



# Laws and Regulations Applicable to **THE TRAVEL INDUSTRY**

Study Guide for  
Travel Agents and Counsellors

INSTITUT DE TOURISME ET D'HÔTELLERIE DU QUÉBEC (ITHQ)



2<sup>nd</sup> Edition



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**THE TRAVEL INDUSTRY**

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**2<sup>nd</sup> Edition**

**Laws and Regulations Applicable to the Travel Industry:  
Textbook for Travel Professionals**

Centre d'expertise et de recherche en hôtellerie et restauration

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# FIRST FOREWORD

One of the mandates of the ITHQ's *Centre d'expertise et de recherche en hôtellerie et restauration* was the publication of this study guide intended for travel professionals, entrusted to it by the *Office de la protection du consommateur* (OPC).

This publication is the outcome of our initial collaboration with the OPC and it represents an accomplishment of which the Institut can be proud. The ITHQ has strengthened its standing as a developer of training and certification services using information technologies.

Through the internet, travel industry professionals now have access to crucial information related to their field regardless of their location in Quebec.

The Guide is therefore perfectly suited to the industry's current needs: it provides a compilation of information on legislative and regulatory components pertaining to this sector of economic activity, as well as on travel agency management, all the more useful considering that the regulation making the examination compulsory for all travel agents and counsellors has been in force since 2010.

Laws and Regulations Applicable to the Travel Industry: Study Guide for Travel Agents and Counsellors is an essential pedagogical aid for all instructors, whether at training institutions or business consultation workshops, or in a context of online learning. It is also an excellent reference manual for all professionals working in the travel industry.

Finally, I would like to thank the authors, Nathalie Gilbert and Isabelle Proulx, tourism management professors, for their outstanding work.

## **Liza Frulla**

General Director

*Institut de tourisme et d'hôtellerie du Québec*



## SECOND FOREWORD

The *Office de la protection du consommateur* is proud to continue its collaboration with the Institut de tourisme et d'hôtellerie du Québec in presenting the second edition of this study guide for travel industry professionals.

The guide, which has been improved thanks to the valuable comments of members of the industry from the Travel Agents Advisory Committee, contains a wealth of information on your obligations and responsibilities relative to the sale of tourism services, in particular the rules governing the forms of advertising allowed, the pricing of tourism products, contracts concluded online, and the Compensation Fund for Customers of Travel Agents.

Whether you wish to obtain or renew your certificate, you will find in these pages all the tools required to prepare for the examination on the Act and Regulations governing the sale of tourism services and to fully ensure the protection of travelers.

I am confident that once you have passed the examination, the guide will be very useful to you in your professional activities. I invite you to refer to it on a regular basis.

Enjoy your reading!

**Ginette Galarneau**

President

*Office de la protection du consommateur*



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# A WORD FROM THE AUTHORS

This textbook<sup>1</sup>, now at its second edition, is intended as a reference guide for matters relating to your everyday duties. It will also help you to prepare for the mandatory examination administered by the *Institut de tourisme et d'hôtellerie du Québec* (ITHQ), leading to the certification of travel agents and counsellors. In preparing this guide, the first of its kind in Quebec, our primary concern was to make it helpful and easily understandable. As unexpected as this may be, laws and regulations are actually explained in simple and straightforward terms. Throughout the guide, the text is addressed directly to you. For example, your current or upcoming workplace practices are challenged with evaluation grids. To ensure a direct link between your practices and the rules to be respected, topics are presented in chronological order, from the start of commercial activities of the travel agency to the closing of a customer's file. Regardless of how they are numbered, topics may be read in any order. If prior knowledge of a topic is required, you will be automatically redirected to the topic concerned. In order to simplify the content and focus on key areas, case law and obligations applicable to restricted licence holders are not covered.

## Guide features

This guide is made up of two modules. The first is ***Operating a travel agency: responsibilities and obligations***, followed by ***Dealing with customers: responsibilities and obligations***. Each module-integrated theme is presented in the same manner, thereby making the information easier to assimilate and quicker to locate. Moreover, this second edition introduces a new feature, i.e. clearly identified sections intended exclusively for travel agency managers. As such, certain specific parts of the manual are marked “**Manager**.” This indicates to readers that only managers will be questioned about this aspect of the manual during the examination. Therefore, for each theme, first come the learning objectives, which are reviewed at the end by a **test yourself exercise** allowing you to assess your level of learning. On the first page, the right-hand column identifies the sections of the Travel Agents **Act** or the **Regulation** respecting travel agents that the topic addresses more specifically. The initial **context**, subsequently referred to in the topic section, is the starting point enabling you to familiarize yourself with the content. This background information is also used to **test your knowledge** and then check your score against the **answers** provided at the end of each topic section. In addition to encountering **tables**, **figures**, and **examples**, during your reading you will come across highlighted keywords that are listed in the **glossary** and you will be referred to **appendices**.

<sup>1</sup> Research for this publication is current as of June 1, 2018.

## Supplementary materials

This guide would be incomplete if not read with reference to the Travel Agents Act and the Regulation respecting travel agents. We recommend printing these documents, the full texts of which are available via the following links:

- <http://legisquebec.gouv.qc.ca/en/ShowDoc/cs/A-10>
- <http://legisquebec.gouv.qc.ca/en/ShowDoc/cr/A-10,%20r.%201>

These official reference documents will enable you to do the exercises and suggested readings at the end of each topic. This will facilitate your study for certification.

## Acknowledgments

Preparing a guide is no small matter. Taking on such a task requires a dash of daring and, above all, the trust of those who granted us this privilege, most notably François Therrien, Director of the Centre d'expertise of the ITHQ, whom we thank for the latitude he allowed us throughout the project. We also extend our thanks to the members of the reading committee whose insightful comments in line with their respective areas of expertise improved the quality of this book. Topic reviews were provided by

- Jocelyne Hamel, Professor, Tourism Techniques, Collège Montmorency
- Louis Jolin, Professor, Department of Urban Studies and Tourism, Université du Québec à Montréal
- Benoît Legault, Tourism Journalist, regular contributor to *Le Devoir*, the *Ulysse* guides, and *L'Express* de Toronto
- M<sup>e</sup> Jean-Louis Renaud, Allard, Renaud et associés, *Office de la protection du consommateur* (OPC), Legal Affairs

The second edition was carefully reviewed, in particular by the following members of the OPC staff:

- Marie-Josée Boutin, Director, Department of Licencing and Indemnity
- Denys Robitaille, Licencing Analyst
- Thorn Néo, Licencing Analyst
- Nathalie Racette, Licencing Analyst
- Marie Simian, Consumer Protection Officer
- Nicole Legault, Analysis Centre Supervisor
- M<sup>e</sup> Michèle Milhomme-Drouin, Allard, Simard et associés, Legal Affairs

We wish to thank them warmly.

Finally, we are grateful to Marquis Interscript for their valuable collaboration and skill in creating a graphic presentation that reflects our pedagogical intent.

Nathalie Gilbert and Isabelle Proulx,  
Professors, Tourism Management

# TOPIC OUTLINE

## AT THE END OF THIS TOPIC

Outlines the learning goals targeted by the topic

## CONTEXT or BACKGROUND

Introductory explanation of learning objectives and realities of the travel industry

## DID YOU KNOW THAT

Emphasizes specific information

# 3 OPERATING WITH A LICENCE

### By the end of this section, you will be able to

- Identify the intended users of a travel agency licence
- Differentiate the various types of travel agent licences
- Distinguish the required procedures for obtaining or renewing a general licence
- Complete a licence application
- Understand the grounds and types of recourse available in the event of a licence refusal, suspension, or cancellation
- Demonstrate your knowledge of the penalties and offences associated with failure to comply with the Act
- Explain the legal liability associated with performing the duties of a travel agent

A travel agent licence or travel counsellor certificate must be obtained in order to operate a business that organizes travel and sells tourist products and services. This section looks at the conditions, obligations, and procedures involved in the issuing and renewal of a general or restricted licence, the reasons for a licence suspension or cancellation, as well as the penalties and types of recourse following an offence.

Before beginning your reading, let's test your knowledge of this topic.

### Context

Mr. Fortunato has long loved his career as a travel counsellor. At a certain point in his life, he decided to own and operate his own travel agency to achieve his goal. He seized the opportunity proposed by the employees of the Four Suns Agency, offering to sell him the company's assets. Mr. Fortunato is now starting the process of becoming a travel agency owner. Can you help him?

This section refers to the following obligations and conditions:

- Act**
- Division 8 – Licences and certificates (ss. 4 to 11.7)
  - Division 9 – Suspension, cancellation, or refusal to issue or renew licences, proceeding before the Tribunal administratif du Québec (ss. 12 to 13.2)
  - Division 10 – Professional administration (ss. 14.14.1, 14.2 and 14.9)
  - Division 11 – Obligations of a travel agent (s. 27)
  - Division 12 – Inspection (s. 35.7)
  - Division 13 – Penal provisions (ss. 40 and 40.7)
- Regulation**
- Division 12.2 – Operation of an establishment of home (s. 11.10)
  - Division 13 – Obligations of travel agents (ss. 12 and 13.7)
  - Division 14 – Classes of travel agent licences (s. 2)
  - Division 15 – Licence (ss. 4 to 11, except for 8.1)
  - Division 16 – Travel counsellors (s. 17.7)

## THIS TOPIC REFERS TO

Designates which sections of the Travel Agent Act or Regulation are covered by the topic

## TEST YOUR KNOWLEDGE

Evaluates your initial knowledge and introduces you to the topic

### Test your knowledge

- True or false?
- Mr. Fortunato must have a travel agent diploma from the Department of Education to apply for a general travel agent licence. \_\_\_\_\_
  - A person must be at least 18 years old to apply for a travel agent licence. \_\_\_\_\_
  - The Association des agents de voyages du Québec is the body authorizing Mr. Fortunato to apply for a travel agent licence. \_\_\_\_\_
  - A person must have acquired two years of full-time work experience as a travel counsellor to obtain a travel agent licence. \_\_\_\_\_
  - Mr. Fortunato can have his employer's licence transferred to him to continue operating the Four Suns Agency. \_\_\_\_\_
  - The general licence fee is calculated according to the number of employees working for the travel agency. \_\_\_\_\_
- Answers are found at the end of this section.

**Did you know that...**  
The Consumer Protection Act provides that in case of doubt or ambiguity, a contract must be interpreted in favour of the consumer. The conditions indicated by suppliers, whatever the medium used (internet, brochure, tablet, etc.), must therefore be clearly worded.

### Duty to inform

Raphael, a travel counsellor, has booked flights comprising "legal connectors" (not respecting obligatory intervals between two flights) although fully aware of the risks his customers were facing as a result. The carrier was not involved in the itinerary choice. Despite systematic refusals by the booking systems, Raphael kept after the supplier, insisting upon approval of the flight itinerary. As a result, his customers were refused boarding on a connecting flight, because their luggage had been delayed. Prudent and diligent professionals cannot ignore their responsibility to inform customers of the risks associated with such an itinerary. Customers can claim compensation from a travel agency due to its employee's incompetence and carelessness.

### 6.1.4 Compliance

Your duty to comply is associated with what is stipulated in the contract and what the customer receives in the context of consuming the product or service purchased. Special attention must be paid to commitments stipulated in the contract, on the website, or in the reference brochure of the product sold. Stating that a hotel is located "on the beach" when in fact a main road separates it from the beach, is valid grounds for the customer to bring proceedings against you!

### 6.1.5 Safety

Before agreeing to purchase a trip, your customers must be forewarned of situations that could compromise their safety. As a merchant, you must specify all known hazards that are in any way life-threatening or that could jeopardize travelers' health (e.g. avian flu epidemic) and security (e.g. riots).

### 6.2 SUPPLEMENTARY CUSTOMER PROTECTION

As explained in Topic 2, the Act provides three levels of customer protection: the **trust account**, the **individual security**, and the Travel Agency Customer Compensation Fund (FICAV). The latter can be used in cases such as agency closure, undelivered tourist services (transportation and accommodation, for example), and unavoidable repatriation. Two types of supplementary protection are also available.

## 3.1 THE ISSUING OF A LICENCE

### 3.1.1 Who needs a licence?

Does your job include leasing or booking accommodation and/or transportation services as well as organizing travel arrangements? Do you issue documents such as a **voucher** that travellers exchange for a prepaid product or service by sending notice to the **supplier**? If so, you are performing travel agent operations. Under the Act (c. 22.6.0), a travel agent is "a person, a partnership, or an association that, on account of a third party or on account of its members, engages in or offers to engage in or issues vouchers for or offers to issue vouchers for any of the following operations:

- "the booking or reservation of lodging accommodation" e.g. selling overnight stays in a hotel to your customers or those of another agency
- "the booking or reservation of transportation services" e.g. selling airplane tickets to your customers or those of another agency
- "the arranging of travel services" e.g. signing agreements with tourist product **suppliers** to plan and coordinate package trips or tours in order to **reimburse** your customers or those of another agency

Whether you perform any of these operations or all of them, the Travel Agents Act obliges you to have a travel agent licence issued by the president of the Office de la protection du consommateur (OPC). A single licence will be issued to you. If you operate more than one business **establishment**, you must ask for a duplicate for each additional establishment. The president remains the owner of the licence; he or she can therefore withdraw, cancel, or not renew the licence.

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## EXAMPLE

Illustrates the topic by using examples

## TERMS IN BOLD

Words that are found in the glossary

## MANAGERS

To differentiate the sections concerning the readers taking the exam for travel agency manager.

## TEST YOURSELF

Rates your level of proficiency on selected topics

### Fancyfree Agency Inc. PLEADS GUILTY

The *Office de la protection du consommateur* reports that Fancyfree Agency Inc. pleaded guilty to failing to remit its FICAV contribution to the OPC president within the prescribed time period (s. 40 Z.A.A.). The company will have to pay a penalty totaling \$1,260.

Fulfilling all of these responsibilities and obligations will ensure that your customers trust you as a reliable travel agent. Once you comply with the requirements outlined in this section, you can move forward in the process of obtaining a travel agency operating licence.

Now it's your turn to assess your knowledge of the material covered in this section.

| After reading this section, I am able to  | Never | Slightly | Partly | Mostly |
|---|-------|----------|--------|--------|
| 1. Define what individual security, trust account, and the Travel Agency Customer Compensation Fund (FICAV) are |       |          |        |        |
| 2. Understand the purpose of the various funds administered by travel agents                                    |       |          |        |        |
| 3. Provide individual security and determine the amount thereof   |       |          |        |        |
| 4. Apply the contribution amount to be collected for the Travel Agency Customer Compensation Fund (FICAV)       |       |          |        |        |
| 5. Produce accounting records   |       |          |        |        |
| 6. Cite the penalties regarding cases of non-compliance with the Act  |       |          |        |        |
| <b>Total</b>  |       |          |        |        |

Keep up the hard work! Review this topic or go on to the next section.

Topic 2 - Administering Funds - Unauthorized reproduction prohibited

### Answers Test your knowledge

- False.** Mr. Fortunato must present a travel agency manager certificate obtained less than five years ago to hold such a certificate. He must have passed a proficiency examination covering the legislative and regulatory provisions applicable to the travel industry and to the management of a travel agency (s. 6 (g) T.A.R.).
- True.** You must be of legal age (18 years old), whether the application is made for yourself or on behalf of any other individual, association, partnership or legal entity (s. 4 (A.A.).
- False.** It is the OPC president who issues the travel agent licence. An applicant must satisfy the conditions stipulated by the Act and its Regulation (s. 11 T.A.A.).
- False.** Holding a travel agency management certificate for less than 5 years is the only requirement (s. 4 (g) T.A.R.).
- False.** Mr. Fortunato is buying the assets of his employer, including the Four Suns Agency name, its furniture, the office lease, customer contracts, and more. In this case, he must apply for a licence since the agency is a new legal entity that will continue operations in order to apply for a licence transfer or a change of ownership. The Four Suns Agency must be an incorporated company. In that case, Mr. Fortunato would be able to purchase the proprietary equity, i.e. the assets and liabilities of the company, which would remain the same legal entity (s. 8.4 T.A.R.).
- False.** The number of employees does not influence the licence cost. The turnover appearing in the financial statements establishes the cost (s. 4 (g) T.A.R.).

Result: \_\_\_\_ / 6

### Supplementary readings and exercises

Answer the following questions by referring directly to the appropriate sections of the Travel Agents Act and Regulation (S.G. 4-5-2)

- Under what conditions does the Travel Agents Act not apply when the travel agent books a hotel room for a tourist? Answer: s. 11 (g) T.A.R.
- Explain why a travel agency sales representative does not require a travel counsellor certificate. Answer: s. 11 T.A.R.
- What is the amount required by the OPC to transfer a travel agent licence? Answer: s. 4 (e) T.A.R.
- Can the holder of a restricted licence sell an all-inclusive package in the Dominican Republic to a customer? Answer: s. 3 T.A.A.
- According to the Travel Agents Act, what is the maximum fine in case of a recurrent offence? Answer: s. 39 and 40 T.A.A.

## MANAGER

### Interim financial statements and trust account statement

Table 2.3

| Turnover                      | Submission deadline   |
|-------------------------------|---|
| Up to \$10 million            | No submission required  |
| Between \$10 and \$20 million | Within 45 days following the end of each HALF of the fiscal year    |
| More than \$20 million        | Within 45 days following the end of each QUARTER of the fiscal year |

## 2.5 PENALTIES AND OFFENCES

The Travel Agents Act and Regulation provide for fines in the case of specific violations. Your **penal liability** consists in submitting to a penalty as prescribed by the legislation. The following checklist allows you to assess your level of compliance and indicates the corresponding fines that you may be facing. The following checklist may serve as a reminder.

| Administration of funds  |           |               |                      |
|--|-----------|---------------|----------------------|
| Penal liability  | Compliant | Non-compliant | First offence        |
| Have you notified the OPC of the opening or closing of the trust account?                      |           |               | \$1,000 to \$40,000  |
| Did you deposit the money entrusted to you by the customer in a trust account?                 |           |               | \$2,000 to \$100,000 |
| Do you withdraw money from the trust account for situations specific to a particular customer? |           |               | \$2,000 to \$100,000 |
| Do you withdraw money from the trust account only by cheque, transfer or bank transfer?        |           |               | \$2,000 to \$100,000 |
| Do you withdraw from the trust account without exceeding the amount provided by your customer? |           |               | \$2,000 to \$100,000 |

## TABLE

Represents the information succinctly, in tabular form.

## CHECKLIST

Validates the compliance level of your work practices

## ANSWERS

"Test your knowledge" answer key

## SUPPLEMENTARY READINGS AND EXERCISES

Completes and further enhances your knowledge of covered topics

## ITALICS

Refers to a specific section of an act or regulation



# MODULE I

**OPERATING A TRAVEL AGENCY:**  
Responsibilities and Obligations



# 1 DEALING WITH THE RELEVANT LAWS AND AUTHORITIES

## By the end of this section, you will be able to

- Explain the role of the *Office de la protection du consommateur* in legislation affecting the travel industry
- Understand the fundamentals of the Travel Agents Act and the Regulation respecting travel agents
- See how the Civil Code of Québec and the Consumer Protection Act apply in the context of the travel industry
- Define certain basic legal terms appearing in the Act and Regulation

This first topic describes the role and responsibilities of the *Office de la protection du consommateur* (OPC), and the OPC president, who are the main players involved in implementing travel legislation. It also presents the main legal terminology used to help you deal with the acts and regulations applicable to the travel industry.

Before going any further, let's test your knowledge of this topic.

## Context

Excerpt from the indexation notice of required fees, effective May 1, 2017, presented by the *Office de la protection du consommateur*.

Published on February 4, 2017 in the *Gazette officielle du Québec*, Part 1, 149<sup>th</sup> year, No. 5, page 177.

"In accordance with the third subparagraph of section 4.1 of the Regulation respecting travel agents (*chapter A-10, r. 1*), the *Office de la protection du consommateur* hereby gives notice of the cost, effective May 1, 2017, of the fees required by paragraphs *a*, *b*, and *d* of the first subparagraph of section 4, section 11.5, and section 31.9 of this Regulation, following their indexation based on the rate of change of the general consumer price index for Canada, established for 2016 at 1.4% by Statistics Canada, namely:

- |                                       |       |
|---------------------------------------|-------|
| • General travel agent licence (s. 4) | \$903 |
| • General travel agent licence        |       |

This section refers to the following obligations and conditions:

## Act

- Division II – Licences and Certificates (*ss. 11 and 11.1*)
- Division III – Suspension, cancellation or refusal to issue or renew licences; proceeding before the Administrative Tribunal of Québec (*ss. 12 to 13.2*)
- Division III.1 – Provisional administration (*ss. 14 to 16*)
- Division V – Inspection (*ss. 34 to 35.2*)
- Division VI – Regulations (*s. 36*)
- Division VII – Penal provisions (*ss. 37 to 40.1*)
- Division VIII – Final provisions (*ss. 41.1 to 43*)

## Regulation

- Division IV – Licences (*ss. 5 to 10*)
- Division IV.1 – Travel Counsellors (*ss. 11.2, 11.4, 11.7, and 11.8*)
- Division X – Individual security and indemnity fund (*s. 28*)
- Division XI – Individual security (*ss. 32, 35.1, and 36*)
- Division XII – Indemnity Fund (*ss. 39.1, 43, 43.1, 43.2, 43.3, 43.4, 43.5, and 43.6*)
- Division XV – Penal (*ss. 46 and 47*)
- Division XVI – Advisory Committee (*ss. 48 to 57*)

|   |         |
|---|---------|
| • Renewal (s. 4, according to turnover)                   |         |
| – Up to \$0.5M  | \$339   |
| – Up to \$2M  | \$451   |
| – Up to \$5M  | \$621   |
| – Up to \$10M   | \$846   |
| – Up to \$20M   | \$1,128 |
| – More than \$20M   | \$1,467 |
| • Duplicate of licences per establishment Issuance (s. 4) | \$564   |
| • Duplicate of licences per establishment Renewal (s. 4)  | \$282   |
| • Travel counsellor certificate Issuance (s. 11.5)        | \$56    |
| • Travel counsellor certificate Renewal (s. 11.5)         | \$28    |
| • File opening (s. 31.9)                                  | \$282   |

## ? Test your knowledge

### True or false

1. Drafted in connection with an act of legislation, a regulation defines the application of that legislation. \_\_\_\_\_
2. Passed by the National Assembly, an act dictates the expected work behaviour in a given field. \_\_\_\_\_
3. The *Office de la protection du consommateur* is a private association of informed consumers that defends the rights of other consumers. \_\_\_\_\_
4. Companies selling tourism-related products and services in Quebec are subject to provisions of the Civil Code of Québec and the Consumer Protection Act. \_\_\_\_\_
5. Your clients can sue you in Small Claims Court for amounts over \$15,000. \_\_\_\_\_
6. Travel agents are formally consulted on amendments to the Travel Agents Act and the Regulation respecting travel agents. \_\_\_\_\_
7. A customer has 12 months to file a complaint with the court. \_\_\_\_\_
8. Among the legislation that is specifically relevant to you, four laws are implemented by the *Office de la protection du consommateur*. \_\_\_\_\_

Answer are found at the end of this section.

