

## **Explanation of the measures entering into force on August 1, 2018**

**Act mainly to modernize rules relating to consumer credit and to regulate debt settlement service contracts, high-cost credit contracts and loyalty programs and its regulations**

### **Travel Agents**

#### **Compensation Fund for Customers of Travel Agents: improved compensation**

The Fund now reimburses tourism services for which travellers are unable to benefit due to reasons beyond their control, such as:

- an event that would clearly (predictably) prevent a provider from performing the services paid to a travel agency. This could be the case, for example, during a natural disaster (major hurricane, volcano eruption, etc.), or a political or military crisis (coup d'état, terrorist act, etc.);
- an official warning issued by the Canadian government, after the purchase of travel services, that recommends avoiding all travel or all non-essential travel to the destination;
- a service that is not provided in accordance with what was expected and deprives the traveller of another service for which he paid the travel agency. E.g.: a flight delay that would cause a traveller to miss a cruise departure.

Travellers can obtain a reimbursement when they are unable to benefit from the services for which they paid because a supplier failed to provide the services or due to a reason beyond the travellers' control. Depending on the circumstances, the Fund may now reimburse them for:

- reasonable amounts spent for replacement tourist services;
- if applicable, expenses paid for meals and lodging, up to a maximum of \$200 per day, per person.

Lastly, the Fund pays the amount awarded in a judgment rendered by a court to compensate for moral damages, up to a maximum of \$500. This could involve damages awarded for a long wait at the airport due to a cancelled flight, for example.

#### *Examples of situations that could now be covered*

- A traveller buys an all-inclusive package to Jamaica at a travel agency. Two days before the departure, a category 5 hurricane is predicted to hit the island. The Fund may reimburse the amount paid for the package.
- A traveller purchases a round-trip flight to Venezuela at a travel agency. The day of departure, the Canadian government issues a warning that recommends avoiding all non-essential travel there. The cost of the air ticket could be reimbursed by the Fund.

- A traveller makes a reservation through a travel agency for a hotel in the Greek islands at a cost of \$250 per night. Upon arrival, the hotel is closed; the staff is on strike. The traveller is housed at a hotel nearby, where the rate is \$280 per night. The Fund will reimburse the traveller the amount spent for the replacement hotel.
- A traveller purchases a Montréal-New York flight at a travel agency. At the scheduled time of departure from New York, a snow storm grounds the planes for two days. The flight is cancelled. The traveller spends \$375 for food and lodging while waiting for another return flight. The amount will be reimbursed by the Fund.

The reasonableness of the costs claimed is assessed before any reimbursement is made. The fact that the claimant cannot profit unjustifiably is especially taken into consideration.

### **Compensation Fund for Customers of Travel Agents: reimbursement timeframe**

The six-month period prior to any reimbursement by the Fund has been eliminated.

#### *Clarification*

Travellers are compensated after their application has been processed.

### **Compensation Fund for Customers of Travel Agents: reimbursement ceiling**

The total that can be paid to travellers affected by the same event has increased. It has been set at a maximum of 60% of the value of the Fund on the preceding March 31.

#### *Example*

A major situation, such as the closure of a travel agency, affects a large number of travellers. The value of the Fund was \$130M on March 31 before the agency closed. Up to \$78M could be used to compensate those travellers.

### **Travel agents: payment of duties upon renewal**

Travel agents must pay the duties associated with their licence when they submit their renewal form to the Office de la protection du consommateur, i.e., no later than two months before the licence expires.

#### *Note:*

Duties will be increased by 50% for any payment that the Office de la protection du consommateur does not receive at least two months before the licence's expiration. An online payment made after that date or a postdated cheque cashable after that date will be deemed not to have been received.

### **Travel agents: surety**

Travel agents can provide a surety via a fund transfer to the account of the president of the Office de la protection du consommateur.

## **Travel agents: producing interim financial statements**

Some travel agents had been required to submit interim financial statements that included trust account status to the Office de la protection du consommateur. They no longer need to do this. Instead, these documents will be required upon request.

