprietor fails to comply with the provisions of section 21; or
- (c) if the proprietor becomes bankrupt or if the proprietor being a Company is unable to pay its debts; or
- (d) if any bond furnished under section 10 by the proprietor on his own behalf or on behalf of any member of the staff of the travel agency or any agent of the proprietor has ceased to be valid and has not been replaced within a reasonable time by a similar valid bond in the prescribed amount; or
- (e) if the proprietor fails to comply with the provisions of section 20; or
- (f) if the proprietor of the travel agency fails to keep the prescribed books, records, vouchers and other documents; or
- (g) if the prescribed fee for registration has not been paid in respect of any period for which it is due and the proprietor fails to pay such fee upon demand by the Registrar; or
- (h) if the form, substance or tenor of any advertisement or information issued or given by the proprietor or operator of a travel agency or by any person acting on behalf of such proprietor

or operator is calculated to deceive persons as regards—

- (i) the availability of accommodation on any ship or aircraft on a particular date or at a particular time;
- (ii) the type of accommodation available on any ship or aircraft;
- (iii) conditions of passage on any ship or aircraft;
- (iv) the amount of passage money to be paid for any particular type of accommodation.

(2) If the Registrar proposes to cancel the registration of a travel agency he shall inform the proprietor by registered letter that he proposes to do so stating his grounds and he shall give the proprietor an opportunity to be heard.

(3) If the Registrar finally decides to cancel the registration of the travel agency he shall inform the proprietor by registered letter of his decision and by the same letter request the proprietor to return the certificate of registration of the travel agency to him.

(4) The Registrar shall, subject to the provisions of section 18, give effect to his decision to cancel the registration of the travel agency by making an appropriate note in the Register.

18.—(1) Any person aggrieved by a decision of the Registrar to grant or refuse registration of a travel agency or to cancel the registration of a travel agency may, within twenty-one days after the date on which he is informed by registered letter of the Registrar's decision, appeal against the decision to a Judge in Chambers who shall

Appeals.

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give such directions in the matter as he shall think proper, including a direction as to the costs of the appeal, and the order of the Judge shall be final and conclusive and not subject to any further right of appeal.

(2) The proprietor of a travel agency the registration of which the Registrar has finally decided to cancel under subsection (3) of section 17 shall not be obliged to return the certificate of registration of such travel agency to the Registrar nor shall the Registrar cancel the registration of the travel agency under subsection (4) of section 17 until—

- (a) the period of twenty-one days referred to in subsection (1) of this section has expired without an appeal being lodged within that period; or
- (b) the appeal is dismissed, if an appeal has been lodged.

(3) For the purpose of any appeal under this section the proceedings may be brought against the Registrar and the practice and procedure governing such appeals shall be in accordance with rules of court made for the purpose under subsection (4).

(4) Rules of court may be made regulating appeals under this Act and all matters incidental thereto.

Effect of
notification
by registered
letter.

19. An aggrieved person shall be deemed to be informed of the decision of the Registrar to grant or refuse registration to a travel agency, or to cancel the registration of a travel agency, at the time at which a registered letter addressed to him and containing the decision of the Registrar would be delivered to him in the ordinary course of post, until the contrary is proved.

Audit of
accounts of
registered
travel
agencies.

20.—(1) The accounts of every registered travel agency shall be audited annually by an auditor selected by the proprietor of the travel agency and approved by the Registrar.

(2) The proprietor of the travel agency shall, within four months after the 31st day of December in each year or within such further time as the Registrar may in special circumstances allow, furnish the Registrar with a copy of the auditor's report.

21.—(1) The proprietor of a travel agency shall, as soon as possible after the making thereof, forward to the Registrar an accurate record or copy of the terms and conditions of every agreement entered into by him or on his behalf with any steamship or aircraft company or firm with respect to the provision in any ship or aircraft of passages for emigrant workers.

Emigrant
workers.

(2) The expression "emigrant workers" in subsection (1) means persons proposing to travel from this Island in search of employment abroad.

22. Every person who—

(a) assaults or obstructs the Registrar, or any Inspector, while the Registrar or Inspector is acting pursuant to any power vested in him by this Act; or

Miscellaneous
offences.

(b) without reasonable cause or excuse, fails—

(i) to comply with any request made by the Registrar under paragraph (b) of subsection (1) of section 8; or

(ii) to answer any question put to him by the Registrar under paragraph (d) of subsection (1) of section 8; or

(iii) to comply with the provisions of section 13; or

(iv) to comply with any request made by the Registrar or an Inspector under paragraph (b) of subsection (1) of section 15; or

(v) to answer any question put to him by the Registrar or by an Inspector under paragraph (d) of subsection (1) of section 15; or

(vi) to comply with any request made by the Registrar under section 16; or

- (vii) to comply with a request of the Registrar under subsection (3) of section 17 to return a certificate of registration,

shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding one million dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

18/2011
S. 3.

Power of
Minister to
amend monetary
penalty by
Order.
18/2011
S. 4.

22A. The Minister may, by order subject to affirmative resolution, amend any monetary penalty prescribed by this Act.

Regulations.

23.—(1) The Minister may make regulations—

- (a) in regard to any matter which this Act requires to be prescribed;
- (b) providing for the payment of fees for registration on an annual, half-yearly or quarterly basis;
- (c) with respect to the system of accounting to be used by registered travel agencies;
- (d) prohibiting the carrying on of any specified profession, trade, calling or occupation on any premises on which a registered travel agency is being operated;
- (e) specifying what proportion, if any, of passage-money should be paid to a travel agency as a deposit or advance pending the arrival of any ship or aircraft on which passages are being booked and how such deposits should be kept and secured;
- (f) generally for the better carrying out of the objects and purposes of this Act.

42/1969
3rd Sch.

(2) All regulations made under subsection (1) shall be subject to negative resolution.

18/2011
S. 5.

(3) Notwithstanding section 29(b) of the *Interpretation Act*, regulations made under this section may provide in respect of a breach of any of the provisions thereof for the imposition of penalties of a fine not exceeding five hundred thousand dollars or imprisonment for a term not exceeding six months, or of both such fine and imprisonment.