## 1.1 OFFICE DE LA PROTECTION DU CONSOMMATEUR

The *Office de la protection du consommateur* (OPC) is a public body that monitors in particular the application of the Act and the Regulation respecting travel agents.

### 1.1.1 What is its role?

#### Mission

The OPC was created in 1971 in order to protect consumers and thus promote a better balance of power between customers and merchants. This was when the Consumer Protection Act came into force in Quebec, and it has subsequently been subject to annual improvements. Since then, the mission of the OPC has been to enforce acts and regulations under its jurisdiction, in particular legislation pertaining to travel agents.

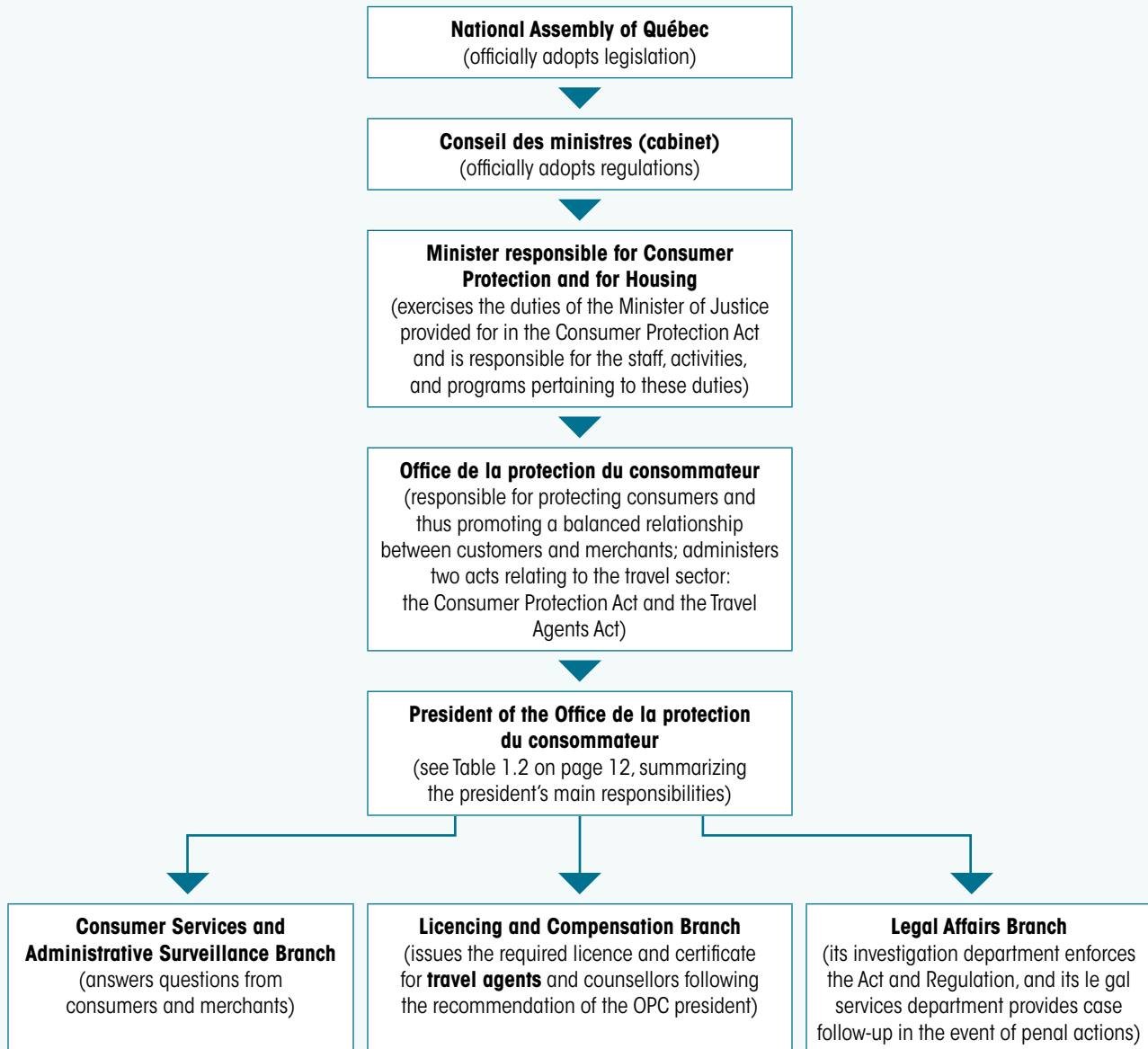
Its mission covers a broader range of aspects considering that the OPC “informs consumers collectively and individually, it educates consumers and receives their complaints.” The OPC also “fosters concerted action between players in the consumer market.” The distribution of informative publications or appearances at certain public events, such as travel fairs and tradeshow, reflect the mission of this public body.

The following figure summarizes the structure and responsibilities of the OPC as they relate to the travel sector.

#### ! Did you know that...

- An act is a written, general, and permanent rule of law, adopted by the National Assembly.
- A regulation is designed to ensure the implementation of an act and may not infringe it.

### Public bodies involved in the drafting and implementation of acts and regulations



## Mandates

The **mandates** of the OPC, presented in section 292 of the Consumer Protection Act, fall into four categories:

### Information and education

As a merchant, you may obtain answers to your queries concerning **obligations** associated with operating a travel agency (Module I of the guide) or transactions with customers (Module II of the guide). This information can be obtained by telephone or by consulting the OPC website at [www.opc.gouv.qc.ca/en](http://www.opc.gouv.qc.ca/en), where you will find useful information regarding consumer **rights** and **recourse** as well as merchant obligations.

The Office is visible in the media. Its spokesperson answers questions from journalists and gives interviews. Press releases and news items featuring consumer tips, warnings, or solutions to difficult situations, are published regularly to make information available to you and your customers. The Office may also conduct information campaigns on a targeted topic. Indeed, every year it can use \$250,000 or 5% of investment income, whichever is less, from the Travel Agency Customer Compensation Fund (FICAV) to set up information and education projects for customers of travel agents. These projects can include, for example, participating in a travel show or disseminating an advertisement in a travel-related magazine. Finally, its website offers educational materials for instructors.

### Supervision

The OPC plays an especially important role regarding travel agencies in Quebec. It issues licences to travel agencies and can withdraw any such licence in cases specifically stipulated by law. It also receives and handles certain complaints from consumers (in relation to operating without a licence, for example). After investigation, inspection, and audit, the OPC is the agency that undertakes whatever legal action is appropriate. The Legal Services Department of the OPC can file penal charges. The merchant has a period of 30 days to enter a plea. Where there is a **guilty plea**, the merchant must pay a fine and associated costs. If the accused party pleads not guilty, the matter will be referred to the Court of Québec, Criminal and Penal Division, and following a trial, the travel agent may be found guilty or not guilty.

### ! Did you know that...

It is the Court of Québec, Civil Division, that handles cases where the amount in dispute is more than \$15,000 and less than \$85,000. ([www.justice.gouv.qc.ca/en/judicial-system/courts-and-tribunals-of-quebec/court-of-quebec/civil-division](http://www.justice.gouv.qc.ca/en/judicial-system/courts-and-tribunals-of-quebec/court-of-quebec/civil-division)).

Class actions in matters of travel are heard by the Superior Court. ([www.justice.gouv.qc.ca/en/judicial-system/courts-and-tribunals-of-quebec/superior-court](http://www.justice.gouv.qc.ca/en/judicial-system/courts-and-tribunals-of-quebec/superior-court)).

## ! Did you know that...

The Small Claims Division of the Court of Québec hears cases where the amount of money in dispute does not exceed \$15,000. This court also handles cases involving the resolution, cancellation, or termination of a contract when the amount claimed is below \$15,000. In small claims cases, litigants represent themselves and appear without counsel. (<https://www.justice.gouv.qc.ca/en/your-disputes/small-claims>)

## Example of a judgment



### Operating a travel agency without a licence

Whatatrip and its president found guilty

Quebec City, December 10, 2016 – The *Office de la protection du consommateur* announces that the Hello Travel Association, also known as Whatatrip, and its president pleaded guilty last April to charges brought against them under the Travel Agents Act.

The Office accused the president and her agency, doing business at 123 Chemin Commun, Montreal, of having acted in April 2015 as a travel agent in Quebec without holding the licence required under the Travel Agents Act. They were thus assessed identical fines totaling \$2,000 by the court.

A **penal charge** is filed by the Director of Criminal and Penal Prosecutions (or its representative) against a person who violates a Quebec act or regulation. If convicted, the defendant is liable to be fined.

## Example of a penal proceedings



### The OPC charges Airways Air with 17 law violations

“The *Office de la protection du consommateur* (OPC) has just filed a complaint against Airways Air for having sold airplane tickets at prices higher than those appearing in its advertisements. The complaint involved 17 violations noted between November 2015 and January 2016. If the carrier is found guilty, it will have to pay fines totaling more than \$42,000. The OPC sent a formal notice to Airways Air in early fall, and the carrier replied by letter that it was refusing to comply. [...]

Three other carriers, Transport Jet, Air Public, and Happy Airlines, were also given formal notice to comply with the provisions of subparagraph c of the first paragraph of section 224 of the Consumer Protection Act, which provides that no company may charge a price higher than the one advertised. [...] “However, these carriers announced their intention to comply with the law.”

## Consultation

The *Office de la protection du consommateur* does not act on its own but in conjunction with consumer groups, retail associations, Quebec government departments and agencies, and partners from all sectors. Various associations, including the Association of Canadian Travel Agents (ACTA Québec), the Association of Retail Travel Agents (ARTA Canada), and the Association of Tour Operators of Quebec (ATOQ), cooperate with the OPC, which consults them and shares information with them as part of fulfilling its mission. The OPC also maintains contacts with authorities in Ontario and British Columbia in the context of a concerted effort to harmonize legislation regarding travel agents.

## Indemnification and conciliation

One of the OPC mandates is to defend the interests of consumers and listen to the demands of retailers. The OPC sometimes plays a conciliatory role between a retailer and a consumer upon having processed a complaint.

Since conciliation does not always lead to the expected compensation, some consumers choose to take their complaint to the Small Claims Division, which hears cases where a sum of money is in dispute, as well as cases involving the cancellation or termination of a contract where the value of the contract and, as applicable, the amount claimed do not exceed \$15,000 each. In small claims cases, citizens represent themselves, without counsel. (<http://www.justice.gouv.qc.ca/en/your-disputes/small-claims>).

The Court of Québec, Civil Division, handles cases where the amount in dispute is more than \$15,000 and less than \$85,000 ([www.justice.gouv.qc.ca/en/judicial-system/courts-and-tribunals-of-quebec/court-of-quebec/civil-division](http://www.justice.gouv.qc.ca/en/judicial-system/courts-and-tribunals-of-quebec/court-of-quebec/civil-division)).

**Class actions** in matters of travel and **appeals** where the amount in dispute exceeds \$85,000 are heard by the Superior Court ([www.justice.gouv.qc.ca/en/judicial-system/courts-and-tribunals-of-quebec/superior-court](http://www.justice.gouv.qc.ca/en/judicial-system/courts-and-tribunals-of-quebec/superior-court)).

To file a complaint in court, a customer has three years following the date of billing or the date of signing of the contract.

The OPC also manages various financial protection plans, such as the **individual security** and the Travel Agency Customer Compensation Fund (FICAV), and oversees consumer compensation. These protection procedures will be presented in detail in Topic 2 of this guide, under the heading *Administering Funds*.

## ! Did you know that...

- How much time do customers have to file a complaint in court?
- A customer has three years following the date of billing or the date of signing of the contract.

## 1.1.2 What is the legislation under its jurisdiction?

Among the legislation that concerns you more specifically, two acts fall under the jurisdiction of the *Office de la protection du consommateur*:

- The Consumer Protection Act (*R.S.Q., chapter P-40.1*)
- The Travel Agents Act (*R.S.Q., chapter A-10*)

The Consumer Protection Act “is intended to protect Quebecers in a large number of consumer sectors. It establishes a fundamental guarantee for all goods and services offered to consumers. It governs all contracts between consumers and merchants and establishes a specific protection system for contracts signed with itinerant merchants (door-to-door sales, for example), credit contracts (such as the deferred payment of a travel package), and distance contracts (in e-commerce, for example). [...] This law identifies the business categories whose operation requires a licence. It prohibits merchants, manufacturers, and advertisers from engaging in certain practices that could mislead consumers. In some circumstances, it requires merchants to deposit funds that they collect from consumers in **trust accounts**. Finally, in addition to providing for penal sanctions in cases of non-compliance with the law, it specifies the remedies available to consumers when merchants, manufacturers, or advertisers contravene the law.”<sup>1</sup>

As for the Travel Agents Act, it is “intended, first, to ensure that those who work in this industry respect the rules of conduct and, second, to protect consumers when a supplier defaults. Travel agents must be licenced and customer funds must be deposited in a trust account until **suppliers** are paid for services. They are also obliged to provide an **individual security** bond proportional to their **turnover**. Customers of Quebec travel agents are required to contribute to FICAV, the Travel Agency Customer Compensation Fund, which is under the jurisdiction of the president of the Office.”<sup>2</sup>

Both acts are complemented by the following corresponding regulations:

- **Regulation** respecting the application of the Consumer Protection Act, (*R.R.Q., c. P-40.1, r. 3*)
- Regulation respecting travel agents (*R.R.Q., c. A-10, r. 1*)

An **act** is a written, general, and permanent rule of law, adopted by the National Assembly. A **regulation** is designed to ensure the implementation of an act and may not infringe it.

<sup>1</sup> Office de la protection du consommateur, *Rapport annuel de gestion 2009-2010* (annual management report 2009-2010), Annexe 1 – Présentation des lois, p. 65 (Appendix 1 – presentation of the acts, p.65). Our translation.

<sup>2</sup> *Ibid.*

Regulations are presented as more detailed documents to complete and clarify act provisions. Table 1.1 presents an example of details provided by a Regulation.

Table 1.1

| Examples of clarifications brought by the Regulation  |   |
|---|---|
| Travel Agents Act   | Regulation respecting travel agents   |
| Section 4 of Division II (Licences and Certificates) deals briefly with the obligation for travel counsellors to have a certificate. The second paragraph stipulates that “a travel counsellor who is in the employ of a travel agent or has entered into an exclusive service contract with a travel agent may engage in the operations referred to in section 2 and deal with clients if the counsellor holds a certificate issued for that purpose by the <i>Office de la protection du consommateur</i> and meets the conditions prescribed by regulation.” | As mentioned in the Act, the Regulation presents the conditions and procedure for the application of section 4 of the Act. Sections 11.1 to 11.9, of Division IV.1 of the Regulation are entirely dedicated to travel counsellors. For example, section 11.2 indicates that “the president issues a travel counsellor certificate where the applicant (a) has passed an examination on the knowledge of the laws and regulations applying to the travel sector; [...] (e) has paid the duties provided for in this Regulation.” |

### 1.1.3 What is the role of the president of the Office de la protection de consommateur?

The **president** plays an essential role in the ongoing application of the Travel Agents Act and Regulation. His or her responsibility ranges from the issuing and renewal of your licence or certificate to its suspension or cancellation, as well as a refusal to issue or renew it. The president is also responsible for the administration, as **trustee**, of funds provided for individual security and for FICAV, the Travel Agency Customer Compensation Fund. The OPC president has exclusive authority to appoint a **provisional administrator** to administer or terminate current business affairs of an agency not meeting the conditions of the Act or Regulation (e.g. a travel agent going bankrupt) or that jeopardizes **customers'** rights (e.g. an agent ceasing to make payments to his or her supplier because a trust account is running a deficit).

### Summary of the OPC president's main responsibilities

Issue, suspend, cancel, refuse to issue, or renew a licence

Authorize, or refuse to authorize, a request for a licence transfer or duplication

Issue, suspend, cancel, or refuse to issue or renew a travel counsellor certificate

Manage funds of the individual security (if the money is not submitted in the form of a security policy) and of FICAV, as trustee

Use, if he chooses, investment income from the Fund to finance information and education campaigns for travel customers

Appoint, where necessary, a provisional administrator for a travel agent

#### Under the responsibility of the provisional administrator appointed by the president:

Reimburse the customer (when a service has been paid for but not provided due to a halt in agency activities)

Compensate a customer (in the case of a final judgment of the court in favour of the customer provided that the suit was filed within three years following the contract with an agency)

Pay, with money from the Fund, the required amount ensuring the immediate departure or repatriation of a customer

## 1.1.4 Travel Agents Advisory Committee

### 1.1.4.1 Who are the members of the committee?

The Regulation respecting travel agents provides for the creation of a travel agents advisory committee with a view to representing the commercial activity of the travel industry as faithfully as possible. In addition to the OPC president, the committee has eight members appointed for a fixed term by the Minister responsible for the Office de la protection du consommateur: four persons representing the travel industry, two consumer representatives, and finally, two government representatives. The OPC president chairs the committee but can designate a substitute.

#### 1.1.4.2 What is the role of the committee?





The committee meets at least three times per year to discuss and subsequently advise the Minister responsible for the Office de la protection du consommateur on all legal aspects involving the commercial activity of travel agents. It must also analyze and provide its views on specific issues submitted by the Minister. The committee must send a yearly report of its activities to the Minister no later than March 31.

## 1.2 WHAT IS THE ROLE OF THE CIVIL CODE OF QUÉBEC IN THE TRAVEL SECTOR?

The Civil Code of Québec plays a key role in your activities. This is a general law, which structures life in Quebec society, governs relationships such as those between neighbours or spouses, as well as between you and your customers with regards to **civil law** matters. Of the 3,168 sections listed in the Act, several are specifically relevant to you. For example, section 1458 specifies that “every person has a duty to honour his or her contractual undertakings” and section 1432 stipulates that “in case of doubt, a **contract** is interpreted in favour of the person who contracted the obligation and against the person who stipulated it. In all cases, it is interpreted in favour of the adhering party or the consumer.” The Civil Code is an essential part of travel industry legislation and will be cited in connection with specific elements in this guide.

Through their roles and responsibilities, these authorities influence your commercial travel agent activity. The acts and regulations that they enact and review in response to new realities in the industry apply specifically to you as reference tools. They constitute the foundation for sound commercial harmony between you and your customers.

Now it's your turn to assess your knowledge of the material covered in this section.

|  Test yourself                      |  |  |  |
|--|--|--|--|
| After reading this section, I am able to   | Totally<br> | Partially<br> | Minimally<br> |
| 1. Explain the role of the <i>Office de la protection du consommateur</i> in legislation affecting the travel industry |  |  |  |
| 2. Understand the basics of the Travel Agents Act and the Regulation respecting travel agents                          |  |  |  |
| 3. Understand the role of the Civil Code of Québec and the Consumer Protection Act in the travel sector                |  |  |  |
| 4. Define certain fundamental legal terms appearing in the Act and the Regulation                                      |  |  |  |
| <b>Total</b>   |  |  |  |

**Keep up the hard work! Review this topic or go on to the next section.**

## Answers Test your knowledge

1. **True.** A regulation is intended to ensure the implementation of an act. It is based on and supplements this act.
2. **True.** An act is a set of rules, laid down by a given authority, that everyone must follow.
3. **False.** The *Office de la protection du consommateur* is a public body. It protects consumer rights by enforcing acts and regulations for which it bears responsibility. (*T.A.A.* s. 42)
4. **True.** The Civil Code of Québec, which governs life in Quebec society, specifically oversees relations between you and your customers within the framework of **civil law**. The Consumer Protection Act also establishes a fundamental guarantee for all goods and services offered to consumers.
5. **False.** The Small Claims Division of the Court of Québec handles disputes involving amounts of \$15,000 or less. Other disputes, involving amounts of more than \$15,000 and less than \$85,000, are directed to the Court of Québec, Civil Division. For larger amounts, the case is submitted to the Superior Court.
6. **True.** In order to represent the commercial activity of the travel sector as faithfully as possible, four of the eight persons making up the advisory committee come from the industry. A broader consultation among those involved in the travel industry and consumer associations may also be conducted. (*T.A.R.*, s. 49)
8. **False.** A customer has three years following the billing date (contract) to file a complaint in court.
8. **False.** Among the legislation that concerns you more specifically, two acts fall under the jurisdiction of the Office de la protection du consommateur: the Consumer Protection Act and the Travel Agents Act.

Result : \_\_\_\_\_ /8

## Supplementary readings and exercises

- *Office de la protection du consommateur*, [www.opc.gouv.qc.ca/en](http://www.opc.gouv.qc.ca/en).  
To learn more about the OPC.
- Travel Agents Act, *R.S.Q., chapter A-10*,  
<http://legisquebec.gouv.qc.ca/en/ShowDoc/cs/A-10>.
- Regulation respecting travel agents, *R.R.Q., chapter A-10, r. 1*,  
<http://legisquebec.gouv.qc.ca/en/ShowDoc/cr/A-10,%20r.%201>.
- Consumer Protection Act, *R.S.Q., chapter P-40.1*,  
<http://legisquebec.gouv.qc.ca/en/showdoc/cs/P-40.1>.
- Civil Code of Québec,  
<http://legisquebec.gouv.qc.ca/en/showdoc/cs/CCQ-1991>.
- *Ministère de la Justice*, <https://www.justice.gouv.qc.ca/en>.  
To learn more about justice in Quebec.
- Société québécoise d'information juridique, in french only:  
<http://citoyens.soquij.qc.ca>. To learn more about decisions handed down by the courts.



# 2

# ADMINISTERING FUNDS

## By the end of this section, you will be able to

- Define what individual security, trust account, and Travel Agency Customer Compensation Fund (*Fonds d'indemnisation des clients des agents de voyages, or FICAV*) are
- Understand the purpose of the various **funds** administered by travel agents
- Provide **individual security** and determine the amount thereof
- Apply the contribution amount to be collected for the Travel Agency Customer Compensation Fund (FICAV)
- Produce accounting records
- Cite the penalties regarding cases of non-compliance with the Travel Agents Act

Establishing procedures to carry out your management activities is of paramount importance when operating a travel agency. The National Assembly and the Government of Quebec have introduced three consumer protection measures. First, the travel agent must open a **trust account**, separating the money belonging to the consumer from the travel agent's own funds. The second protection is to provide an individual security guaranteeing the travel agent's obligations. The third is the creation of a travel agency customer compensation fund (FICAV).

Before going any further, test your knowledge as it would apply to the story of Ms. Fairbrother.