## **Travel agents: travel counsellors employed**

Travel agents must keep an up-to-date list of the travel counsellors they employ, or with whom they have signed an exclusive service contract. Each counsellor's name, certificate number and its expiry date must now be included on the list.

When a travel counsellor is no longer employed by the travel agent or no longer has an exclusive contract with the travel agent, the travel agent must inform the Office de la protection du consommateur within five days following the termination of the employment or contract. To do this, the travel agent can use the online Permit Management service (Gestion du permis en ligne) or contact the Office by phone.

## **Travel agents: obligation to employ a certificate holder**

Travel agents do not have the right to employ travel counsellors who do not have a valid certificate or to sign an exclusive service contract with them.

## **Travel agents: remittance of contributions to the Compensation Fund for Customers of Travel Agents**

Travel agents will no longer be required to collect the contribution to the Fund from their customers starting January 1, 2019 (for more details, see the information on the measures effective January 1, 2019).

For their remaining remittances, travel agents will pay a penalty not only in cases of late payment but also if they fail to submit a report to the Office de la protection du consommateur by the prescribed deadline indicating their customers' contribution to the Fund.

The Office deems this report to be filed when it receives:

- the completed and signed form entitled "Remise de la contribution au Fonds d'indemnisation des clients des agents de voyages" (remittance of the contribution to the Compensation Fund for Customers of Travel Agents);
- the information via the online Permit Management service (Gestion du permis en ligne).

## **Travel agents: exceptions**

The following are not required to hold a travel agent licence or comply with the Travel Agents Act:

- tour guides who offer services lasting one day or less;
- individuals who offer local tourist excursions lasting one day or less;

- educational institutions or instructors that organize travel in Québec for their students lasting three days or less (72 hours or less), if the only benefit the instructor receives is participating in the trip.

### **Travel agency managers: ceasing operations**

Travel agency managers who no longer perform managerial activities (their employment relationship with an agency has been severed) retain their certificates for two years. They must renew their certificate if it expires during that period.

Managers can therefore go back to work during the two-year period. They must provide the Office de la protection du consommateur with information on the agency where they work via the online Travel Counsellor Certification Management service.

If, after two years, a manager has no employment relationship, the certificate is no longer valid. At that point, if managers want to go back to work, they must pass the travel agency manager exam again and apply for a new certificate.

### **Travel counsellors: power of the president of the Office de la protection du consommateur**

If the president has reason to believe that a travel counsellor is not carrying out his activities in an honest and competent manner, the certificate may be suspended or canceled, or issuance or renewal may be denied.

#### *Clarification*

The president may also suspend, cancel, or refuse to issue or renew a travel agent's certificate in other situations already provided for in the regulation.

### **Travel counsellors: ceasing operations**

The travel counsellor certificate is suspended if travel counsellors no longer perform activities linked to travel sales (they no longer have an employment relationship or exclusive service contract with an agency). They can no longer operate, but they retain their certificate for two years.

They must renew their certificate if it expires during that period. This will enable them to go back to work during the two-year period, in which case they must inform the Office de la protection du consommateur of the agency where they work via the online Travel Counsellor Certification Management service.

The certificate is no longer valid after it has been suspended for two years. At that point, if counsellors want to go back to work they must pass the travel counsellor exam again and apply for a new certificate.

**Outfitters: employee travel counsellor certificate**

Outfitters who hold a restricted licence can enter into an agreement with travel agents who hold a general licence to sell their packages. Employees of such outfitters can now sell packages on behalf of travel agents without having a travel counsellor certificate.

**Outfitters: trust accounts**

If outfitters provide additional surety, they are not required to deposit the sums paid to them by their customers into a trust account. The surety amount is based on the amount of sales appearing on the certificate provided to the Office de la protection du consommateur when they apply for or renew the licence.

Sales amount	Surety
\$0.5M or less	\$40,000
\$2M or less	\$80,000
\$5M or less	\$120,000
Over \$5M	\$160,000

Outfitters that provide this additional surety are not required to mention on the receipts they issue to customers that the sums are deposited into a trust account.