## Context

Ms. Fairbrother's long-time dream was to go on a Mediterranean cruise. One day she dropped by Fancyfree Agency Inc. Based on the information she received from the counsellor, she booked and paid for her trip, which cost a total of \$4,407.36. Several weeks following this purchase, she returned to the agency for additional details regarding her trip. Surprise! She found a note on the door saying that the agency had closed... until further notice! Ms. Fairbrother is worried and wonders what will become of her trip and her money.

This topic refers to the following obligations and conditions:

### Act

- Division III.1 – Provisional Administration (s. 15 and 16)
- Division IV – Obligations of a Travel Agent (ss. 32 to 33.2)
- Division V – Inspection (ss. 35, 36 c, 36 c.1, and 36 c.2)

### Regulation

- Division VII – Accounting (s. 17)
- Division VIII – Special Provisions (s. 20)
- Division IX – Trust Account (ss. 21 to 27.1)
- Division X – Individual Security and Compensation Fund (s. 28)
- Division XI – Individual Security (ss. 29, except par. 1.01° and 4,° 31.7, 31.8, 33.4, 34, 35.1, and 36)
- Division XII – Compensation Fund (except ss. 43.2 to 43.5)

In fact, Fancyfree Agency Inc. (contrary to its name!) had financial problems. All in good faith, management paid its rent and telephone bills from the trust account in order to keep the agency running. When this wasn't enough to cover expenses, they used the money collected from customers for the Travel Agency Customer Compensation Fund (FICAV).

## ? Test your knowledge

### True or False?

1. Ms. Fairbrother has lost her money and will be unable to take the trip she planned. \_\_\_\_\_
2. The counsellor who did business with Ms. Fairbrother is personally responsible and will have to reimburse her. \_\_\_\_\_
3. The OPC could reimburse Ms. Fairbrother through FICAV, the Travel Agency Customer Compensation Fund. \_\_\_\_\_
4. Travel agency managers can use the money from a trust account to pay their bills, as long as they pay it back. \_\_\_\_\_
5. Fancyfree Agency Inc. no longer had a valid permit; therefore Ms. Fairbrother no longer has any recourse against this agency. \_\_\_\_\_
6. Fancyfree Agency Inc. was permitted to withdraw the amount of its commission as soon as the customer had paid for the trip. \_\_\_\_\_

*Answers are found at the end of this section.*

## 2.1 TRUST ACCOUNT

### 2.1.1 What is it for?

The trust account is used to systematically hold your customers' funds such as cash, cheques, or other negotiable instruments, as well as any amount representing the monetary equivalent of all or part of a payment by credit card or debit card, or of any other form of payment (*s. 21, T.A.R.*). This trust account must be opened in Quebec with a bank governed by Quebec and Canadian laws. Note that it is your responsibility to inform the OPC of any modifications, such as opening, closing, or transferring a trust account (name, address, and account number) within seven days of any such change occurring. Changes in the list of account signatories must be reported to the OPC within 15 days of any modification.

You can access the trust account only to administer it as **trustee**. You cannot use **funds** from this account for personal or corporate purposes. Accordingly, money belonging to your company or to its directors must be deposited in a different bank account, which is used for current transactions. Holders of an agency licence may provide written authorization allowing a member of their staff to make deposits in the trust account on their behalf (withdrawals from the trust account can only be made by individuals with signing authority on the account).

To fill out the travel agent trust account application form, visit the website (in French only) at: <https://www.opc.gouv.qc.ca/commercant/permis-certificat/agentsdevoyages/permis/fideicommis/ouverture>.

You are authorized to withdraw funds by cheque or bank transfer, for each of your customer files, only in the following situations:

- Services to be rendered to customers (book/reserve accommodations and transport or **travel arrangements**)
- Pay suppliers on behalf of customers
- Reimburse yourself or pay service fees incurred on behalf of customers
- Reimburse amounts due to customers
- Collect **gross income** (commission) you earned in connection with each customer but only upon payment of tourism goods and service suppliers

Your trust account must never be overdrawn or show a deficit. You may not use one customer's money on account to pay for another client's expenses, nor are you allowed to use this account to pay operating or personal expenses. Accordingly, Fancyfree Agency Inc. was not entitled to use funds in the trust account to pay its operating expenses.

## 2.2 INDIVIDUAL SECURITY

Customers who buy all-expense-paid packages or specific services (hotel stay, plane ticket, guided tour, etc.) from a travel agency want to make the most of its expertise and advice. Furthermore, customers expect their trip to run smoothly and be able to seek your assistance if necessary. In other words, customers want to make sure that your agency provides and guarantees professional services in addition to demonstrating its solvency in the event of a **recourse** or a claim.

### 2.2.1 Who must provide this security?

To protect your clients and instill customer confidence in your travel agency, an **individual security** is required. This type of security is a contract whereby the **surety** agrees to fulfill the travel agent's obligations in case of default. The security must accompany the general licence and it guarantees your customers' money: it is therefore the travel agent's responsibility to provide it. In case of financial problems, such as those experienced by Fancyfree Agency Inc., Ms. Fairbrother is protected! The security makes it possible, if required, to reimburse amounts paid for tourist products that were not delivered or for services not rendered. This security also covers administrative fees and the expenses of the **provisional administrator**, i.e. the person appointed to ensure follow-up on customer accounts and see to the agency's complete closing.

### 2.2.2 How to pay individual security?

There are five ways to provide the individual security required for a general travel agent licence.

1. Through the purchase of an individual security policy from an insurance company. You will have to pay a premium based on the amount of the policy. The company issuing the security policy will complete the form entitled “Individual Security Policy,” reproduced in Schedule CC. This form is available online (in French only) at <http://www.opc.gouv.qc.ca/fileadmin/media/documents/commercant/permis-certificat/agence/cautionnement-av-police-individuel.pdf>.
2. By depositing the amount in cash.
3. By depositing bearer bonds that you own, issued or guaranteed by the Government of Canada or the government of a Canadian province.
4. By asking someone else to deposit the money by cheque on your behalf.
5. By asking a person to deposit bearer bonds, issued or guaranteed by the Government of Canada or the government of a Canadian province, on the bond holder behalf.

In cases 2 to 5, you must complete the form entitled *Engagement du commerçant* [merchant’s undertaking] available in French only on the OPC website at <http://www.opc.gouv.qc.ca/fileadmin/media/documents/commercant/permis-certificat/agence/cautionnement-av-engagement-commercant.pdf>.

If the security is provided in the form of bearer bonds payable to the holder, you must also pay a file opening fee. The amount of this fee, indexed on May 1 every year, can be found at <https://www.opc.gouv.qc.ca/commercant/permis-certificat/agentsdevoyages/permis/demande/tarifs#cautionnement> (available in French only).

### 2.2.3 What amount of security should be provided?

To obtain the general licence, the individual security amount you must provide varies between \$25,000 and \$225,000.

When applying for a general licence, therefore in the first year of operation, you must provide a security of \$25,000.

The individual security amount is set once each year, on your licence anniversary, and it is determined according to your **turnover** as indicated in your last financial statements, combined with the number of years of business operation.

Example: Your fiscal year ends on April 30, 20XX

Your **turnover** for the fiscal year ending on April 30, 20XX is \$1.9 million.

Accordingly, you must provide a \$40,000 individual security for the second year of operation.

As indicated in Table 2.1, on your second anniversary of business operation, you must provide an individual security of \$40,000.

Table 2.1

**Individual security amount to provide for obtaining a GENERAL LICENCE on the basis of turnover<sup>1</sup>**

| <b>Turnover</b>    | <b>1<sup>st</sup> anniversary</b> | <b>2<sup>nd</sup> anniversary</b> | <b>3<sup>rd</sup> anniversary</b> | <b>4<sup>th</sup> anniversary and subsequent anniversaries</b> |
|--------------------|-----------------------------------|-----------------------------------|-----------------------------------|--|
| Up to \$1 million  | \$25,000                          | \$25,000                          | \$25,000                          | \$25,000   |
| Up to \$2 million  | \$40,000                          | \$35,000                          | \$30,000                          | \$25,000   |
| Up to \$3 million  | \$55,000                          | \$45,000                          | \$40,000                          | \$30,000   |
| Up to \$4 million  | \$70,000                          | \$60,000                          | \$50,000                          | \$40,000   |
| Up to \$5 million  | \$90,000                          | \$75,000                          | \$60,000                          | \$50,000   |
| Up to \$6 million  | \$105,000                         | \$90,000                          | \$70,000                          | \$60,000   |
| Up to \$7 million  | \$115,000                         | \$100,000                         | \$80,000                          | \$70,000   |
| Up to \$8 million  | \$125,000                         | \$115,000                         | \$90,000                          | \$80,000   |
| Up to \$9 million  | \$135,000                         | \$125,000                         | \$100,000                         | \$90,000   |
| Up to \$10 million | \$150,000                         | \$140,000                         | \$110,000                         | \$100,000  |
| Up to \$11 million | \$160,000                         | \$150,000                         | \$120,000                         | \$110,000  |
| Up to \$12 million | \$170,000                         | \$160,000                         | \$130,000                         | \$120,000  |
| Up to \$13 million | \$180,000                         | \$170,000                         | \$140,000                         | \$130,000  |
| Up to \$14 million | \$190,000                         | \$180,000                         | \$150,000                         | \$140,000  |
| Up to \$15 million | \$200,000                         | \$190,000                         | \$160,000                         | \$150,000  |
| Up to \$16 million | \$225,000                         | \$200,000                         | \$180,000                         | \$160,000  |
| Up to \$17 million | \$225,000                         | \$215,000                         | \$200,000                         | \$170,000  |
| Up to \$18 million | \$225,000                         | \$225,000                         | \$215,000                         | \$180,000  |
| Up to \$19 million | \$225,000                         | \$225,000                         | \$225,000                         | \$200,000  |
| Up to \$20 million | \$225,000                         | \$225,000                         | \$225,000                         | \$215,000  |
| Over \$20 million  | \$225,000                         | \$225,000                         | \$225,000                         | \$225,000  |

<sup>1</sup> Upon renewal of a General Licence, if the security is paid out using cash or bonds, only the difference between the security already provided and the amount of the new security must be paid.

If you do not provide an individual security policy, the amount shown must be made available in cash or paid by cheque, postal money order, or bank draft. The OPC president then deposits this amount in a trust account with a financial institution or the Caisse de dépôt et placement du Québec. The amounts accumulated in this account may be placed in investments deemed sound, as defined in the Civil Code of Québec. The income from this investment is paid to the trust and used for such purposes as management fees.

## 2.2.4 How to terminate the security?

The travel agent or the **surety** may terminate the security by notifying the OPC president in writing at least 90 days in advance. Even when expired, the security remains in full effect for obligations undertaken while it was in force for a period of 3 years following its official cancellation date.

### ! Did you know that...

It is in a traveler's best interest to book through a licenced travel agency in Quebec, Ontario, or British Columbia. In Quebec, if a problem arises, the licence ensures that the traveler is compensated or reimbursed from the travel agent's trust account, the individual security and, if necessary, FICAV.

## 2.3 COMPENSATION FUND

### 2.3.1 What is it for?

Customers benefit from an additional source of protection. The law provides that the Travel Agency Customer Compensation Fund (FICAV) is to be used to compensate or reimburse customers in cases where a travel agent's individual security is insufficient or the product supplier fails to provide the customer with the expected service, as long as the travel agent has not committed a fault as regards the choice of the supplier. It is also used to pay administrative fees and expenses of the provisional administrator, i.e. the person appointed to look after customer accounts in the event of an agency closure. Consequently, Ms. Fairbrother will be reimbursed or compensated by FICAV if Fancyfree Agency Inc. has exhausted its individual security.

It is in a traveler's best interest to book through a travel agency that is licenced in Quebec. If a problem arises, the licence ensures that the traveler is compensated or reimbursed from the travel agent's trust account, the individual security and, if necessary, FICAV.

### 2.3.2 Who must contribute to FICAV?

Contributions to the Travel Agency Customer Compensation Fund (FICAV) are made by travel agency customers. FICAV contributions are mandatory. You are the only party responsible for collecting the required FICAV contribution amounts from customers.

There is one exception: diplomats and diplomatic personnel have to pay the FICAV contribution. However, you may notify them concerning their

### ! Did you know that...

Each year, the OPC is allowed to use \$250,000 or 5% of the investment income from FICAV, whichever is less, to organize information and education activities for consumers.

eligibility for a refund upon request. Applications are submitted to the OPC through the Quebec Minister of International Relations. Of course, anyone obtaining such a refund will not be eligible for FICAV benefits.

### 2.3.3 What is the amount of the contribution?

Your customer pays a percentage of the pre-tax cost of tourist products purchased through your agency as a contribution to FICAV. The calculation does not include service fees, travel insurance, or travel accessories (e.g. purchase of tourist maps and travel guides).

However, this contribution, which is currently 0.10%, must be calculated on the following tourist products, charged by the travel agency:

- Hotel room or car rental bookings, even if the customer has the option to make a last-minute cancelation without charge
- Airport fees and airfare, i.e. all taxes other than GST and QST
- All tourist services paid by the travel agency directly to the **service provider** and are charged on the customer's credit card
- Tourist products charged to foreign customers not residing in Quebec

The Regulation respecting travel agents provides that the contribution percentage varies depending on the surplus accumulated<sup>1</sup> in the Fund, as indicated in Table 2.2.

Table 2.2

| Contribution to FICAV     |   |
|---------------------------|---|
| Accumulated FICAV surplus | Percentage collected from tourist products sold |
| Up to \$75 million        | 0.35% (or \$3.50 per \$1,000 in purchases)      |
| Up to \$100 million       | 0.20% (or \$2.00 per \$1,000 in purchases)      |
| More than \$100 million   | 0.10% (or \$1.00 per \$1,000 in purchases)      |

Since March 31, 2014, the accumulated surplus of the Fund has exceeded the \$100 million threshold. Henceforward, your customers' FICAV contribution corresponds to 0.10% of the total cost of tourism products purchased from your agency. If the accumulated surplus diminishes over the years to come, the percentage charged with tourist product sales will increase, as illustrated in Table 2.2, in order to maintain the established thresholds that ensure a proper running of the Fund. When percentage adjustments are required to calculate FICAV contributions, the Office notifies all travel agents by email. In addition, press releases are sent to the media, in particular newspapers and trade magazines.

<sup>1</sup> The surplus accumulated represents the Fund's total income minus the total expenditures accumulated since its establishment in 2004. The Fund's revenues come from travel agent customer contributions and Caisse de dépôt et placement du Québec investment earnings.

**! Did you know that...**

When adjustments are made to the FICAV contribution percentage, the OPC notifies all travel agents by email. In addition, press releases are sent to the media, in particular newspapers and trade magazines.

Fancyfree Agency Inc. charged Ms. Fairbrother \$4.41 in tourist services for FICAV (0.10% multiplied by the cost of a \$4,407.36 vacation package, before GST and QST.)

### 2.3.4 What is your role?

You must remit the amounts collected from your customers, less 5% which you retain for management fees.

- If your tourist product sales amount to \$5 million or less, you must make payments twice a year, within 30 days of the end of each semester (period of six consecutive months) of your fiscal year.
- If your tourist product sales amount to \$5 million or more, you must make payments 4 times a year, within 30 days of the end of each quarter (period of 3 consecutive months) of your fiscal year.

The penalty for late payments is the greater of the following two amounts: \$50 or 10% of the amount owed. You may also be subject to **penal charges** for breach of Regulation.

#### How to make this payment?

The amount is remitted to the OPC either by cheque or electronically, along with a statement signed by the licence holder or an executive **officer** indicating

- The sales subject to contribution (the cost of tourist products purchased at your agency before GST and QST, excluding service fees, travel insurance, and travel accessories)
- The total amount of FICAV contributions paid by customers

## 2.4 ACCOUNTING

### 2.4.1 Bookkeeping

In order to comply with administrative regulations, you must keep your accounting records up to date by entering

- All cash, cheque, credit card, and debit card payments received, as well as payments made by any other means
- All expenditures made from the trust account
- The trust account total balance and, shown separately, the balance of each customer account

You must be able to show your books, registers, and accounts for each establishment located in Quebec.

An OPC inspector may visit your agency, at any reasonable hour, to review any document, book, record, or account containing information relating to your establishment's business operations.

**! Did you know that...**

An OPC inspector may visit your agency, at any reasonable hour, to review any document, book, record, or account containing information relating to business operations.

Table 2.3

| Interim financial statements and trust account statement |   |
|--|---|
| Turnover   | Submission deadline   |
| Up to \$10 million                                       | No submission required  |
| Between \$10 and \$20 million                            | Within 45 days following the end of each HALF of the fiscal year    |
| More than \$20 million                                   | Within 45 days following the end of each QUARTER of the fiscal year |

## 2.5 PENALTIES AND OFFENCES

The Travel Agents Act and Regulation provide for fines in the case of specific violations. Your **penal liability** consists in submitting to a penalty as prescribed by the legislation. The following checklist allows you to assess your level of compliance and indicates the corresponding fines that you may be facing. The following checklist may serve as a reminder.

Checklist

| Administration of funds  |           |               |                      |                      |
|--|-----------|---------------|----------------------|----------------------|
| Penal liability  | Compliant | Non-compliant | First offence        | Repeated offence     |
| Have you notified the OPC of the opening or closing of the trust account?                      |           |               | \$1,000 to \$40,000  | \$2,000 to \$80,000  |
| Did you deposit the money entrusted to you by the customer in a trust account?                 |           |               | \$2,000 to \$100,000 | \$4,000 to \$200,000 |
| Do you withdraw money from the trust account for situations specific to a particular customer? |           |               | \$2,000 to \$100,000 | \$4,000 to \$200,000 |
| Do you withdraw money from the trust account only by cheque, transfer, or bank transfer?       |           |               | \$2,000 to \$100,000 | \$4,000 to \$200,000 |
| Do you withdraw from the trust account without exceeding the amount provided by your customer? |           |               | \$2,000 to \$100,000 | \$4,000 to \$200,000 |

**Administration of funds (continued)**





| <b>Penal liability</b>  | <b>Compliant</b> | <b>Non-compliant</b> | <b>First offence</b> | <b>Repeated offence</b> |
|---|------------------|----------------------|----------------------|-------------------------|
| Do you use the trust account only for one or several of the following purposes? <ul style="list-style-type: none"> <li>• Pay suppliers on behalf of the customer</li> <li>• Reimburse or pay service fees incurred on behalf of the customer</li> <li>• Reimburse amounts owed to the customer</li> <li>• Collect your commissions</li> </ul> |                  |                      | \$2,000 to \$100,000 | \$4,000 to \$200,000    |
| Do you make sure that the trust account is not overdrawn or showing a deficit?  |                  |                      | \$2,000 to \$100,000 | \$4,000 to \$200,000    |
| Do you include a trust account statement when filing your financial statements?   |                  |                      | \$1,000 to \$40,000  | \$2,000 to \$800,000    |
| Do you verify that only authorized persons conduct transactions in the trust account?   |                  |                      | \$2,000 to \$100,000 | \$4,000 to \$200,000    |
| Do you keep your accounting books and records up to date?   |                  |                      | \$1,000 to \$40,000  | \$2,000 to \$80,000     |
| Do you remit FICAV contributions to the OPC on time?  |                  |                      | \$1,000 to \$40,000  | \$2,000 to \$80,000     |

## Fancyfree Agency Inc. PLEADS GUILTY

The *Office de la protection du consommateur* reports that Fancyfree Agency Inc. pleaded guilty to failing to remit its FICAV contribution to the OPC president within the prescribed time period (*s. 40, T.A.A.*). The company will have to pay a penalty totaling \$1,260.

Fulfilling all of these responsibilities and obligations will ensure that your customers trust you as a reliable travel agent. Once you comply with the requirements outlined in this section, you can move forward in the process of obtaining a travel agency operating licence.

Now it's your turn to assess your knowledge of the material covered in this section.

|   |  |  |   |  Test yourself |  |  |
|---|--|--|---|---|--|--|
| After reading this section, I am able to  | Totally<br> | Partially<br> | Minimally<br> |   |  |  |
| 1. Define what individual security, trust account, and the Travel Agency Customer Compensation Fund (FICAV) are |  |  |   |   |  |  |
| 2. Understand the purpose of the various <b>funds</b> administered by travel agents                             |  |  |   |   |  |  |
| 3. Provide individual security and determine the amount thereof   |  |  |   |   |  |  |
| 4. Apply the contribution amount to be collected for the Travel Agency Customer Compensation Fund (FICAV)       |  |  |   |   |  |  |
| 5. Produce accounting records   |  |  |   |   |  |  |
| 6. Cite the penalties regarding cases of non-compliance with the Act  |  |  |   |   |  |  |
| <b>Total</b>  |  |  |   |   |  |  |

**Keep up the hard work! Review this topic or go on to the next section.**

## Answers Test your knowledge

1. **False.** The customer has done business with a travel agent holding a travel agent licence in Quebec. She is therefore protected by the **surety**. If the surety amount is insufficient, Ms. Fairbrother will be reimbursed or compensated by FICAV. (s.28, T.A.R)
2. **False.** The counsellor is not the travel agent licence holder and therefore cannot be held personally liable. The licensee is required to provide individual security. This security makes it possible to reimburse the amounts collected for tourist products and services not provided to the customer. (s.28, T.A.R)
3. **True.** The Act stipulates that FICAV must be used to compensate or reimburse Ms. Fairbrother should the individual security of Fancyfree Agency Inc. be exhausted. (s.37, T.A.R)
4. **False.** The regulations specify that the trust account must be used exclusively to administer amounts paid by customers. Fancyfree Agency Inc. revenues are deposited in a current account. (s.23 and s.33, T.A.R)
5. **False.** Despite the fact that the security ends with the closing of the travel agency, the security remains available to compensate customers for a period of 3 years. (s.33, T.A.R)
6. **False.** Travel agents are authorized to withdraw the commission amount only after suppliers have been paid. (s.23 e, T.A.R)

Result : \_\_\_\_\_ /6

### Supplementary readings and exercises

- Must the FICAV contribution be collected on the sale of a cruise to a couple from Ontario? Answer: s.38, T.A.R.
- How should the money collected on the sale of a tourist product or service be administered? Answer: s.33, T.A.A and s.20, T.A.R.
- In the context of the T.A.R., define the term “**fund**”? Answer: s.21, T.A.R.
- A travel agent claims that “Administering FICAV generates business management expenses.” Is this true or false? Explain. Answer: s.40, T.A.R.
- Do you need to have the amount required for the personal security in cash? Justify your answer. Answer: s.30, T.A.R.
- What are the powers of the provisional administrator with respect to using the **funds** held in trust? Answer: s.14.3, T.A.A.

# 3

## OPERATING WITH A LICENCE

### By the end of this section, you will be able to

- Identify the intended users of a travel agency licence
- Differentiate the various types of travel agent licences
- Distinguish the required procedures for obtaining or renewing a general licence
- Complete a licence application
- Understand the grounds and types of recourse available in the event of a licence refusal, suspension, or cancellation
- Demonstrate your knowledge of the penalties and offences associated with failure to comply with the Act
- Explain the legal **liability** associated with performing the duties of a travel agent

A travel agent licence or travel counsellor certificate must be obtained in order to operate a business that organizes travel and sells tourist products and services. This section looks at the conditions, obligations, and procedures involved in the issuing and renewal of a general or restricted licence, the reasons for a licence suspension or cancellation, as well as the penalties and types of recourse following an offence.

Before beginning your reading, let's test your knowledge of this topic.

### Context

Mr. Fortunato has long loved his career as a travel counsellor. At a certain point in his life, he decided to own and operate his own travel agency. To achieve his goal, he seized the opportunity proposed by his employer, the Four Suns Agency, offering to sell him the company's assets. Mr. Fortunato is now starting the process of becoming a travel agency owner. Can you help him?

This section refers to the following obligations and conditions:

#### Act

- Division II – Licences and certificates (ss. 4 to 11.1)
- Division III – Suspension, cancellation, or refusal to issue or renew licences; proceeding before the Tribunal administratif du Québec (ss. 12 to 13.2)
- Division III.1 – Provisional administration (ss. 14, 14.1, 14.2, and 14.5)
- Division IV – Obligations of a travel agent (s. 31)
- Division V – Inspection (s. 35.1)
- Division VII – Penal provisions (ss. 40 and 40.1)

#### Regulation

- Division IV.2 – Operation of an establishment at home (s. 11.10)
- Division V – Obligations of travel agents (ss. 12 and 13.1)
- Division II – Classes of travel agent licences (s. 2)
- Division IV – Licence (ss. 4 to 11, except for 8.1)
- Division IV.1 – Travel counsellors (s. 11.1)

## ? Test your knowledge

### True or false?

1. Mr. Fortunato must have a travel agent diploma from the Department of Education to apply for a general travel agent licence. \_\_\_\_\_
2. A person must be at least 18 years old to apply for a travel agent licence. \_\_\_\_\_
3. The *Association des agents de voyages du Québec* is the body authorizing Mr. Fortunato to apply for a travel agent licence. \_\_\_\_\_
4. A person must have acquired two years of full-time work experience as a travel counsellor to obtain a travel agent licence. \_\_\_\_\_
5. Mr. Fortunato can have his employer's licence transferred to him to continue operating the Four Suns Agency. \_\_\_\_\_
6. The general licence fee is calculated according to the number of employees working for the travel agency. \_\_\_\_\_

Answers are found at the end of this section.

## 3.1 THE ISSUING OF A LICENCE

### 3.1.1 Who needs a licence?

Does your job include leasing or booking accommodation and/or transportation services as well as organizing **travel arrangements**? Do you issue documents such as a **voucher** that travellers exchange for a prepaid product or service by sending notice to the **supplier**? If so, you are performing travel agent operations. Under the Act (*s. 2 T.A.A.*), a travel agent is “a person, a partnership, or an association that, on account of a third party or on account of its members, engages in or offers to engage in or issues vouchers for or offers to issue vouchers for any of the following operations:

- a) “the booking or reservation of lodging accommodation”  
e.g. selling overnight stays in a hotel to your customers or those of another agency
- b) “the booking or reservation of transportation services”  
e.g. selling airplane tickets to your customers or those of another agency
- c) “the arranging of travel services”  
e.g. signing agreements with tourist product **suppliers** to plan and coordinate package trips or tours in order to sell them to your customers or those of another agency

Whether you perform any of these operations or all three, the Travel Agents Act obliges you to have a travel agent licence issued by the president of the Office de la protection du consommateur (OPC). A single licence will be issued to you. If you operate more than one business **establishment**, you must ask for a duplicate for each additional establishment. The president remains the owner of the licence; he or she can therefore withdraw, cancel, or not renew the licence.

What distinguishes a travel agent from a travel counsellor?

Travel counsellors act on behalf of a travel agent holding a Quebec general travel agent licence. They perform travel agent operations as part of their duties, but only for the travel agency that they work for. For this reason, they must hold a counsellor certificate, be affiliated with an agency that holds a general licence, and respect the following conditions:

- Have an employment contract (examples of which can be found in Appendix 1) with a single travel agent
- Work in one of the establishments operated by their employer (a travel agent)
- Not receive customers in their home, unless the agency has obtained a duplicate licence for that establishment
- Collect funds from their customers and deposit them in the travel agency trust account
- Provide a receipt that complies with regulations (see Topic 7)
- Advertise stating the agency contact information while providing their own mobile telephone number, if they so desire

### 3.1.2 Who does not need to obtain a licence?

There are certain situations where travel agent operations are conducted but do not require a travel agent licence. For example,

- An association (e.g. a sports association) or a partnership (e.g. a software company), or a legal entity (such as an incorporated company) does not need a travel agent licence to organize occasional<sup>1</sup> trips in Quebec. However, such group trips must last 72 hours or less if only group members are allowed to participate, or 48 hours or less if there are non-member participants.
- A person operating a tourist accommodation establishment governed by the Act respecting tourist accommodation establishments (*R.S.Q., c. E-15.1*) and who offers proximity services in addition to accommodation services in his or her establishment (e.g. museum visits, golf, etc.) is exempt from the requirement to hold a licence.
- A carrier whose transportation services can be leased or booked does not need to obtain a travel agent licence either.

You will find in section 3 of the Act and section 1.1 of the Regulation the list of cases for which a licence is not required.

<sup>1</sup> The term "occasional" is important in this context. In fact, if such an activity is carried out on a regular basis, every year for example, this exemption does not apply.

#### ! Did you know that...

A travel agent must maintain an up-to-date list of travel counsellors employed by his or her agency with whom an exclusive service contract has been signed (including outside agents). The travel agent must also make sure that these counsellors are holders of a certificate (see details in Topic 4).

### 3.1.3 Licence classes and fees

The OPC president issues two classes of licences:

- **General licence**
- **Restricted licence**

Depending on your commercial activities, you must apply for a licence class that corresponding to your case.

The general travel agent licence allows you to offer any of the tourism services listed in section 3.1.1.

You're an adventure tourism producer, an outfitter, or a regional tourism association? The restricted licence allows you to offer certain tourism services that are complementary to your main activities under certain conditions. This licence enables the holder to deal directly with the general public, with members of a particular group, or through another travel agent with a general licence. There are three classes of restricted licences:

#### 1. Restricted licence for adventure travel organizers

This licence allows an adventure tourism organizer in Quebec to organize and sell packages that include ancillary accommodation services in addition to his or her own services. These accommodation services must be offered in establishments governed by the Act respecting tourist accommodation establishments (*R.S.Q., c. E-14.2*). To obtain this licence, the organizer cannot offer transportation tickets in the package and the activities planned must only take place in Quebec.

#### 2. Restricted licence for outfitting operations

This licence authorizes an outfitter to offer, in addition to its outfitting services, transfer services from the airport to the outfitting operation and accommodation near the airport, both after arrival and before departure.

#### 3. Restricted licence for a regional tourism association

This licence authorizes a regional tourism association recognized under the Act respecting the Ministère du Tourisme (*R.S.Q., c. M-31.2*) to market tourist accommodation establishments and tourist attractions of its region, as well as packages without transportation within its administrative boundaries.

For information on obtaining or renewing a restricted licence, please visit the OPC website at (in French only) <https://www.opc.gouv.qc.ca/commerçant/permis-certificat/agentsdevoyages/permis/renouvellement/documents>. Special attention must be paid to the documents required for an application for a restricted licence, which are different from those needed for an application for a general licence.

## Cost of a first licence application (general and restricted)

The cost of a first application for a licence is based on the number of months for which it is issued. The first month is the month when the application is filed. The last month is the seventh month following the end of your fiscal year. For example, a travel agent who applies for a licence on October 1, 2017, and whose fiscal year ends on December 31, 2017, must calculate the cost of his or her licence over a 10-month period, because this licence would have to be renewed on July 31, 2018.

Be careful! Travel agents wishing to apply for a licence less than three months before the end of their company's fiscal year will have to add 12 months to the previous calculation. As such, the first licence is always issued for a period varying between 10 and 22 months.

The cost of a first licence is calculated by multiplying the number of months (starting on the licence application date to the renewal date) by the monthly cost. You must pay the fees in a single payment.

Table 3.1

| Cost of a first licence application |                 |
|-------------------------------------|-----------------|
| General licence                     | \$75 per month* |
| Restricted licence                  | \$38 per month* |

\* The costs indicated are those in effect for 2017. The cost is re-assessed each year on May 1, based on the Canadian Consumer Price Index. The *Office de la protection du consommateur* publishes a notice in the *Gazette officielle du Québec* ([www3.publicationsduquebec.gouv.qc.ca/gazetteofficielle.en.html](http://www3.publicationsduquebec.gouv.qc.ca/gazetteofficielle.en.html)) every year indicating the cost of a licence.

If your licence application involves more than one establishment (branch), additional charges apply for each establishment. For detailed information on the cost of a first licence application, please visit the OPC website at (in French only) <http://www.opc.gouv.qc.ca/commerçant/permis-certificat/agentsdevoyages/permis/demande/tarifs>. Don't forget that your licence does not have an expiry date, but must be renewed annually, on the first day of the eighth month following the end of your fiscal year (*T.A.R.*, s. 5).

### Example: The general licence of the Four Suns Agency

On February 1, 2016, Benito Fortunato, manager of the Four Suns Agency, applied for a general licence for the very first time. The agency's initial fiscal year was slated to end on October 30, 2016. The period of validity of Mr. Fortunato's first licence lasted from February 1, 2016 to June 1, 2017 (i.e. 7 months after October 30, 2016). Given that the duration of the licence was 16 months, he had to pay \$1,184 (\$75 multiplied by 16 months).

### ! Did you know that...

The Office de la protection du consommateur publishes a notice in the *Gazette officielle du Québec* every year indicating the cost of a licence.

### 3.1.4 First general travel agent licence

You will be able to obtain a general travel licence if you satisfy the various stipulated requirements. If you fail to provide all the information and documents, your licence application will be refused. Don't forget that you are responsible for informing the OPC of any changes affecting information or documents submitted in support of the licence application within 15 days of the change. Such changes may include the names of directors or **investors**, the fiscal year-end, documents or signatories of the **trust account**, your address, etc. For more details, see section 12 of the Regulation. You will find the forms to notify the Office of these changes at (in French only) <http://www.opc.gouv.qc.ca/commerçant/permis-certificat/agence/permis/modification>.

The general licence is issued not in the name of the travel agency (e.g. the Four Suns Agency), but in your own name (e.g. Benito Fortunato), on behalf of the person, association, or company that operates the travel agency. In this case, you must obtain written authorization from the person, association, or company to apply for the licence. Whether the application is made on your behalf or for someone else, you must work in the **principal establishment** full time (or most of the time) and perform management duties. You must also be at least 18 years old.

#### How do you go about making your first application?

First, the person applying for the general licence must hold a travel agency manager certificate for less than five years. To obtain the certificate, he or she must pass the travel agent manager examination<sup>1</sup>. This examination is taken on site, at a location determined by the *Institut de tourisme et d'hôtellerie du Québec*. After having passed the examination, you have two years to send an application for the issuing of a certificate to the OPC president.

You must then fill out the Demande de permis d'agent de voyage (travel agent licence application) form (see the example starting on page 36) provided by the OPC and available at <https://www.opc.gouv.qc.ca/commerçant/permis-certificat/agentsdevoyages/permis/demande>. You must send the completed form to the OPC, making sure to pay the stipulated licence fee (see Table 3.1) and to include the following supporting documents with your mailing.

<sup>1</sup> The person applying for a restricted licence is not required to take the examination or hold this certificate.

**To obtain the following documents, please refer to an accountant** (see Topic 2 for additional details):

- The opening balance sheet, showing working capital of at least \$5,000. This financial statement must include an auditor's certificate or a review engagement report.

**To obtain the following documents, please refer to your financial institution** (see Topic 2 for more details):

- The opening documents and signature log for each trust account, signed by the representative of a financial institution
- A surety bond of \$25,000 (see Topic 2 for more details)
- A copy of the company's board of directors resolution authorizing you to apply for a licence
- If you conduct travel-related activities at home, a photocopy of a certificate of occupancy issued by your municipality or a letter authorizing you to conduct these activities at home

Are you applying for a licence in order to continue operating an existing agency as a new legal entity? If so, you must also attach the financial statements as well as the former travel agent's trust account statements, showing the figures as of the date of your licence application. In this case, Mr. Fortunato, who is taking over his employer's active business assets, must complete the travel agent licence application presented in the following pages. In this example, the amount of the surety bond provided and the minimum working capital required will have to match the turnover of the former agency.



## Specimen: Travel Agent Licence Application Form (French-language version)

Office  
de la protection  
du consommateur

Québec

## Demande de permis d'agent de voyages

|   |                    |
|---|--------------------|
| Réservé à l'Office                        | Réservé à l'Office |
| N° de permis :                            |                    |
| N° de commerçant :                        |                    |
| NEQ :                                     |                    |
| Examiné par :                      Date : |                    |

1

## Section 1 : Type de demande

|   |  |  |
|---|--|--|
| Type de permis :  | <input checked="" type="radio"/> Général                       | <input type="radio"/> Restreint d'organisateur de voyages de tourisme d'aventure |
|   | <input type="radio"/> Restreint de pourvoyeur                  | <input type="radio"/> Restreint d'association touristique régionale              |
| Traitement prioritaire :  | <input type="radio"/> Oui <input checked="" type="radio"/> Non |  |
| Note : Des frais supplémentaires s'élevant à 50 % du coût du permis sont exigés pour un traitement prioritaire. |  |  |

2

## Section 2 : Renseignements sur le requérant

|  |   |
|--|---|
| Nom : <b>Lucky</b>                                       | Prénom : <b>Lachance</b>                              |
| Adresse (numéro, rue, bureau) : <b>77, de la colline</b> |   |
| Ville : <b>Québec</b>                                    | Province : <b>Québec</b> Code postal : <b>G1R 4T9</b> |
| Téléphone : <b>418 658-1148 poste : 411</b>              | Télécopieur : <b>418 658-1147</b>                     |
| Date de naissance (aaaa-mm-jj) : <b>1970-07-21</b>       | Courriel : <b>llachance@net.com</b>                   |

Permis général seulement : le requérant doit réussir un examen de gérant d'agence de voyages avant de demander un permis. Pour obtenir de l'information à ce sujet, visitez la page portant sur l'examen, dans le site Web de l'Office de la protection du consommateur.

Numéro d'identifiant CCV utilisé lors de l'inscription à l'examen (15 caractères, débutant par « CCV20 ») : **CCV201612326983**

## Section 3 : Immatriculation légale du commerçant

|   |
|---|
| Nom de l'entité légale au Registraire des entreprises du Québec :       |
| <b>4203565 CANADA inc.</b>  |
| Numéro d'entreprise du Québec (NEQ) : <b>2579145298</b>                 |
| Date de fin d'exercice financier : <b>30 octobre 20XX</b>               |
| Autres noms qui doivent figurer sur le permis : <b>Agence 4 Soleils</b> |
|   |
|   |

3

Veillez inscrire ci-dessous l'adresse de l'établissement principal et, dans le cas où le requérant exploite plus d'un établissement, l'adresse des autres établissements à l'annexe A. Veillez prendre note que tous les établissements que le requérant exploite doivent être immatriculés au Registraire des entreprises du Québec.

|   |
|---|
| Adresse de l'établissement principal (numéro, rue, bureau) : <b>1324, des Jardins</b> |
| Ville : <b>Québec</b> Province : <b>Québec</b>  |
| Code postal : <b>G1R 6P7</b> Téléphone : <b>418 658-4455 Poste : 225</b>              |
| Courriel : <b>4soleils@net.com</b> Télécopieur : <b>418 658-4452</b>                  |

4

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2017-02-22

- 1 Your licence has no expiry date but it must be renewed every year on the first day of the 8th month following the end of your fiscal year. s. 5. R.T.A.
- 2 See Section 3.1.3 Licence classes and fees. s. 6 a), R.T.A.
- 3 The NEQ is the number assigned to companies registering with the enterprise registrar in order to simplify dealings between companies and the various Quebec government departments and agencies.
- 4 A travel agent may operate an establishment at his or her domicile or the domicile of a travel counsellor on the conditions presented in Appendix D of the Travel Agent Licence Application Form. s. 11.10, R.T.A.



Specimen: Travel Agent Licence Application Form (cont'd)

Office de la protection du consommateur



Demande de permis d'agent de voyages

Section 4 : Déclaration et certification

|  |  |          |
|--|--|----------|
| A. Le requérant est-il un citoyen canadien ou un immigrant reçu au sens de la Loi sur l'immigration et la protection des réfugiés (L.C. 2001, c. 27)? *Ne s'applique pas au permis restreint   | <input checked="" type="radio"/> Oui <input type="radio"/> Non | <b>1</b> |
| B. Les établissements où l'agent de voyages fera des affaires sont-ils conformes à la réglementation municipale relative aux usages?   | <input checked="" type="radio"/> Oui <input type="radio"/> Non | <b>2</b> |
| C. Avez-vous comme principale activité celle d'exercer des fonctions de gérance à l'établissement principal de la personne, l'association ou la société au bénéfice de laquelle le permis est demandé?   | <input checked="" type="radio"/> Oui <input type="radio"/> Non | <b>3</b> |
| D. Au moment de la demande, la personne, la société ou l'association s'est-elle conformée aux dispositions relatives à la publicité légale, si elle est constituée en vertu des lois du Québec?  | <input checked="" type="radio"/> Oui <input type="radio"/> Non | <b>4</b> |
| Pour toute réponse positive aux déclarations suivantes, veuillez joindre un document explicatif en annexe comportant la signature du requérant de permis.  |  |          |
| E. Avez-vous déjà été condamné :   |  |          |
| - pour escroquerie, pour faux ou pour opération frauduleuse en matière de contrat de commerce?   | <input type="radio"/> Oui <input checked="" type="radio"/> Non | <b>5</b> |
| - pour une infraction à la Loi sur les agents de voyages?  | <input type="radio"/> Oui <input checked="" type="radio"/> Non | <b>6</b> |
| Si oui, précisez :   |  |          |
| F. Un dirigeant ou un bailleur de fonds a-t-il déjà été condamné, ou été dirigeant ou bailleur de fonds d'un agent de voyages qui a été condamné :   |  |          |
| - pour escroquerie, pour faux ou pour opération frauduleuse en matière de contrat de commerce?   | <input type="radio"/> Oui <input checked="" type="radio"/> Non | <b>7</b> |
| - pour une infraction à la Loi sur les agents de voyages?  | <input type="radio"/> Oui <input checked="" type="radio"/> Non | <b>8</b> |
| Si oui, précisez :   |  |          |
| G. Avez-vous déjà été titulaire d'un permis, ou occupé une fonction de dirigeant ou de bailleur de fonds pour un agent de voyages qui a été la cause du paiement d'une réclamation par l'un des fonds du cautionnement collectif ou par le Fonds d'indemnisation des clients des agents de voyages, et qui n'a pas remboursé ce fonds? | <input type="radio"/> Oui <input checked="" type="radio"/> Non | <b>9</b> |
| Si oui, précisez :   |  |          |

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2017-02-22

- 1** Required under the Regulation respecting travel agents s. 6 c), R.T.A.
- 2** You must fill out Appendix D. Required under the Regulation respecting travel agents ss. 6 f) and 11. 10, R.T.A.
- 3** Required under the Regulation respecting travel agents ss. 6 l) and m), R.T.A.
- 4** Required under the Regulation respecting travel agents s. 6 n) vi, R.T.A.
- 5** Required under the Regulation respecting travel agents s. 6 h), R.T.A.
- 6** Required under the Regulation respecting travel agents s. 6 i), R.T.A.
- 7** Required under the Regulation respecting travel agents s. 6 n) iv, R.T.A.
- 8** Required under the Regulation respecting travel agents s. 6 n) ii, R.T.A.
- 9** Required under the Regulation respecting travel agents s. 6 j), R.T.A.



## Specimen: Travel Agent Licence Application Form (cont'd)

Office  
de la protection  
du consommateur

Québec

## Demande de permis d'agent de voyages

## Section 4 : Déclaration et certification (suite)

|   |                           |                                      |          |
|---|---------------------------|--------------------------------------|----------|
| H. Un dirigeant ou bailleur de fonds a-t-il déjà été titulaire d'un permis, ou occupé une fonction de dirigeant ou de bailleur de fonds pour un agent de voyages qui a été la cause du paiement d'une réclamation par l'un des fonds du cautionnement collectif ou par le Fonds d'indemnisation des clients des agents de voyages, et qui n'a pas remboursé ce fonds? | <input type="radio"/> Oui | <input checked="" type="radio"/> Non | <b>1</b> |
| Si oui, précisez :  |                           |                                      |          |
| I. Avez-vous fait faillite au cours des 5 années précédant la demande ou occupé une fonction de dirigeant ou de bailleur de fonds pour un agent de voyages qui a fait faillite au cours des 5 années précédentes?   | <input type="radio"/> Oui | <input checked="" type="radio"/> Non | <b>2</b> |
| Si oui, précisez :  |                           |                                      |          |
| J. Un dirigeant ou un bailleur de fonds a-t-il fait faillite à titre d'agent de voyages ou à titre de dirigeant ou de bailleur de fonds d'un agent de voyages qui a fait faillite, au cours des 5 années précédentes?   | <input type="radio"/> Oui | <input checked="" type="radio"/> Non | <b>3</b> |
| Si oui, précisez :  |                           |                                      |          |

## Certification

JE DÉCLARE que les renseignements fournis dans la présente demande et dans toutes les pièces ci-annexées sont véridiques et complets.

Je reconnais que l'agent de voyages doit, dans les 15 jours de l'événement, aviser le président de l'Office de la protection du consommateur par écrit de tout changement aux renseignements fournis et aux documents transmis.

Requérant de permis : **LUCKY LACHANCE**

[en lettres moulées]

Signature du requérant de permis : *Lucky Lachance* Date : 30 octobre 20XX

À tout moment, des pièces justificatives peuvent être demandées pour valider les renseignements présentés dans les déclarations.

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2017-02-22

**1** Required under the Regulation respecting travel agents s. 6 n) v, R.T.A.

**2** Required under the Regulation respecting travel agents s. 6 k), R.T.A.

**3** Required under the Regulation respecting travel agents s. 6 n) iii, R.T.A.

**4** Required under the Regulation respecting travel agents s. 12, R.T.A.



Specimen: Travel Agent Licence Application Form (cont'd)



Demande de permis d'agent de voyages

Annexe A : Renseignements sur les établissements

Inscrire l'adresse de tous les établissements que le requérant exploite au Québec et pour lesquels un duplicata de permis est demandé. S'assurer que les renseignements fournis ci-dessous sont conformes à ceux déclarés au Registraire des entreprises du Québec.

(Si l'espace est insuffisant, veuillez joindre une annexe.)

1

|                                 |               |
|---------------------------------|---------------|
| Nom utilisé :                   |               |
| Adresse (numéro, rue, bureau) : |               |
| Ville :                         | Province :    |
| Code postal :                   | Courriel :    |
| Téléphone :                     | Télécopieur : |

|                                 |               |
|---------------------------------|---------------|
| Nom utilisé :                   |               |
| Adresse (numéro, rue, bureau) : |               |
| Ville :                         | Province :    |
| Code postal :                   | Courriel :    |
| Téléphone :                     | Télécopieur : |

|                                 |               |
|---------------------------------|---------------|
| Nom utilisé :                   |               |
| Adresse (numéro, rue, bureau) : |               |
| Ville :                         | Province :    |
| Code postal :                   | Courriel :    |
| Téléphone :                     | Télécopieur : |

|                                 |               |
|---------------------------------|---------------|
| Nom utilisé :                   |               |
| Adresse (numéro, rue, bureau) : |               |
| Ville :                         | Province :    |
| Code postal :                   | Courriel :    |
| Téléphone :                     | Télécopieur : |

|                                 |               |
|---------------------------------|---------------|
| Nom utilisé :                   |               |
| Adresse (numéro, rue, bureau) : |               |
| Ville :                         | Province :    |
| Code postal :                   | Courriel :    |
| Téléphone :                     | Télécopieur : |

|                                 |               |
|---------------------------------|---------------|
| Nom utilisé :                   |               |
| Adresse (numéro, rue, bureau) : |               |
| Ville :                         | Province :    |
| Code postal :                   | Courriel :    |
| Téléphone :                     | Télécopieur : |

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2017-02-22

1 M. Lachance operates only one establishment.  
s. 6 e), R.T.A.



## Specimen: Travel Agent Licence Application Form (cont'd)

Office  
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du consommateur

Québec

### Demande de permis d'agent de voyages

#### Annexe B : Identification des dirigeants et bailleurs de fonds

Inscrire le nom, la date de naissance, l'adresse du domicile, le numéro de téléphone, la fonction et le pourcentage de participation des associés ou des administrateurs. S'assurer que les renseignements fournis ci-dessous sont conformes à ceux déclarés au Registraire des entreprises du Québec.

(Si l'espace est insuffisant, veuillez joindre une autre annexe.)

1

|   |  |
|---|--|
| Prénom : <b>Lucky</b>   | Nom : <b>Lachance</b>  |
| Adresse du domicile (numéro, rue, appartement) :                | <b>77, de la Colline</b>                                     |
| Ville : <b>Québec</b>   | Code postal : <b>G1R 4T9</b> Province : <b>Québec</b>        |
| Téléphone : <b>418 658-1148 poste 411</b>                       | Date de naissance (aaaa-mm-jj) : <b>1970-07-21</b>           |
| Fonction dans l'entreprise : <b>Président-directeur général</b> | Pourcentage de participation dans l'entreprise : <b>70 %</b> |

2

|   |  |
|---|--|
| Prénom : <b>Joanne</b>                              | Nom : <b>Labonne</b>   |
| Adresse du domicile (numéro, rue, appartement.) :   | <b>101, des Tulipes</b>                                      |
| Ville : <b>Québec</b>                               | Code postal : <b>G1R 6P7</b> Province : <b>Québec</b>        |
| Téléphone : <b>418 658-5421</b>                     | Date de naissance (aaaa-mm-jj) : <b>1976-03-23</b>           |
| Fonction dans l'entreprise : <b>Vice-présidente</b> | Pourcentage de participation dans l'entreprise : <b>30 %</b> |

|  |  |
|--|--|
| Prénom :   | Nom :  |
| Adresse du domicile (numéro, rue, appartement) : |  |
| Ville :  | Code postal : Province :                         |
| Téléphone :                                      | Date de naissance (aaaa-mm-jj) :                 |
| Fonction dans l'entreprise :                     | Pourcentage de participation dans l'entreprise : |

|  |  |
|--|--|
| Prénom :   | Nom :  |
| Adresse du domicile (numéro, rue, appartement) : |  |
| Ville :  | Code postal : Province :                         |
| Téléphone :                                      | Date de naissance (aaaa-mm-jj) :                 |
| Fonction dans l'entreprise :                     | Pourcentage de participation dans l'entreprise : |

|  |  |
|--|--|
| Prénom :   | Nom :  |
| Adresse du domicile (numéro, rue, appartement) : |  |
| Ville :  | Code postal : Province :                         |
| Téléphone :                                      | Date de naissance (aaaa-mm-jj) :                 |
| Fonction dans l'entreprise :                     | Pourcentage de participation dans l'entreprise : |

|  |  |
|--|--|
| Prénom :   | Nom :  |
| Adresse du domicile (numéro, rue, appartement) : |  |
| Ville :  | Code postal : Province :                         |
| Téléphone :                                      | Date de naissance (aaaa-mm-jj) :                 |
| Fonction dans l'entreprise :                     | Pourcentage de participation dans l'entreprise : |

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2017-02-22

1 M. Lachance has a business partner who has contributed funds to finance the activities of the 4 Suns Agency.

2 Required under the Regulation respecting travel agents s. 6 g) par. 2, R.T.A.



Specimen: Travel Agent Licence Application Form (cont'd)

Office de la protection du consommateur



Demande de permis d'agent de voyages

Annexe C : Déclaration d'ouverture d'un compte en fidéicommis

1

L'agent de voyages doit informer l'Office de la protection du consommateur de l'ouverture, de la fermeture et du transfert d'un compte en fidéicommis, ainsi que de tout changement de signataires. (Si l'espace est insuffisant, veuillez joindre une annexe.)

Renseignements sur le compte en fidéicommis

|   |                                 |                                   |
|---|---------------------------------|-----------------------------------|
| Nom de l'agence de voyages : <b>4203565 CANADA inc.</b>   |                                 |                                   |
| N° de l'institution financière (3 chiffres) : <b>832</b>  |                                 |                                   |
| N° de transit de l'institution (5 chiffres) : <b>26601</b>  |                                 |                                   |
| N° du compte (7 chiffres) : <b>05-586-60</b>  |                                 |                                   |
| Nom de l'institution financière : <b>Banque Secure</b>  |                                 |                                   |
| Devise : <input checked="" type="radio"/> Dollars canadiens <input type="radio"/> Dollars américains <input type="radio"/> Autre devise (spécifiez) : |                                 |                                   |
| Adresse de l'institution financière (numéro, rue, bureau) : <b>2458, de la monnaie</b>  |                                 |                                   |
| Ville : <b>Québec</b>   | Province : <b>Québec</b>        | Code postal : <b>G7R 6P3</b>      |
| Courriel : <b>alain.poupart@bs.com</b>  | Téléphone : <b>418 555-2222</b> | Télécopieur : <b>418 555-2221</b> |
| Important : Veuillez joindre une copie des documents d'ouverture et de la fiche de signature de chaque compte en fidéicommis.                         |                                 |                                   |

Personnes autorisées à effectuer les transactions bancaires dans le compte en fidéicommis

|   |                                 |                                   |
|---|---------------------------------|-----------------------------------|
| Titulaire de permis : <b>Lucky Lachance</b>                               |                                 |                                   |
| Adresse personnelle (numéro, rue, appartement) : <b>77, de la Colline</b> |                                 |                                   |
| Ville : <b>Québec</b>   | Province : <b>Québec</b>        | Code postal : <b>G1R 4T9</b>      |
| Date de naissance (aaaa-mm-jj) : <b>1970-07-21</b>                        | Téléphone : <b>418 658-1148</b> | Télécopieur : <b>418 658-1147</b> |

|   |                                 |                              |
|---|---------------------------------|------------------------------|
| Autre signataire : <b>Joanne Labonne</b>  |                                 |                              |
| Type : <input type="radio"/> Signataire seul <input checked="" type="radio"/> Cosignataire <input type="radio"/> Autre type (spécifiez) : |                                 |                              |
| Adresse personnelle (numéro, rue, appartement) : <b>101, des Tulipes</b>  |                                 |                              |
| Ville : <b>Québec</b>   | Province : <b>Québec</b>        | Code postal : <b>G1R 6P7</b> |
| Date de naissance (aaaa-mm-jj) : <b>1976-03-23</b>  | Téléphone : <b>418 658-5421</b> | Télécopieur :                |

|  |             |               |
|--|-------------|---------------|
| Autre signataire :   |             |               |
| Type : <input type="radio"/> Signataire seul <input type="radio"/> Cosignataire <input type="radio"/> Autre type (spécifiez) : |             |               |
| Adresse personnelle (numéro, rue, appartement) :   |             |               |
| Ville :  | Province :  | Code postal : |
| Date de naissance (aaaa-mm-jj) :   | Téléphone : | Télécopieur : |

Certification

|  |                               |
|--|-------------------------------|
| J'autorise l'Office de la protection du consommateur à vérifier en tout temps l'état du compte en fidéicommis. |                               |
| Titulaire ou requérant de permis : <b>LUCKY LACHANCE</b>   |                               |
| Signature : <i>Lucky Lachance</i>  | Date : <b>30 octobre 20XX</b> |

Office de la protection du consommateur • 400, boul. Jean-Lesage, bureau 450, Québec (Québec) G1K 8W4  
Téléphone 418 643-1484 • Télécopieur 418 646-4891 • infopermis@opc.gouv.qc.ca

2017-02-22

1 Required under the Regulation respecting travel agents s. 6 p), R.T.A.



## Specimen: Travel Agent Licence Application Form (cont'd)

Office  
de la protection  
du consommateur

Québec

## Demande de permis d'agent de voyages

## Annexe D : Attestation de conformité à la réglementation municipale relative aux usages

## AVIS

Pour chacun des établissements pour lesquels un permis est demandé, vous devez remplir une attestation de conformité dûment signée par le requérant du permis.

Si l'une des déclarations ci-dessous est fautive, veuillez préciser tout renseignement pertinent en annexe.

JE DÉCLARE avoir vérifié auprès de la Ville ou de la Municipalité que l'établissement situé au :

**1324, des Jardins**  
(Adresse : numéro, rue)

**Québec**  
(Ville)

**G1R 6P7**  
(Code postal)

respecte la **réglementation municipale** relative aux usages.

JE DÉCLARE que mon établissement d'agent de voyages respecte effectivement la réglementation municipale relative aux usages, le tout tel qu'attesté par le certificat obtenu du greffier de la Ville ou de la Municipalité, le cas échéant.

JE DÉCLARE être informé que la délivrance du permis d'agent de voyages, par l'Office de la protection du consommateur, ne me dispense pas de respecter la réglementation municipale relative aux usages.

J'AUTORISE, le cas échéant, l'Office de la protection du consommateur à vérifier la conformité de la présente déclaration d'attestation de conformité auprès de la Ville ou de la Municipalité concernée.

Dans le cas d'un agent de voyages exploitant un établissement à son domicile ou à celui d'un conseiller en voyages :

JE DÉCLARE qu'une **pièce du domicile** est réservée à cette activité.

JE DÉCLARE que les numéros de téléphone, de télécopieur et l'adresse électronique utilisés pour les activités d'agents de voyages sont au nom de l'agent de voyages et sont différents des numéros et de l'adresse électronique personnels.

Note : Pour les requérants de permis exploitant une agence de voyages à domicile, veuillez joindre un certificat ou une lettre de confirmation de la Ville pour l'exploitation de cet établissement.

Nom : **LACHANCE**

Prénom : **LUCKY**

Signature du requérant de permis : *Lucky Lachance*

Date : **30 octobre 20XX**

À tout moment, des pièces justificatives peuvent être demandées pour valider les renseignements présentés dans les déclarations.

Office de la protection du consommateur • 400, boul. Jean-Lesage, bureau 450, Québec (Québec) G1K 8W4  
Téléphone 418 643-1484 • Télécopieur 418 646-4891 • infopermis@opc.gouv.qc.ca

2017-02-22

**1** Required under the Regulation respecting travel agents s. 6 f), R.T.A.

**2** Required under the Regulation respecting travel agents s. 11.10 b), R.T.A.

**3** Required under the Regulation respecting travel agents s. 11.10 c), R.T.A.

**4** Required under the Regulation respecting travel agents s. 11.10 a), R.T.A.



## Specimen: Travel agent licence application (French-language version)

Office  
de la protection  
du consommateur  
**Québec**

**MISE EN GARDE**

À L'ATTENTION DU DÉTENTEUR DE PERMIS :  
Ce permis doit être affiché à la vue du public.

4203565 CANADA INC.  
1324, DES JARDINS  
QUÉBEC QC H2J 1Z2

Office  
de la protection  
du consommateur  
**Québec**

**PERMIS D'AGENT DE VOYAGES - GÉNÉRAL**

|   |   |
|---|---|
| DÉTENTEUR/DÉTENTRICE :<br>LACHANCE, LUCKY | DATE D'ENTRÉE EN VIGUEUR :<br>20XX-02-01  |
| NUMÉRO DE PERMIS : 700000                 | PERMIS RECONDUIT JUSQU'AU :<br>20xx-03-31 |

4203565 CANADA INC.  
1324, DES JARDINS  
QUÉBEC QC H2J 1Z2

**AUTRES NOMS DU COMMERCANT**  
AGENCE 4 SOLEIL

*Salarneau*  
Présidente

### ! Did you know that...

You must display your licence in full view of customers in all of your establishments.

After having obtained your licence (or duplicate), you must display it in such a way that your clients can see it in all of your establishments.

You are also required to maintain an up-to-date list of travel counsellors employed by your agency and those with whom the agency has signed an exclusive service contract (including external counsellors). You must also ensure that your counsellors hold a certificate (see details in Topic 4).

### 3.1.5 General travel agent licence renewal

Is your agency operating on an ongoing basis? If so, you must renew your licence annually and file the required documents for this purpose at least two months prior to its **anniversary date**. If you operate more than one establishment, you must also renew your duplicate licences. Just like you, Mr. Fortunato will have to apply for a licence renewal if he decides to continue operating his agency for a second year.

Here's how to go about renewing your licence:

- Confirm that the information and documents regarding your most recent licence application are up to date. Approximately four months before your licence is renewed, you will receive the French-language *Renouvellement de permis* (licence renewal) form containing the information provided when you applied for your licence.
- Include with the renewal form the fees payable to the Minister of Finance (see Table 3.2).
- Provide the following documents (available from a member of a recognized Canadian professional accounting order):
  - Your financial statements from the last fiscal year including
    - The trust account balance sheet
    - The amounts of tourist services sales subject to contribution to the Travel Agency Customer Compensation Fund (*Fonds d'indemnisation des clients des agents de voyages*, or FICAV)
    - The amount of tourist services sales carried out through the **intermediary** of another travel agent
    - The amount collected from customers residing outside Quebec (if you are a travel agent providing services through a travel organization located outside Quebec)
    - The balance sheet showing a minimum amount of working capital, excluding accounts payable or accounts receivable as regards the travel agent and a person with whom the agent is bound or over which he or she exerts control (see Table 3.3)
- The security amount adjustment if justified by your turnover (see Table 2.1 in Topic 2 of this guide)

Table 3.2

| Cost of general licence renewal <sup>3</sup> based on turnover |         |
|--|---------|
| Turnover   | Cost*   |
| Up to \$0.5 million  | \$334   |
| Up to \$2 million  | \$445   |
| Up to \$5 million  | \$612   |
| Up to \$10 million   | \$835   |
| Up to \$20 million   | \$1,113 |
| More than \$20 million   | \$1,447 |

\* The costs indicated are those in effect for 2016. The cost is re-assessed each year on May 1, based on the Canadian Consumer Price Index. The *Office de la protection du consommateur* publishes a notice in the *Gazette officielle du Québec* ([www3.publicationsduquebec.gouv.qc.ca/gazetteofficielle.en.html](http://www3.publicationsduquebec.gouv.qc.ca/gazetteofficielle.en.html)) every year indicating the cost of a licence.

Table 3.3

| Minimum working capital required based on turnover |                         |
|--|-------------------------|
| Turnover   | Minimum working capital |
| Up to \$1 million                                  | \$5,000                 |
| Up to \$3 million                                  | \$7,500                 |
| Up to \$5 million                                  | \$10,000                |
| Up to \$10 million                                 | \$15,000                |
| Up to \$25 million                                 | \$25,000                |
| Up to \$50 million                                 | \$50,000                |
| Up to \$75 million                                 | \$75,000                |
| Up to \$100 million                                | \$100,000               |
| More than \$100 million                            | \$150,000               |

## 3.2 DUPLICATES AND LICENCE TRANSFER

### Duplicate licence

Do you own or operate other business establishments in addition to your principal establishment? If the answer is yes, you must obtain, for a fee, a licence duplicate to display in each of your establishments. As with the general licence for your principal establishment, the cost is re-assessed each year on May 1, based on the Canadian Consumer Price Index.

<sup>3</sup> For more details concerning the cost of renewing a licence, please visit the OPC website at (in French only) <http://www.opc.gouv.qc.ca/commercant/permis-certificat/agence/permis/renouveler-un-permis/tarifs>

## Licence transfer

You can apply for a licence transfer if the licensee

- Has died
- Has resigned
- Has been dismissed
- No longer complies with the requirements of the Act for licensees

In any of these situations, you have a maximum of 10 days to complete the form provided by the OPC president and available on the OPC website (in French only: [http://www.opc.gouv.qc.ca/fileadmin/media/documents/commercant/permis-certificat/agence/Guide\\_Transfert\\_Permis.pdf](http://www.opc.gouv.qc.ca/fileadmin/media/documents/commercant/permis-certificat/agence/Guide_Transfert_Permis.pdf)).

The information to be provided through this form represents all the updates to the licence application form. The cost represents 50% of the price paid at the last general licence renewal, including the duplicate to be displayed in each establishment. You must also provide a copy of the resolution of the company's board of directors authorizing the new licensee to apply for the licence.

## 3.3 LICENCE REFUSAL, SUSPENSION, OR REVOCATION

### 3.3.1 Grounds

- Have you, as holder of a travel agent licence, committed an offence under the Travel Agents Act or Regulation?
- Have you ceased to satisfy the mandatory conditions for obtaining a licence?
- Have you made a false declaration or modified information in order to obtain or renew your licence?
- Have you performed travel agent operations in such a way that you cannot carry through your obligations honestly and competently in the public interest?
- Does your financial situation prevent you from assuming the obligations arising from travel agent operations?
- Did you fail to establish or maintain a valid **corporate charter**?
- Have you lost your right to own a principal establishment?
- Have you officially, partially, or totally liquidated your principal establishment?
- Have you closed your principal establishment?
- Did you respect the rules for applying for a licence transfer?
- Have you violated any of the conditions or obligations of the Travel Agents Act or Regulation?

- Have you failed to respect a signed **voluntary undertaking** or an **extended undertaking** pursuant to the Consumer Protection Act?

If you have answered “yes” to any of these questions, the licence may be refused, cancelled, or suspended by the OPC. In such cases, its president will send you a notice indicating his or her intention, accompanied by the reasons justifying the decision and the corrections that would make your application acceptable. Upon receiving the notice, you have 10 days to forward your comments to the OPC president if you believe that your licence should be issued or should not be cancelled or suspended.

### 3.3.2 Recourse

You don't agree with a given decision? The OPC president may decide to reject your explanations and maintain his or her decision regarding your licence. You can challenge this decision if you feel that such a step is appropriate.

In this case, you must file your appeal with the Administrative Tribunal of Québec. The cost of an appeal against a decision of the OPC president in connection with the Travel Agents Act is approximately \$50. The appropriate form and a description of the entire recourse process are found on the Administrative Tribunal of Québec website at <http://www.taq.gouv.qc.ca/en>. The duration of the process and the process itself from the time your application is received until the Tribunal's decision are variable.

It is important to know that the Act respecting administrative justice (*R.S.Q.*, chapter J-3, Division IV, s. 36) also pertains to the performance of travel agent and travel counsellor duties. Under this Act, it is possible to request a review of unfavourable decisions regarding the licence and certificate required to perform your duties.

### 3.3.3 Provisional administration

The government of Quebec determines all regulations respecting the issuing, renewal, suspension, and cancellation of a travel agent licence. It also prescribes the capacities, conditions, and cost related to obtaining or renewing a licence. On behalf of the government, the OPC president can also appoint a competent person to temporarily administer your principal establishment, if your obligations and responsibilities are not fulfilled. Through these procedures, the government provides protection for your customers.

### 3.3.4 Penalties and offences





Penalties and offences fall under the responsibility of the *Office de la protection du consommateur* and its Director of Criminal and Penal Prosecutions. To specifically oversee the application of the Travel Agents Act, inspectors or investigators monitor compliance with various aspects of the Act and the Regulation. These investigators report offences and can recommend **penal charges**. The following checklist enables you to assess your degree of compliance and the fines to which you may be exposed. Please consult this section for any future reference you may require.

#### Checklist

| Licence  |           |               |                      |                      |
|--|-----------|---------------|----------------------|----------------------|
| Penal liability  | Compliant | Non-compliant | First offence        | Repeated offence     |
| Have you performed travel agent operations without holding a licence?  |           |               | \$2,000 to \$100,000 | \$4,000 to \$200,000 |
| Have you notified the OPC president of any change in the declaration of the fiscal year-end date?  |           |               | \$1,000 to \$40,000  | \$2,000 to \$80,000  |
| Have you notified the OPC president of any change in the opening document and signature log of the trust account?  |           |               | \$1,000 to \$40,000  | \$2,000 to \$80,000  |
| Have you notified the OPC president of any change in a document filed with the Enterprise Register?  |           |               | \$1,000 to \$40,000  | \$2,000 to \$80,000  |
| Do you provide air transportation tickets whose point of origin or destination is located in Canada or the United States without the carrier holding flight licences and/or approvals for these countries? |           |               | \$1,000 to \$40,000  | \$2,000 to \$80,000  |
| Do you keep an updated version of the list of travel counsellors in your employ or with whom you have signed an exclusive contract?  |           |               | \$1,000 to \$40,000  | \$2,000 to \$80,000  |

The Office maintains a list of all travel agent licensees on its website. Customers can find information such as your address, the validity of your general licence, and any complaints made by customers dissatisfied with a service received. The operation of a travel agency is possible only by the means of a licence.

Now it's your turn to assess your knowledge of the material covered in this section.

|  Test yourself            |  |  |   |
|--|--|--|---|
| After reading this section, I am able to   | Totally<br> | Partially<br> | Minimally<br> |
| 1. Identify the intended users of a travel agency licence  |  |  |   |
| 2. Differentiate the various types of travel agent licences  |  |  |   |
| 3. Distinguish the required procedures for obtaining or renewing a general licence                         |  |  |   |
| 4. Prepare a licence application   |  |  |   |
| 5. Understand the grounds and types of recourse available if a licence is refused, suspended, or cancelled |  |  |   |
| 6. Demonstrate my knowledge of the offences and penalties associated with failure to comply with the Act   |  |  |   |
| 7. Explain the legal <b>liability</b> associated with performing the duties of a travel agent              |  |  |   |
| <b>Total</b>   |  |  |   |

**Keep up the hard work! Review this topic or go on to the next section.**

## Answers Test your knowledge

- 1. False.** Mr. Fortunato must present a travel agency manager certificate obtained less than five years ago. To hold such a certificate, he must have passed a proficiency examination covering the legislative and regulatory provisions applicable to the travel industry and to the management of a travel agency (s. 6 (g) T.A.R.).
- 2. True.** You must be of legal age (18 years old), whether the application is made for yourself or on behalf of any other individual, association, partnership, or legal entity (s. 6 T.A.A.).
- 3. False.** It is the OPC president who issues the travel agent licence. An **applicant** must satisfy the conditions stipulated by the Act and the Regulation (s. 11 T.A.A.).
- 4. False.** Holding a travel agency management certificate for less than 5 years is the only requirement (s. 6 (g) T.A.R.).
- 5. False.** Mr. Fortunato is buying the assets of his employer, including the Four Suns Agency name, its furniture, the office lease, customer contracts, and more. In this case, he must reapply for a licence since the agency is a new legal entity that will continue operations. In order to apply for a licence transfer or a change of ownership, the Four Suns Agency must be an incorporated company. In that case, Mr. Fortunato would be able to purchase the proprietary equity, i.e. the assets and liabilities of the company, which would remain the same legal entity (s. 8.4 T.A.R.).
- 6. False.** The number of employees does not influence the licence cost. The turnover appearing in the financial statements establishes the cost (s. 4 (a) T.A.R.).

Result: \_\_\_\_\_ /6

### Supplementary readings and exercises

Answer the following questions by referring directly to the appropriate sections of the Travel Agents Act and Regulation (R.S.Q., c. A-10).

- Under what conditions does the Travel Agents Act not apply when the travel agent books a hotel room for a tourist? Answer: s. 1.1 (g) T.A.R.
- Explain why a travel agency sales representative doesn't require a travel counsellor certificate. Answer: s. 11.1 T.A.R.
- What is the amount required by the OPC to transfer a travel agent licence? Answer: s. 4 (e) T.A.R.
- Can the holder of a restricted licence sell an all-inclusive package in the Dominican Republic to a customer? Answer: s. 3 T.A.R.
- According to the Travel Agents Act, what is the maximum fine in case of a recurrent offence? Answer: s. 39 and 40 T.A.A.

# 4

# PRACTICING WITH A CERTIFICATE

## By the end of this section, you will be able to

- Identify who requires a certificate
- Understand the purpose of the examination required for certification
- Identify the necessary steps to obtaining or renewing a certificate
- Understand the grounds for refusing, suspending, or cancelling a certificate
- Identify the penalties and offences associated with a failure to comply with the Act
- Understand the legal **liability** associated with the duties of a travel counsellor



## Context

The following is an extract from the *Association des agents de voyages du Québec* (Quebec association of travel agents) website (french only: [aavq.ca/services](http://aavq.ca/services)). The AAVQ has supported the professionalization of this sector since 2011. The link *Renseignez-vous sur un agent de voyages* (Getting information about a travel agent) leads to the appropriate section of the *Office de la protection du consommateur* website.

"The *Association des agents de voyages du Québec* is a non-profit association, whose membership is free for everyone. Its **mandate** is to defend your rights before lawmakers."<sup>1</sup>

Quebec travel agencies generate a turnover of more than \$5 billion and provide employment for over 12,000 people. The AAVQ actively promotes and defends its members' interests both within the industry and before governments. In addition, it initiates a range of actions aimed at enhancing its members' professionalism in order to meet the expectations of the modern consumer.

## Mission

- Ensure fair representation for all Quebec travel agents
- Promote and defend AAVQ member interests both within the industry and before governments
- Enhance member professionalism in order to meet the expectations of the modern consumer

This section refers to the following obligations and conditions:

### Act

- Division I – Definitions and application (s. 2)
- Division II – Licences and certificates (s. 4)
- Division VI – Regulations (s. 36 b.1)
- Division VII – Penal provisions (ss. 39 and 40)

### Regulation

- Division I.1 – Exceptions (s. 1.2)
- Division IV.1 – Travel counsellors (ss. 11.1 to 11.9)
- Division V – Obligations of travel agents (s. 13.1)

<sup>1</sup> Our translation.

In this section, we will examine what certification is and what terms, conditions, and obligations apply thereto.

Before beginning your reading, let's test your knowledge of this topic.

## ? Test your knowledge

### True or False?

1. Only new travel agents and outside agents require a certificate. \_\_\_\_\_
2. You can contest the cancellation or suspension of your certificate by filing a request with the *Office de la protection du consommateur*. \_\_\_\_\_
3. Your certificate ceases to be valid if you are dismissed by your employer or if you terminate your employment. \_\_\_\_\_
4. The test is compulsory for all travel counsellors. \_\_\_\_\_
5. Travel agency licence holders must have certification. \_\_\_\_\_
6. The certificate must be visibly displayed. \_\_\_\_\_
7. Once obtained, a certificate is valid forever. It has no expiry date. \_\_\_\_\_
8. The cost of the certificate varies according to the length of time it is actually in force. \_\_\_\_\_

Answers are found at the end of this section.

### ! Did you know that...

A student can do an internship in an agency WITHOUT holding a certificate.

### ! Did you know that...

If you are an outside agent, you need a certificate. This means that you must be under contract to ONE SINGLE employer and you may NOT receive customers in your home.

## 4.1 OBTAINING A CERTIFICATE

### 4.1.1 Who is required to have a certificate?

Are you a travel counsellor who is in the employ of a travel agent or has entered into a service contract with a travel agent? Do you deal with customers over the telephone, online, or in person? Do you hold a **travel agent** licence and deal directly with customers? Under the Act, you must have a certificate to provide these services. In fact, all travel counsellors in the province of Quebec must obtain a certificate, which is an official document issued by the *Office de la protection du consommateur*. Like Ontario, Quebec wants to ensure that workers in the travel industry are aware of the obligations and responsibilities connected with their profession. Accordingly, travel agent licence holders must make certain that their staff possess this mandatory certificate. However, this requirement does not apply to student interns working at the agency.

If you are an outside travel agent, you also need a certificate. Consequently, you may only be bound by contract to one employer and you may not receive customers at home unless the travel agent operates an establishment at your residence, for which a copy of the licence was issued.

### First certificate

The Travel Agents Act obliges all travel agents and counsellors to pass an examination in order to obtain a certificate. This exam focuses specifically

on the knowledge of legislative and regulatory provisions applicable to the travel industry. The conditions and procedures regarding the exam and the issuing of the certificate are posted on the *Office de la protection du consommateur* website at <https://www.opc.gouv.qc.ca/en/merchant/licenses-certificates/counsellor/certificate/request>. You must request your first certificate within two years of passing the exam.

Failing to satisfy the conditions or to provide the required information and payment may result in certificate denial or delays in processing your application. However, it is your responsibility to inform the OPC of any change in your personal contact information (e.g. address, telephone number, or e-mail address) no later than 15 days following the modification. It is important to note that an employment contract or an exclusive service contract is mandatory for an employee to obtain a certificate and for an employer to hire a counsellor. An example of an employment contract is provided in Appendix 1.

**! Did you know that...**

After you pass the examination, you have a maximum period of 2 years to apply for your certificate.

**! Did you know that...**

An exclusive employment contract is mandatory for an employee to obtain a certificate and for an employer to hire a counsellor. You will find some sample employment contracts appended.

Typical example



**Specimen: Travel counsellor certificate (French-language version)**

**Certificat de conseiller en voyages**

|                       |                                 |
|-----------------------|---------------------------------|
| Renouvellement annuel | <b>1<sup>er</sup> septembre</b> |
| Numéro                | <b>CCV201812345678</b>          |
| Nom                   | <b>MARCO POLO</b>               |

Office de la protection du consommateur  
**Québec**

[opc.gouv.qc.ca](http://opc.gouv.qc.ca)

**Quelques obligations du conseiller en voyages**

- Renouveler son certificat chaque année pour exercer ses activités.
- Informer l'Office de tout changement à son dossier dans les quinze jours suivant l'événement.
- Vendre des services touristiques pour le compte d'un seul agent de voyages titulaire d'un permis, auquel il est lié par un contrat exclusif.
- Remettre au client un reçu conforme à ce que prévoit le règlement et déposer les sommes perçues dans le compte en fidéicommissé de l'agent de voyages.
- Ne faire de la publicité qu'au nom de l'agent de voyages auquel il est lié par un contrat et, dans cette publicité, ne pas indiquer ses coordonnées personnelles, sauf son numéro de cellulaire.

**Certificate renewal**

The certificate is renewed every year on the anniversary of the first issue date. Each year, the counsellor receives a notice by email two months prior to this date. Yearly renewal is necessary to keep the certificate active. However, renewal does not require that you take the exam again. The renewal fee is posted online at <http://www.opc.gouv.qc.ca/en/merchant/licenses-certificates/counsellor/certificate/request>. This amount must be paid each year on the anniversary of your certificate issue date. Remember to update the data in your file! The OPC will send you a reminder to your personal email if your file is not up to date.

### ! Did you know that...

Your certificate is valid if you meet the following conditions: having passed the examination, having paid the certificate issue or renewal fees, and being affiliated with a travel agency. If you are no longer affiliated with a travel agency, your certificate will cease to be valid. However, it will become valid again once you re-establish such an affiliation.

Your certificate is valid if the following conditions are met:

- You have passed the examination.
- You have paid the fees (first certificate or renewal).
- You are affiliated with a travel agency. Whenever this is not the case, your certificate is not valid and will become valid again once affiliation is re-established.

If you stop working for more than five years (to go back to school or try another career, for example), you will not be able to renew your certificate. You will have to take the examination again and apply for a new certificate.

## 4.2 REFUSAL, CANCELLATION, OR SUSPENSION

### 4.2.1 Grounds

- In the last five years, have you committed an offence under the Travel Agents Act or Regulation?
- In the last five years, have you been found guilty of fraud, forgery, or fraudulent operations in contractual or commercial matters?
- Have you made a false declaration or falsified information to obtain or renew your certificate?
- Have you failed to comply with any of the obligations of the Travel Agents Act or Regulation?

If you answered “yes” to any of these questions, your certificate can be refused, cancelled, or suspended by the OPC.

In these cases, the president of the OPC sends a notice explaining his or her intention, including the grounds for the decision. Upon receiving this notice, you have a maximum of 10 days to provide comments.

However, the OPC president may dismiss your explanations and maintain the refusal to issue, suspend, or cancel your certificate.

### 4.2.2 Recourse

The OPC president may dismiss your explanations and maintain the refusal to issue a certificate, or the suspension or cancellation of your certificate. However, you can challenge this decision by filing an appeal with the Administrative Tribunal of Québec, along with the required fee. The required form, as well as a complete description of the recourse process, are found on the Administrative Tribunal of Québec website. The duration of the process and the process itself from the time your application is received until the Tribunal’s decision may vary.

### 4.2.3 Penalties and offences

Penalties and offences are the responsibility of the *Office de la protection du consommateur* and the Director of Criminal and Penal Prosecutions. In order to ensure compliance with the Travel Agents Act, inspectors and investigators verify that the different aspects of the Act and Regulation have been respected. Investigators and inspectors report offences and can recommend **penal charges**. To act as a counsellor without holding a certificate can result in fines ranging from \$2,000 to \$100,000 for a first offence and from \$4,000 to \$200,000 for a repeated offence. Failing to inform the president, within 15 days, of a change affecting the information contained in an application to obtain or renew a certificate can result in fines ranging from \$1,000 to \$40,000 for a first offence and increases twofold in the event of a repeated offence.





## 4.3 RESPONSIBILITY RELATED TO HOLDING A CERTIFICATE

Your certificate attests to your awareness of the legislative and regulatory provisions applicable to the travel industry. You must be able to show your certificate to anyone who requests to see it. The certificate indicates your undertaking to respect **customer** rights and your own rights, inasmuch as you too are sometimes a customer!

Furthermore, the OPC makes available online a list of all certified travel counsellors. Your certificate allows you to officially appear on this list as a person authorized to do business with customers.

As a certificate holder, your responsibility extends beyond familiarity with the Travel Agents Act. Different pieces of legislation designed to ensure consumer protection supplement the Act. Having this document allows you officially to do business with customers, as explained in the second module of this guide.

Now it's your turn to assess your knowledge of the material covered in this section.

|   |  |  |   |  Test yourself |  |  |
|---|--|--|---|---|--|--|
| After reading this section, I am able to                                | Totally<br> | Partially<br> | Minimally<br> |   |  |  |
| 1. Identify who requires a certificate                                  |  |  |   |   |  |  |
| 2. Understand the purpose of the examination required for certification |  |  |   |   |  |  |
| 3. Identify the necessary steps to obtaining or renewing a certificate  |  |  |   |   |  |  |

4. Understand the grounds for refusing, suspending, or cancelling a certificate

5. Identify the penalties and offences associated with a failure to comply with the Act

6. Understand the legal **liability** associated with the duties of a travel counsellor

Total

**Keep up the hard work! Review this topic or go on to the next section.**

## Answers Test your knowledge

- 1. False.** All travel counsellors, as well as outside agents, must hold a certificate. (*T.A.A., s. 4*)
- 2. True.** Upon receipt of notice from the OPC president, you have 10 days to submit your observations. However, the OPC president may maintain the decision, despite your explanation. The president will inform you in writing of his or her reasoned decision. (*s. 11.8, T.A.R.*)
- 3. True.** Your certificate is valid only for employment with the employer designated in your certificate application. However, you can obtain a new certificate without having to redo the examination as long as your request is made within five years of termination of your previous employment. (*s. 11.9, T.A.R.*)
- 4. True.** Under the Act, all travel counsellors must pass an examination and obtain a certificate. (*s. 11.2a, T.A.R.*)

- 5. True.** Travel agency licence holders who act as travel counsellors must hold a certificate. (*s. 4, T.A.A.*)
- 6. True.** Holders are not required to display their certificates, but they must show them at any time and at anyone's request. (*s. 4, T.A.A.*)
- 7. Vrai.** Your certificate is valid, without an expiry date, on the following conditions: you must pay the annual renewal fee, remain employed by the employer designated in your initial application, and avoid the situations described in section 11.7 of the Regulation. (*ss. 11.2e, 11.7, and 11.9, T.A.R.; s. 4, T.A.A.*)
- 8. False.** The cost of the certificate is not related to its period of validity (*s. 11.2e, T.A.R.*)

Result: \_\_\_\_\_ /8

## Supplementary readings and exercises

Answer the following questions by referring directly to the Travel Agents Act and Regulation sections. (*R.S.Q., c. A-10*).

- What is the difference between a licence holder and a certificate holder? Answer: *ss. 4 and 8, T.A.A.*
- How are travel counsellor operations defined under the T.A.A.? Answer: *ss. 2 and 4, T.A.A.*
- What information should travel counsellors provide when applying for the issue or renewal of a certificate? Answer: *s. 11.4, T.A.R.*
- Within what time frame should travel counsellors notify the OPC of changes in the information contained in their application for the issuing or renewal of a certificate in order to avoid penalties? Answer: *s. 11.6, T.A.R.*



# MODULE II

**DEALING WITH CUSTOMERS**  
Responsibilities and Obligations



# 5

# ADVERTISING YOUR PRODUCT OR SERVICE

## By the end of this section, you will be able to

- Recognize an advertisement that complies with regulations
- Distinguish the characteristics of written advertisements from those of printed advertisements
- Create an advertisement that complies with regulations
- Take into account your liabilities and obligations
- Identify the penalties corresponding to offences

Advertising is an essential tool for marketing a tourism product or service. However, it is important to ensure compliance with the laws and regulations in force. In this section, we examine the mandatory features of written and printed advertising.

Before going any further, let's test your knowledge of this topic.

## Context

Four Suns Agency has negotiated unbeatable prices for the Hôtel du Grand Palais in Paris. The owner has decided to run the ad presented on page 60 in the local newspaper to boost sales in the coming weeks.

This section refers to the following obligations and conditions:

### Regulation respecting travel agents

- Division VI – Advertising (ss. 14 to 16)



## Non-compliant advertisement


**Four Suns  
Agency**

**Places are  
Limited!**

## PARIS MUSEUMS

**\$2,499.99**

15 days/14 nights



### Included:

- Round-trip flight Montreal-Paris
- Hotel du Grand palais 5\*
- Airport-hotel transfers (to and from the airport)
- Handling of 2 suitcases per person (each way)
- All breakfast meals
- Tours: 10 admission tickets per person (choice of museums)
- GST and QST (excluding FICAV contribution)

Price valid for new bookings only

Four Suns Agency Inc.  
 1324, des Jardins Street, Quebec City (Quebec) G1R 6P7  
 Telephone: 418 658-4455 • Email: 4soleils@net.com

## ? Test your knowledge

Based on your current knowledge of advertising regulations, identify the six mistakes that the Four Suns Agency made in their advertisement.

1. \_\_\_\_\_

4. \_\_\_\_\_

2. \_\_\_\_\_

5. \_\_\_\_\_

3. \_\_\_\_\_

6. \_\_\_\_\_

*Answers are found at the end of this section.*

## 5.1 GENERAL RULES TO BE RESPECTED

The Regulation respecting travel agents applies to all forms of advertising. In the Consumer Protection Act, “advertiser” designates a person who prepares, publishes or broadcasts an advertisement or who causes an advertisement to be prepared, published or broadcast.” Does your strategy call for advertising in a magazine or newspaper, in French, English, or other languages? Do you prefer to use inserts, brochures, leaflets, or storefront window displays? Do you focus on your own website or on the site provided by your suppliers? All of these forms of advertising are governed by the Consumer Protection Act and the Regulation respecting travel agents.

The Consumer Protection Act regulates all contracts entered into by consumers and merchants to the extent that it

- Provides for a basic conventional warranty for the purchase of all goods and services
- Provides special protection for certain types of contracts (credit contracts, distance contracts, and contracts for the sale of prepaid cards)
- Identifies business activities that require a permit (travel agents and sales representatives)
- Regulates advertising aimed at children under 13 years of age
- Prohibits merchants from engaging in misleading representations

### ! Did you know that...

The Canadian Radio-television and Telecommunications Commission ([www.crtc.gc.ca](http://www.crtc.gc.ca)) is the public agency responsible for regulating radio and television advertising.

## 5.1.1 Required content

### In all forms of advertising, you must

- Include the mention “Quebec licensee” (applies to the travel agent publishing the advertisement as well as any other travel agent or counsellor cited in the advertisement)
- Highlight the total price of products and services payable before departure and indicate separately the service fees charged by the travel agency. The Consumer Protection Act stipulates that the advertised price must be printed in characters twice as large as any other amount mentioned
- Specify whether the price shown in the advertisement includes taxes (GST and QST) and indicate the amount of the customer’s contribution to FICAV. Displaying the total price of a product or service is possible, and even mandatory, because it provides a figure with no hidden costs or charges for customers. In addition, *section 224c*) of the Consumer Protection Act prohibits merchants from selling a product or service at a higher price than the price advertised
- Indicate the time period during which the trip can be purchased at the advertised price
- Indicate the price in relation to occupancy. Thus, it is made clear that the price displayed relates to the mentioned occupancy type only. It is also possible to indicate a price range based on single, double, triple, or quadruple occupancy types (the wording “starting at” may be used in the advertisement only if the proposed trip is available at the time of publication)
- List the services (transportation, accommodation, meals, etc.) included in the advertised package
- Indicate the name of the scheduled air **carrier** at the time of publication
- Specify the duration of the advertised trip
- Include important information such as the fact that the trip will be available at the advertised price only for set departure and return dates or that there is ongoing renovation work at the hotel, including work completion date
- Indicate if space for the advertised trip is limited, as well as the number of places available at the advertised price. The merchant could be held liable for failing to include this information; in the event of a dispute, the court may order the defendant to offer a similar trip of equal or greater value at the advertised price
- Include your business contact information (full address, not just a post office box)
- Comply with the rules of the country toward which you are directing your advertising



### Information in compliance with the Regulation

Brochures generally contain the following information, in compliance with the Regulation:

“Certain conditions apply. The prices advertised in this brochure include all taxes and service charges. The prices shown exclude the FICAV contribution, which is \$1.00 per \$1,000 of tourist products or services purchased. Prices may vary due to an increase in the exchange rate or a fuel surcharge imposed by the carrier. Refer to the general conditions found at the end of this brochure.”



### Conviction for failure to comply with advertising rules

Press release

Vacation Bound Ltd. Travel Agency Found Guilty  
Quebec City, January 13, 2017

“The *Office de la protection du consommateur* is announcing that the Vacation Bound Ltd. travel agency (...) was found guilty of charges pursuant to the Regulation respecting travel agents. The agency has been ordered to pay fines totaling \$3,760.

In October 2014, the Office charged the travel agency with having published advertisements that did not comply with sections 14 and 15 of the Regulation. These advertisements failed to provide information on whether the prices advertised included the applicable taxes and the contribution to the Travel Agency Customer Compensation Fund (FICAV). The Office also charged the agency with not having disclosed the name of the air carrier for a package trip or the period during which package deals were available at the advertised price.

The Office wishes to point out that printed advertising from a travel agency must contain certain items of information, such as transportation, accommodation, and meal services included in the package, the name of the scheduled air carrier at the time of publication, the duration of the trip, as well as how long the trip will be available at the advertised price.

The advertisement must also indicate whether the advertised price includes GST, QST, and the cost of the customer FICAV contribution.”

### ! Did you know that...

It is widely known that children can influence their parents' choice of a vacation. Did you know that the Consumer Protection Act clearly prohibits you from directing your advertising at children under the age of 13?

### ! Did you know that...

You are prohibited from using ads suggesting to customers that payment for the advertised trip can be made by a cheque issued in their name by a municipality, or the government of Quebec or of Canada?

## 5.1.2 Prohibited Content

In the Consumer Protection Act, the section on Business Practices stipulates that in all forms of advertising, it is PROHIBITED to:

- Include the statement “prices are subject to change without notice.” It is therefore prohibited to charge a higher price than the one advertised. However, the price may be modified in a contract under certain circumstances, such as when a fuel surcharge (see Topic 7) is imposed by a carrier or in the event of an increase in the exchange rate.
- Include the statement “prices are valid at the time of printing” (to be valid, such a practice must specify the beginning and the end of the price validity period)
- Indicate the amount of instalments to be paid without including the total price of the tourist product or service (e.g. an advertisement promoting a package trip payable in 10 monthly payments of \$99 must also indicate the total price of \$990). Your customer must know the exact total amount to be paid
- Claim that the product or service advertised is offered at a discounted price if this is not the case (e.g. the wording “special offer” suggests that the price offered is actually lower than the usual price)
- Make false statements (e.g. attribute a non-existent benefit to a product or service by using the wording “book early” without any real benefits for the customer, or the wording “last minute specials” to suggest falsely that the price is lower than the usual price)
- Publish a misleading advertisement (e.g. include a photograph of a cabin that is more luxurious than the one actually offered at the advertised price)
- Distort the meaning of information, an option, or a testimonial obtained with a view to incorporating it into future advertising. The information you report must be accurate!
- Include a travel counsellor's personal contact information. Only the cell phone number may be used in an advertisement on behalf of the travel agent to whom the counsellor is bound by an employment contract or an exclusive service contract.
- Claim to be certified, approved, recommended, sponsored, affiliated, or associated with a third party (e.g. claiming to be associated with a religious organization without their consent in order to solicit customers to book your pilgrimage package)
- Suggest to customers that payment for the advertised trip can be made with an endorsed cheque, issued in their name by a municipality or by the government of Quebec or Canada
- Discredit the goods or services offered by a competitor
- Run advertisements specifically targeting children under the age of 13

## 5.1.3 COMPLIANT WRITTEN AND PRINTED ADVERTISING

The checklist below will help you to verify the compliance of each element of the advertisements that you publish in newspapers.

### Checklist: Written and printed advertising

All written and printed advertisements published by my agency must include the following mandatory information:

| Mandatory   | Compliant | Non-compliant |
|---|-----------|---------------|
| • The mention "Quebec licensee"   |           |               |
| • List of included transportation services  |           |               |
| • Name of the scheduled air carrier at the time of publication  |           |               |
| • Category of accommodation included  |           |               |
| • Price in relation to occupancy type   |           |               |
| • Included meals  |           |               |
| • Trip duration   |           |               |
| • Indication that the advertised trip has a limited number of spaces and indication of the number of places available at the advertised price   |           |               |
| • Time period during which the trip is available at the advertised price (for example, if booked before October 31, 20XX OR for travel dates between November 1 and December 17, 20XX)  |           |               |
| • Full contact details of the travel agent  |           |               |
| • A single TOTAL price for the advertised tourist product or service, including all fees, duties, and taxes other than the GST and QST (explicitly mentioning all inclusions) AND indicating in dollars the customer contribution to FICAV (for example \$1.00 per \$1,000 spent) |           |               |
| OR  |           |               |
| • The TOTAL price of tourist products and services payable, printed in a type that is twice as large as the type used to indicate the cost of any components displayed  |           |               |
| • Clear mention of whether or not taxes (GST and QST) are included (at least 10 point Helvetica font)   |           |               |
| • Clear mention of whether or not the FICAV contribution is included (at least 10 point Helvetica font)   |           |               |

The following is an example of an advertisement that is compliant with regulations. Compare the two examples and circle the non-compliant elements on the advertisement on page 67.

### ! Did you know that...

You've discovered the lookout located at Highway Exit 54 and you think it would be a great place to put up an advertisement for your company? Contact the ministère des Transports, de la Mobilité durable et de l'Électrification des transports ([www.transports.gouv.qc.ca/en](http://www.transports.gouv.qc.ca/en)) which issues the permit required for advertisement display near service areas, lookouts, and along roads maintained by this government department. This process is governed by the Roadside Advertising Act (*R.S.Q., c. P-44*).



Compliant advertisement



**Four Suns  
Agency**



**Book  
now!**

## PARIS MUSEUMS

**\$2,499.99**

per person in double occupancy.

- 15 days/14 nights
- July 31 to august 14 20XX



### Included:

- Round-trip flight Montreal-Paris with Air France
- Hôtel du Grand Palais 5\*
- Airport-hotel transfers (to and from the airport)
- Handling of 2 suitcases per person (each way)
- All breakfast meals
- Tours: 10 admission tickets per person (choice of museums)
- GST and QST

The price does not include FICAV contribution: \$1,00 / \$1,000

Space is limited (150 seats available)

Price is valid for new bookings only

Four Suns Agency Inc.  
1324, des Jardins Street, Quebec City (Quebec) G1R 6P7  
Telephone: 418 658-4455 • Email: 4soleils@net.com

Québec licensee



Non-compliant advertisement


**Four Suns  
Agency**

**Places are  
Limited!**

## PARIS MUSEUMS

**\$2,499.99**

15 days/14 nights



### Included:

- Round-trip flight Montreal-Paris
- Hotel du Grand palais 5\*
- Airport-hotel transfers (to and from the airport)
- Handling of 2 suitcases per person (each way)
- All breakfast meals
- Tours: 10 admission tickets per person (choice of museums)
- GST and QST (excluding FICAV contribution)

Price valid for new bookings only

Four Suns Agency Inc.  
 1324, des Jardins Street, Quebec City (Quebec) G1R 6P7  
 Telephone: 418 658-4455 • Email: 4soleils@net.com

### ! Did you know that...

If you want to include a contest, hold a draw, or offer a gift, prize, or discounted article in your advertisement, all conditions and procedures for winning must be specified. For information on how to comply with these rules, please visit the *Régie des alcools, des courses et des jeux* at [www.racj.gouv.qc.ca/en](http://www.racj.gouv.qc.ca/en).

### ! Did you know that...

If, for your advertisement in the regional weekly and on your website, you use, without authorization, written material from a travel magazine, along with pictures, video clips, and a catchy tune found on the Internet, you may end up in court?

The Copyright Act (*R.S.C., 1985, c. C-42*) governs the use of material protected by intellectual property rights. Criminal and civil charges can result in penalties ranging from injunctions to fines and even a prison sentence!

## 5.2 INTERNET ADVERTISING

Advertising on your website is also subject to the rules mentioned above. However, additional clarification is required by the Regulation respecting travel agents for transactional sites, i.e. websites where trips can be purchased online and where price adjustments are made in real time. In this case, the following mandatory notice must appear prominently on the homepage along with the indication that you are a Quebec licensee: “Prices advertised on our website are valid if you purchase services during the same session. If you log off, prices may be different the next time you log on to our website.”

In addition, the same rules apply if you wish to include a contest, hold a draw, or offer a gift, a prize or a discounted article in your advertisement. Regardless of whether your advertisement is in paper copy or posted online, all conditions and procedures for winning must be specified. Don’t take any chances! Information on how to comply with these rules is available on the *Régie des alcools, des courses et des jeux* website ([www.racj.gouv.qc.ca/en](http://www.racj.gouv.qc.ca/en)).

## 5.3 LIABILITIES AND OBLIGATIONS

Where advertising is concerned, your **liability** is far from trivial. As travel agents, you do not control every component of your customers’ purchase. You sell or organize products and services based on the offerings of various suppliers. You are thus an essential intermediary between your customer and the purchased product or service. However, although you may have little control over the complete chain of supply leading to delivery of the tourism product or service sold, under section 41 of the Consumer Protection Act, you are held liable. You are required to validate all information appearing in your advertisement prior to publishing, since you, together with the supplier involved, are severally liable if the services rendered are not consistent therewith. Notwithstanding section 41, it is important to note that the liabilities and obligations of the various intermediaries are ultimately determined by the Court.

If you act as reseller of a previously advertised tourism product or service, it is your responsibility to ascertain that the published information is truthful and compliant with prevailing legislation. Accordingly, information in brochures and other documents produced by another travel agent or a supplier should be validated before being disseminated. If your customer files charges regarding any aspect of the document, you and the third party from whom you obtained the product or service sold to the customer.

Selling a non-compliant package from another travel agent is equivalent to endorsing the product yourself! In reference to the advertisement shown above, it would be a shame to be held responsible for incorrect information concerning the supposed five-star rating of Hôtel du Grand Palais when it's actually a two-star establishment!

## 5.4 PENALTIES AND OFFENCES

Customers have countless choices when purchasing travel services. In order to enable customers to compare their choices and make informed decisions, all necessary information should be made available to them. Your advertisements are an essential tool to achieve this objective. Consequently, failure to respect rules governing advertisements is severely punishable by law. Inspectors and investigators from the OPC ensure that laws are being followed, as do your customers, who are increasingly well informed about their rights. In addition, consumers can file complaints with the OPC, which may result in a lawsuit.

### MANAGER

What happens if you violate a provision of the Regulation respecting travel agents? For a first offence, fines vary between \$1,000 and \$40,000. If you repeat the offence, this will cost you between \$2,000 and \$80,000! The president of the OPC has the right to demand access to any advertisement that you or your advertising agency intend to run, as well as proof of its veracity. The Consumer Protection Act also seeks to discourage you from undertaking illicit practices. For an individual (Mr. Fortunato or a counselor at his agency), the fines for a first offence range between \$600 to \$15,000, and for subsequent offences between \$1,200 and \$30,000. If a legal entity (Four Suns Agency) is found guilty, the fine is steeper: \$2,000 to \$100,000 for a first offence and between \$4,000 to \$200,000 for repeated offences! Moreover, the Court may order you to pay investigation costs, hence the importance of complying with the law and reviewing your ad carefully prior to publication.

Regardless of the medium used, your advertisement constitutes a commitment to your future customers. While you seek to stand out, it is also paramount to respect the established legal framework. Advertising is in fact, a commitment that binds you from the outset of all dealings. Don't try to sell at all costs!





### ! Did you know that...

If your customers book by way of your website, it is your responsibility to protect their personal information. Your website must disclose your company's policy regarding the use, processing, and protection of requested information. The Act respecting the protection of information in the private sector (*L.R.Q., c. P-39.1*), ss. 8 and 27 requires you to grant access to a customer's file (online, for example) upon the customer's request. Customers to whom such access is refused can appeal to the *Commission d'accès à l'information*.

### ! Did you know that...

If you receive a commending email from a customer, pleased with the service offered by your escort guide in Asia, and you decide to include this testimonial in your next advertisement – watch out! Be sure to convey the customer's message faithfully. The Consumer Protection Act prohibits you from distorting the meaning of a report, opinion, or testimonial.

Now it's your turn to assess your knowledge of the material covered in this section.

|  Test yourself |  |  |  |
|---|--|--|--|
| After reading this section, I am able to  | Totally<br> | Partially<br> | Minimally<br> |
| 1. Recognize an advertisement that complies with regulations                                      |  |  |  |
| 2. Distinguish the features of written and printed advertisements                                 |  |  |  |
| 3. Create an advertisement that complies with regulations   |  |  |  |
| 4. Take liabilities and obligations into account  |  |  |  |
| 5. Identify the penalties associated with offences  |  |  |  |
| <b>Total</b>  |  |  |  |

**Keep up the hard work! Review this topic or go on to the next section.**

## Answers Test your knowledge

- |  |   |
|--|---|
| <ol style="list-style-type: none"> <li>1. Wrong wording. The advertisement must include the mention "Quebec licensee." (s. 14, T.A.R.)</li> <li>2. The occupancy rate is not indicated with the advertised price. (s. 228, C.P.A.)</li> <li>3. The number of places available at the advertised price is not indicated. (ss. 229 and 231, C.P.A.)</li> <li>4. The name of the scheduled air carrier at the time of publication is not provided. (s. 15 a, T.A.R.)</li> </ol> | <ol style="list-style-type: none"> <li>5. The time period during which the trip may be purchased at the advertised price is not provided. (s. 15 b, T.A.R.)</li> <li>6. The amount of the FICAV contribution is not mentioned. (s. 14.1, T.A.R.)</li> </ol> |
|--|---|
- Result: \_\_\_\_\_ /6

# 6

## DEALING WITH CUSTOMERS

### By the end of this section, you will be able to

- Identify the various obligations of travel agents
- Distinguish between civil, administrative, and penal **liabilities**
- Cite the supplementary forms of customer protection
- Assume the role of insurance contract distributor

Travel agents or counsellors are directly involved with customers from their first encounter until after the customers return from their trip. Informing, organizing package deals, and selling tourism products and services incur obligations. This topic looks at essential legal aspects of your relationship with customers.

Before going any further, let's test your knowledge of this topic.

### Context

Raya, a travel counsellor at Interstellar Travel, has been given an important assignment. She has been asked to represent the agency at a business meeting with executive officers of a multinational company in order to market an incentive trip to Australia. The customer is seeking assistance in finding attractive travel options to reward his employees. To stand out from its competitors, Interstellar Travel has joined forces with various Australian suppliers to organize an original itinerary (bus, hotels, attractions, and activities). Raya has prepared accurate descriptions of the itinerary and attractions, as well as a full price breakdown and specifics on the contract terms and conditions. Aside from the documents, this information will also be presented verbally at a meeting with the customer. Before her presentation, Raya makes sure that she has covered all aspects involved in this trip in order to enable the customer to make an informed choice.

Answer the questions that this potential customer might ask Raya.

This section refers to some of the legislation governing the travel industry.

- Consumer Protection Act (*R.S.Q., chapter P-40.1*)
- Civil Code of Québec (*L.Q., 1991, c.64*)
- Act respecting the distribution of financial products and services (*R.S.Q., c. D-9.2*)
- Carriage by Air Act (*R.S.C., 1985, c. C-26*)

## ? Test your knowledge

### True or False?

1. Interstellar Travel could be held liable for the use of outdated equipment by its scuba-diving supplier. \_\_\_\_\_
2. For this group trip organized by Interstellar Travel, Raya has an obligation to provide the assistance of a guide. \_\_\_\_\_
3. Should Interstellar Travel not deliver one of the services provided in the contract and should a court ruling grant the customer an indemnity, the individual security will be used to pay this indemnity. \_\_\_\_\_
4. If the customers have a flight delay depriving them of two days of planned activities in Australia, they cannot file a lawsuit on these grounds. \_\_\_\_\_
5. Customers are entitled to compensation if discrepancies are found between the verbal description of the package presented by the representative and the actual tour product delivered at destination. \_\_\_\_\_
6. In the event that Interstellar Travel concludes this sale by telephone, Raya must specify any additional fees charged by Australian suppliers. \_\_\_\_\_

Answers are found at the end of this section.

## 6.1 OBLIGATIONS AND LIABILITIES OF TRAVEL AGENTS

With respect to contracts between travel agents and their customers, the legislation distinguishes two levels of contractual **obligations**: the **obligation of means** and the **obligation of result**. These obligations, explained below, imply that travel agents are subject to civil, administrative, and penal liabilities. Based on the Civil Code of Québec, you bear **civil liability** in relation to your duty to customers. Based on the Travel Agents Act and other legislation applicable to the travel sector, you bear **penal liability** based on your duty to the government. You must therefore answer for your own actions and the actions of your employees!

For example, under the Civil Code of Québec, travel agents' **civil liability** refers to their obligation to provide products and services as stipulated in the contract. The Consumer Protection Act specifies that a "written or verbal statement made by the representative of a merchant or of a manufacturer respecting goods or services is binding on that merchant or manufacturer." Therefore, by virtue of its **civil liability**, Interstellar Travel is responsible for the information provided by Raya, its travel counsellor. Finally, under the Travel Agents Act, if you are operating with a valid permit, you are not likely to face **penal sanctions**.

What are obligations of means and obligations of result as applied to your role as a merchant?

1. An **obligation of means** entails using the necessary means to achieve the result stipulated in the contract and to employ prudence and diligence (i.e. the degree of care in regards to customer requests), yet not guaranteeing the outcome. The travel agent will not be held responsible if the reason for the customer's dissatisfaction arises from an unforeseeable event that compromises the fulfilment of the contractual promise. A business offering a safari holiday in Kenya has an obligation of means towards its visitors: it must make every effort to ensure that they can safely observe animals wandering freely in the wild, but it cannot be held responsible if animals are discreet and fail to appear, unless this fault can be attributed to the supplier. In a formal complaint, the dissatisfied customer would have to prove that you and your supplier did not use the necessary means to honor your commitment.
2. The **obligation of result** is more consequential than the obligation of means. In fact, it requires the supplier to achieve a result or risk a penalty, unless prevented by force majeure, which is an unforeseen, unforeseeable, and irresistible event, as defined in section 2100 of the Civil Code of Québec. This type of obligation, as its name indicates, is based on the result or outcome stipulated in the contract. In other words, your customers expect you to provide exactly what they purchased. For example, the obligation of result of a carrier is to transport people or cargo. Both carrier and travel agent incur **joint and several liability** for any delay or damage inflicted on the passengers or property being transported.

It is important to remember that courts generally apply the obligation of result to travel agent-customer contracts. For example, in the case of force majeure, such as a hurricane, that would require travelers to cut short their stay, suppliers in charge of repatriating them must meet their obligation of result. Since the trip was shortened, the travel agent and tour operator only partially fulfilled their obligations and the customer should be reimbursed for the undelivered portion of the trip (i.e. hotel nights not used).



### Joint and several liability of the travel agent and his supplier

The **plaintiff** (customer) is claiming \$5,685.38 in **damages** from Bon Voyage Agency and Airlines Inc. for alleged delays during a trip purchased from Bon Voyage. His itinerary included a Montreal-Venice-Montreal round trip, with stops in London and Rome. Having suffered inconvenience and time loss resulting from the disappearance of his return flight reservation from the computer system, the customer is claiming living expenses, prepaid hotel expenses for the period he was in transit, and compensation for loss of enjoyment of his vacation.

Claiming that it had done all that was necessary to book a seat on another flight, the air carrier invoked the Montreal convention provisions, as well as specific ticket conditions, to contest the claim.

In the example presented above, Airlines Inc. is citing Article 19 of the Montreal Convention, which states that “the carrier is liable for damage occasioned by delay in the carriage by air of passengers, baggage or cargo. Nevertheless, the carrier shall not be liable for damage occasioned by delay if it proves that it and its servants and agents took all measures that could reasonably be required to avoid the damage or that it was impossible for it or them to take such measures.”

On the other hand, in this specific example, the court might not be convinced that all reasonable and necessary steps were taken to avoid prejudice to the customer. Thus, Airlines Inc. might be obliged to compensate the **plaintiff** for damages resulting from such delays. Under the contract terms, Bon Voyage Agency was jointly and severally responsible and could therefore also be found liable.

The possibility that the court might settle the matter in this way calls attention to the fact that agreements with customers are binding on the travel agent jointly and severally with suppliers or tour operators. It also shows that the air carrier is governed by international conventions. As an integral part of the Carriage by Air Act (*R.S.C., 1985, c. C-26*), the Montreal Convention establishes uniform rules for international air carriage of passengers, baggage, and cargo. Accordingly, air carriers must state their terms in compliance with the Act.

According to **case law**, travel agents are held liable in cases of non-compliance in the following areas as they relate to the obligations of means or result:

- Choice of **service providers**
- Assistance
- Information
- Compliance
- Safety

What are your responsibilities in relation to the above?

### 6.1.1 Choice of service providers

In choosing **service providers**, whether you serve as an intermediary or an organizer, you are working with suppliers to provide customers with products and services as stipulated in a contract. You could be held liable for arranging flights on a carrier that infringes local, national, or international regulations, or for booking with **suppliers** using outdated equipment.

### 6.1.2 Assistance

If you are selling tours of Peru or package holidays to Fiji Islands, for example, you must book a guide, local representative, or supplier who is able to assist customers whenever the need arises. This is particularly important with respect to travel packages to countries where language, customs, and laws differ from ours.

### 6.1.3 Information

You must disclose all known, important, and necessary information to guide your customer's decision. Once a service is purchased, your responsibility to inform extends until the end of the customer's trip. For example, it is your duty to recommend having on hand a letter of consent from the parents or guardians of a child traveling alone before departure; to contact your customer ahead of time if changes are made to his or her initial flight schedule; or once on site, to ensure communication through your local representative in the event of a hurricane requiring an emergency evacuation.

### ! Did you know that...

The Consumer Protection Act provides that in case of doubt or ambiguity, a contract must be interpreted in favour of the consumer. The conditions indicated by suppliers, whatever the medium used (Internet, brochure, ticket, etc.), must therefore be clearly worded.

### Example



#### Duty to inform

Raphael, a travel counsellor, has booked flights comprising “illegal connections” (not respecting obligatory intervals between two flights) although fully aware of the risks his customers were facing as a result. The carrier was not involved in the itinerary choice. Despite systematic refusals by the booking systems, Raphael kept after the supplier, insisting upon approval of the flight itinerary. As a result, his customers were refused boarding on a connecting flight, because their luggage had been delayed. Prudent and diligent professionals cannot ignore their responsibility to inform customers of the risks associated with such an itinerary. Customers can claim compensation from a travel agency due to its employee’s incompetence and carelessness.

## 6.1.4 Compliance

Your duty to comply is associated with what is stipulated in the contract and what the customer receives in the context of consuming the product or service purchased. The Consumer Protection Act provides that in case of doubt or ambiguity, the contract must be interpreted in favour of the consumer. The conditions indicated by suppliers, regardless of the type of media used (Internet, brochure, leaflet, and so on) must be worded clearly. Special attention must be paid to commitments stipulated in the contract, on the website, or in the reference brochure of the product sold. Stating that a hotel is located “on the beach” when in fact a main road separates it from the beach, is valid grounds for the customer to bring proceedings against you!

## 6.1.5 Safety

Before agreeing to purchase a trip, your customers must be forewarned of situations that could compromise their safety. As a merchant, you must specify all known hazards that are in any way life-threatening or that could jeopardize travelers’ health (e.g. avian flu epidemic) and safety (e.g. riots).

## 6.2 SUPPLEMENTARY CUSTOMER PROTECTION

As explained in Topic 2, the Act provides three levels of customer protection: the **trust account**, the **individual security**, and the Travel Agency Customer Compensation Fund (FICAV). The latter can be used in cases such as agency closure, undelivered tourist services (transportation and

accommodation, for example), and unavoidable repatriation. Two types of supplementary protection are also available.

In order to avoid any inconveniences, you should inform your customers of the advantages of having travel insurance and making the purchase by credit card. These protections sometimes provide reimbursement of incurred damages. If the amount thereof is lower than damage costs, customers may ask that the difference be paid out of FICAV. Well informed customers will know that they should first file a claim with their insurer before turning to the Fund.

## 6.2.1 Insurance

How do you respond to customers who purchased tourism products involving suppliers on strike or lock-out? What do you say to a customer asking to cancel his or her trip due to health problems or the death of a close relative? Without insurance, customers can find themselves in a precarious situation. A thoughtful travel agent always explains the reimbursement policy coverage prior to accepting customer deposits at the time of booking. These reimbursements, generally incomplete, can be supplemented by insurance products. For customers who are unable to travel, must interrupt their trip, or require health care, this precautionary step will make it possible to cover the remainder of the cost. Moreover, reimbursement will be available in cases involving suppliers who fail to perform their primary obligations of transportation, accommodation, or tour-guiding, despite having been paid.

By selling insurance to customers, you are acting as a “distributor” within the meaning of the Act respecting the distribution of financial products and services (*R.S.Q., c. D-9.2*). In this capacity, you have an obligation to inform or be subject to the penalties stipulated in the Act.

You are therefore required to

- Inquire whether the customer is already insured prior to offering insurance coverage, and prompt him or her to verify if in doubt
- Offer a copy of the booklet presenting the insurance product prior to selling the tourist product or service
- Describe the type of coverage and indicate clearly what it includes
- Inform the customer of your insurance product commission if it exceeds 30% (likewise, the insurer must provide this information at the request of the *Autorité des marchés financiers*)
- Keep confidential all information of a medical nature or associated with customers’ lifestyle if required to fill out a form. You are not allowed to keep a copy of such information.
- Inform customers of claim procedures and time limits
- Inform the customer of the deadline to be met by the insurer for the payment of the amounts insured and of the procedure to follow in case the insurance claim is refused in violation of policy provisions

### ! Did you know that...

The *Autorité des marchés financiers* (AMF) is a government agency that oversees compliance with the Act respecting the distribution of financial products and services (*R.S.Q., c. D-9.2*) which governs, among other matters, the sale of travel insurance.

- Respect the customer's choice. You are not allowed to exert abusive pressure or use dishonest methods of persuasion in sales
- Indicate in writing, as required by the *Autorité des marchés financiers*, that an insurance contract can be terminated, at the customer's request, within 10 days of signing

## 6.2.2 Credit cards

It should also be noted that credit-card companies offer customer protection as well. In fact, most card issuers offer guarantees, travel insurance, and compensation in specific cases. For example, when sales are made in person, customers may be entitled to a refund on condition that the relevant tourism product or service was not provided.

In the specific case of distance contracts (completed by telephone or over the Internet), the Consumer Protection Act provides a remedy called the **chargeback**, which is a reimbursement procedure whereby customers ask the credit card issuer to reverse a sales transaction. This procedure is based on the assumption that the service or product purchased was not provided.

Dealing with customers is a key aspect of your business. It entails having to be well acquainted with the customers and the products offered for sale, as well as with the obligations and liabilities associated with potential transactions. The travel industry is a closely monitored sector that requires its representatives to be well informed in order to market their products to well protected customers.

Now it's your turn to assess your knowledge of the material covered in this section.

| Test yourself  |             |               |               |
|--|-------------|---------------|---------------|
| After reading this section, I am able to   | Totally<br> | Partially<br> | Minimally<br> |
| 1. Identify the various obligations of travel agents                                 |             |               |               |
| 2. Distinguish between civil, administrative, and penal liabilities                  |             |               |               |
| 3. Demonstrate my knowledge of the supplementary protections available for customers |             |               |               |
| 4. Assume the role of insurance contracts distributor                                |             |               |               |
| <b>Total</b>   |             |               |               |

**Keep up the hard work! Review this topic or go on to the next section.**

## Answers Test your knowledge

1. **True.** The choice of **service providers** is associated with the obligation of result. (ss. 10 and 16 C.P.A.)
2. **True.** The obligation of result implies arranging for local assistance to be made available during your customers' trip. According to section 2100 of the Civil Code of Québec, "the contractor and the provider of services are bound to act in the best interests of their client, with prudence and diligence. Depending on the nature of the work to be carried out or the service to be provided, they are also bound to act in accordance with usual practice and the rules of art, and, where applicable, to ensure that the work done or service provided is in conformity with the contract. Where they are bound to produce results, they may not be relieved from **liability** except by proving superior force."
3. **True.** The individual security is used to compensate customers who have obtained a judgment against the travel agent, exclusive of **punitive damages**, to the extent that Interstellar Travel cannot pay further to the judgment rendered (s. 28 T.A.R.). Since the individual security cannot be used to cover punitive damages, the owner must compensate customers from the agency's own **funds**.
4. **False.** The group can file suit. Article 19 of the Montreal Convention stipulates that the carrier is responsible for damages resulting from a delay unless the carrier can prove that all reasonable measures were taken to avoid this situation.
5. **True.** Pursuant to the **obligation of compliance**, the description of products and services, whether written or verbal, must accurately reflect the tourism product or service provided. (ss. 16, 40, and 42, R.S.Q.)
6. **True.** When a travel contract is signed, given the information obligation incumbent upon travel agents, they must inform customers of any known supplementary expense and of any fees that may be charged by suppliers.

Result: \_\_\_\_\_ /6



## Supplementary readings and exercises

- Act respecting the distribution of financial products and services (*R.S.Q., c. D-9.2*) <http://legisquebec.gouv.qc.ca/en/ShowDoc/cs/D-9.2>
- Carriage by Air Act (*L.R.C., 1985, c. C-26*) <http://laws-lois.justice.gc.ca/eng/acts/C-26/>
- Société québécoise d'information juridique – <http://soquij.qc.ca/fr/english> To learn more about decisions handed down by various authorities relating to the travel industry.

# 7

# PREPARING THE CUSTOMER'S DEPARTURE

## By the end of this section, you will be able to

- Explain the information contained in an invoice
- Apply invoicing rules
- Describe the terms and conditions set forth in a sales contract
- Convey the appropriate information when signing a distance contract
- Explain the circumstances under which price modification is permitted
- Cite the reasons permitting trip cancellation
- Identify the offences and penalties associated with a failure to comply with the legislation

When a customer makes a reservation, you must prepare a contract (invoice and receipt) in accordance with the customer's requests. This contract should reflect the terms and conditions of suppliers involved in providing the purchased products and services. Once the booking is made, you must put together the documentation required for the trip and give it to the customer prior to departure. As part of this preparation, you will sometimes have to work through special situations, including instances of force majeure, while you continue to comply with the applicable laws and regulations. Preparing a customer's departure is a key operation in the work of a travel agent and counsellor. Accomplishing your duties with care at this stage will help you to avoid potential problems.

Before you start reading, let's test your knowledge of this topic.

## Context

### **Oil prices: Air Canada introduces a \$10 fuel surcharge**

Excerpt from the consumer affairs program "Argent" which aired on March 8, 2011 (our translation).

Air Canada has increased fares on domestic flights to mitigate the effects of rising oil prices caused by the current uprisings in the Middle East. The airline introduced a \$10 fuel surcharge per flight for an economy class seat. For a round trip, travelers will have to disburse an additional \$20. In business class, the surcharge is \$15 per flight.

This section refers to the following obligations and conditions:

### Regulation respecting travel agents

- Division V – Obligations of travel agents (s. 13.2)
- Division VI – Advertising (s. 16)
- Division VII – Accounting (s. 18)
- Division VIII – Special Provisions (ss. 19 and 20)

The surcharge applies to domestic flights and those bound for the United States. The tax was previously implemented to international flights only. "Like all airlines, Air Canada is very sensitive to variations in oil prices," indicated Peter Fitzpatrick, the airline's spokesperson. Fuel represents Air Canada's single largest expense, which amounted to \$2.65 billion last year.

"For every \$1 rise in the price per barrel, Air Canada's fuel expenses go up \$25 million over one year," added Mr. Fitzpatrick. WestJet, Air Canada's major rival, has not introduced a fuel charge yet but instead, the company has already increased its fares by \$5 to \$10 three times this year. According to WestJet, the volatility of oil prices precludes the development of long-term fare strategies. Porter Airlines has not announced a surcharge either. Nevertheless, a spokesperson has indicated that this regional airline "is evaluating market conditions in terms of oil prices and competition."

Canadian airlines are actually following a trend that began south of the border. Ticket prices at United Airlines, Continental, and U.S. Airways rose by about \$10 this week. At Delta, increases were between \$10 and \$14.

Canadian carriers had all introduced fuel surcharges when the oil price per barrel soared to \$110 and they withdrew them once prices dropped.

## ? Test your knowledge

### True or False?

Since the airline price increase story was published, the phone at Four Suns Agency has been ringing off the hook! Customers are calling to inquire whether they will have to pay a surcharge before their departure. What do you tell them?

1. Travel agents can ask customers to pay an extra fee 40 days prior to departure, as a result of a fuel surcharge imposed by the carrier. \_\_\_\_\_
2. A **tour operator** may impose a surcharge on customers 40 days prior to departure following a 4% Mexican Peso devaluation. \_\_\_\_\_
3. Travel agents may request an additional charge from their customers 20 days prior to departure following an increase of the Quebec sales tax (QST) if the balance has not yet been paid. \_\_\_\_\_
4. Travel agents may not claim an additional charge in the event of a \$136 increase on the price of a tour of Western Canada, originally offered at \$1,700, due to a fuel surcharge. Added to that amount is a 1% increase in the Quebec sales tax (QST).  
\_\_\_\_\_
5. The reimbursement conditions outlined in the **tour operator's** brochure that the customer referred to in order to book a product are directly linked to the sale contract between the travel agent and the customer. \_\_\_\_\_
6. Prior to departure, travel agents can cancel their customers' stay in the event of a situation of **force majeure** at destination that would require the airline to cancel its flights.  
\_\_\_\_\_

*Answers are found at the end of this section.*

## 7.1 DOCUMENT DELIVERY

### 7.1.1 Invoice

The invoice is an important document. It bears witness to any **funds** owed by the customer in exchange for tourism products sold as well as the obligations and conditions associated with the product. The invoice is also essential for accounting purposes, i.e. to show the OPC the amounts collected for the Travel Agency Customer Compensation (FICAV). Finally, it is needed for issuing the sales tax collection reports required by the government.

The invoice also functions as the travel service **contract**. Under the Civil Code of Québec, a business or service contract is a contract “by which a person, the contractor or the provider of services, as the case may be, undertakes to carry out physical or intellectual work for another person, the client or to provide a service, for a price which the client binds himself to pay.” As a merchant, you must comply with the regulations of the Consumer Protection Act (*R.S.Q., c. P-40.*) Section 2 of this Act stipulates that it applies to any contract for goods or services involving a consumer and a merchant in the course of the latter’s business activities. This contract creates substantial obligations for the customer and the travel agency, as discussed previously under Topic 6 of this guide.

#### Billing Guide

Drawing up an invoice according to regulations enables you to achieve one of the objectives required for obtaining certification as a travel counsellor or travel agent. You must complete an invoice upon concluding a transaction with a customer to acknowledge receipt of **funds**, whether these funds are a partial deposit or final payment. These invoices must be pre-numbered and used consecutively. A copy of each invoice must be retained, should an inspector ask for a duplicate. You must also give your customer a copy.

The invoice must include the following information:

- a) Day, month, and year of the transaction
- b) Customer name and address, i.e. the name of each traveler as well as the address of one customer on file, whether or not the travelers reside at the same address
- c) Description of the tourism product delivered or to be provided; you must list and describe each of the services or include a copy of the **tour operator’s** brochure, indicating the product name (for example, group tour, Discovering French Wines, Horizon Vacations Tour – 14 days). For more information, see the terms and conditions section below.
- d) Price of the tourism product sold, stating separately the applicable taxes (with the total corresponding to the amount payable)
- e) Travel Agency Customer Compensation Fund contribution amount (see Topic 2 of this guide), specifying the percentage and amount paid

### ! Did you know that...

The airport "tax" as well as overnight stays at a hotel must be included in the tourist services description.

### ! Did you know that...

If your customer, a business traveler, makes a booking two nights prior to departure for Los Angeles, you must inform him or her verbally of the terms of reimbursement and non-reimbursement. You must also send his or her travel documents as early as possible.

### ! Did you know that...

Under section 1523 of the Civil Code of Québec and section 41 of the Consumer Protection Act, your obligation as travel agent is solidary with that of the trip organizer (**tour operator**). In other words, the terms and conditions listed in a brochure are binding on both the tour operator and the travel agent.

- f) Amounts received and balance payable: a deposit or the balance payable according to the travel agent's or supplier's terms and conditions of payment
- g) Indication that the amounts collected from the customer by the travel agent have been deposited in a trust account (see Topic 2 of this guide)
- h) Conditions for reimbursement or non-reimbursement of paid amounts; specify this information in writing or offer customers a copy of the supplier or tour operator brochure stating the conditions for reimbursement and describing in detail the tourism product sold. For more details, see the terms and conditions section below.
- i) Name of the travel counsellor who concluded the sale

To apply these billing rules, complete exercise 1, found in the Readings and Supplementary Exercises segment of this section.

## Terms and conditions

Under section 1523 of the Civil Code of Québec and section 41 of the Consumer Protection Act, your obligation as travel agent is solidary with that of the trip organizer (**tour operator**). Therefore, tour operator brochures contain similar terms and conditions. Since agency and tour operator terms and conditions are mutually binding, it is important to be well acquainted with them. Knowing them well is in your and your customer's best interests! Terms and conditions are governed by the Consumer Protection Act and the Travel Agents Act along with their applicable regulations. They generally amount to those under the following headings:

- Price – Includes information on the selected product as described in the brochure. This heading usually lists hotel and room amenities according to category, service type, and number of meals, as well as activities, air transportation, transfers, and at-destination representation services
- Time period for price validity – Price of services and applicable taxes before a specified date
- Terms and conditions for booking confirmation – Deadlines for making the deposit and final payment
- Cancellation conditions – Deadlines and related charges
- Conditions for booking changes – Deadlines and related charges
- Air carrier conditions – Check-in, seat assignment, schedule changes, transfers, baggage limit, and other information, as appropriate
- Accommodation conditions – Assignment of room categories, and check-in and check-out times
- Procedures relating to travel documents – Passports, visas, tourist maps

Below are two examples of websites that include information which is useful to customers and consistent with the intent of the law:

Example



### Notice on the website of a travel agency

#### **IMPORTANT!**

If you do not understand the terms stipulated, please consult a counsellor at [www.voyagesarabais.com](http://www.voyagesarabais.com) or any other person of your choice in order to clarify the point at issue before booking.

**By booking you acknowledge that you understand and agree to the general conditions listed below.**

Example



### Notice on the website of a tour operator

#### **CANCELLATION CHARGES (www.transatholidays.com)**

For any cancellation, whatever the cause, the following charges apply:

#### **Tour packages and flights:**

- 46 days or more prior to the departure date: \$300 per person
- 45 to 22 days prior to the departure date: 50% of the total tour package cost per person, including taxes and service charges
- 21 days or less prior to the departure date: 100% of the total tour package cost per person, including taxes and service charges

**Flights with transfers:** 100% non-reimbursable.

## 7.1.2 Travel documents

What documents must you give your customer prior to departure?

The Regulation respecting travel agents provides that you must give the customer all documents associated with products and services reserved and paid in advance, such as transport documents (plane tickets, train tickets, etc.), itinerary, and vouchers (for accommodations, transfers, and activities).

When must you give the required travel documents to the customer?

No later than seven (7) days prior to departure. However, there is an exception for customers using your services fewer than 7 days prior to departure. In this case, section 19 of the Regulation respecting travel agents applies: travel documents must be provided as early as possible prior to the customer's departure.

## 7.2 DISTANCE CONTRACT

When doing business with customers without being physically present (e.g. by telephone or online), you are entering into a distance contract. This type of contract needs to be reviewed in detail since it is very common in the travel industry. Using the following checklist, assess your level of compliance with the provisions of the Consumer Protection Act that apply to such transactions.

|  |           | Checklist     |
|--|-----------|---------------|
| Distance contract  |           |               |
| BEFORE concluding a distance contract, I make sure to mention                                      | Compliant | Non-compliant |
| • My name  |           |               |
| • Agency address   |           |               |
| • Agency telephone number  |           |               |
| • Detailed description of each product or service listed in the contract, including their features |           |               |
| • Price breakdown for each product or service and related charges                                  |           |               |
| • Description of any supplementary fees that may be charged by suppliers                           |           |               |
| • Total price and terms of payment   |           |               |
| • Currency in which the payment is required (if not Canadian)                                      |           |               |
| • Cancellation policy  |           |               |
| • Any other restrictions or conditions applicable to the contract                                  |           |               |
| • Possibility to accept or refuse the offer  |           |               |

Two features differentiate distance contracts from booking in person:

- When customers book by email (remotely and in writing), you are not required to inform them verbally of the terms relating to price adjustments. However, you must ensure that this clause appears in the documents.
- When customers book by telephone (remotely and orally), you are not required to inform them verbally of the price adjustment clause at the time of transaction, on condition that a copy of the contract is forwarded to them within 15 days of their making the booking.

## 7.3 PRICE CHANGES

As is the case for other business sectors, prices of tourism products are affected by fuel price fluctuations, tax increases, and exchange rate variations. This begs the question whether the price indicated on the invoice, i.e. the contract, can be changed. The answer is yes, if you give notice thereof before completing the sale. Customers must be alerted verbally as well as in writing (a contract clause) concerning the reasons that may justify additional charges. As manager or travel counsellor, you are required to inform your customer of this possibility.

On what grounds could you change a given price?

- A fuel surcharge imposed by a carrier
- An exchange rate increase, to the extent that the exchange rate applicable 45 days prior to the service delivery date has risen by more than 5% since the date on which the contract was signed

What are your deadlines for making a price change?

- Price increases are authorized until 30 days prior to departure. Past this period, contract modifications affecting price are not permitted.

Is there a maximum amount that you can request as a surcharge?

- No, but the customer may refuse any increase greater than 7% of the price of products listed on the invoice, excluding Quebec sales taxes (QST) and the goods and services tax (GST).

What options can be considered in the event that customers exercise their right to refuse the change?

- Customers may refuse a price increase equal to or greater than 7%. In this case, you can provide full and immediate reimbursement OR offer substitute services.

### Did you know that...

Revenu Québec can provide answers to any questions you might have regarding invoicing your customers and changes in the Quebec sales tax (QST) and the goods and services tax (GST).

## 7.4 CANCELLATION

You can cancel a customer's trip by providing notice at least seven (7) days prior to departure. However, there must be a valid reason for doing so (safety issues or other conditions). In the event of a force majeure, the cancellation may be made less than seven days prior to departure. Furthermore, the agent is liable for damages for canceling a trip if the related advertising failed to indicate the minimum number of travelers required to ensure departure ("guaranteed departure").

### 7.4.1 Force majeure

Force majeure refers to an event that is unforeseeable and irresistible (impossible to avoid), such as a strike, lock-out, bankruptcy, fire in a hotel, terrorist attack, hurricane, flood, earthquake, epidemic, or aircraft breakdown. However, such events are not automatically considered instances of force majeure; this depends on the circumstances associated with each situation. For example, an air carrier strike is not always a case of force majeure since such events are often publicized well in advance. Natural disasters such as hurricanes are generally, but not systematically, considered a case of force majeure. In fact, it would not be considered force majeure if it had been forecast two days prior to a trip or occurred a week beforehand, allowing the host infrastructures to resume operations. The same is true for cases of political instability. In this type of cancellation, the supplier is obliged to reimburse your customer on condition that the supplier has been paid and has not fulfilled its primary obligation (i.e. transporting, accommodating, guiding the traveler, etc.). Certain suppliers may, with the consent of the customer, offer a product or service equal to or better than what had been initially booked. The following examples are intended to help you better understand the point in question.



## Natural disaster

### Eruption of the Eyjafjallajökull volcano

Source: *Office de la protection du consommateur*

April 16, 2010 – The eruption of a volcano under a glacier in Iceland had repercussions reaching Quebec yesterday, when some ten flights were cancelled at Montreal’s Trudeau Airport. In Europe, the thick cloud of volcanic ash paralyzed air transport in the northern part of the continent, keeping a large number of aircraft on the ground. The airspace of 24 European countries was closed.

The situation also disrupted air traffic between Montreal and Europe. Air Canada had to cancel all its flights to and from the European airports of London/Heathrow, Paris/Charles-de-Gaulle, and Frankfurt, Germany.

At Transat, flights between Canada and the United Kingdom were delayed until further notice. (...)

In addition to flight cancellations, passengers may see their connections to other departures affected. This situation could also have repercussions on southbound flights.

It seems that most tour operators and air carriers are already offering to refund tickets or to replace cancelled flights at no extra charge.

The reimbursement of additional expenses incurred due to the cancellations (hotel, meals, taxi, etc.) will be decided on a case-by-case basis.

The airline industry bases its response on the Montreal Convention, which does not provide for other forms of compensation during “extraordinary circumstances,” as is currently the case with the eruption of a volcano.

#### Question:

Your customer, who has been waiting for hours at the airport, realizes that his trip is compromised. The airline has announced that flights are cancelled indefinitely. The customer is calling the agency to find out what his rights and available options are.

The airline is obliged to reimburse the customer. You could also offer the option of applying the future reimbursement credit to an alternate destination. However, you must specify that all meals and long-distance calls are at the customer’s expense. Refer to Topic 6, which presents the Montreal Convention in connection with the conditions applying to air carriers.



## Political instability

### Egypt: impacts on travelers

Source: *Office de la protection du consommateur*

The current political situation in Egypt reasonably raises concerns among travelers who have purchased airline tickets or package tours to this country.

The OPC notes that the government's recommendation to avoid traveling to a country on safety grounds does not give travelers the right to cancel their trip. Therefore, travelers cannot cite political unrest to exercise that right. Accordingly, travelers deciding to cancel a trip that has already been arranged would incur a cost.

They could ask the air carrier to postpone their trip to a later date or even change the destination without penalty. Therefore, travelers are advised to review the cancellation conditions in their contract or the documentation they received and discuss the situation with the merchant. (...)

The OPC reminds interested parties that despite the circumstances, if all the services provided for in the contract are delivered, travelers cannot claim compensation through the Travel Agency Customer Compensation Fund (FICAV).

(...) Customers cannot claim reimbursement if the airline continues to offer the service as agreed in the contract, even if a situation of force majeure prevails at the destination and they fear for their safety.

## 7.5 PENALTIES AND OFFENCES

Make sure to avoid fines! Inspectors and investigators monitor compliance with various aspects of the Travel Agents Act and the Regulation respecting travel agents. Where offences are discovered, they can recommend **penal charges**. The following checklist can help you to assess your level of compliance and find out what fines you are exposed to in the event of any infringement of regulations. In addition, a licensee can have his or her licence suspended or cancelled by the OPC president. Please refer to the relevant section of this guide to refresh your memory on this topic.




Checklist

| Billing  |           |               |                     |                     |
|--|-----------|---------------|---------------------|---------------------|
| Penal liability  | Compliant | Non-compliant | First offence       | Repeated offence    |
| Have you included all the necessary items on the invoice?  |           |               | \$1 000 to \$40 000 | \$2 000 to \$80 000 |
| Have you reimbursed customers who opted for a refund following a price increase—in cash or by crediting the credit card that was used to make the payment? |           |               | \$1 000 to \$40 000 | \$2 000 to \$80 000 |

This topic deals mainly with the invoicing required to confirm the sale of a tourism product or service by a certified counsellor of a travel agency. At this point, you are engaged in a commercial transaction with your customer. The invoice is a binding contract for the remainder of the customer service process.

Now it's your turn to assess your knowledge of the material covered in this section.

 Test yourself

| After reading this section, I am able to  | Totally<br> | Partially<br> | Minimally<br> |
|---|--|--|---|
| 1. Explain the content of the information to be included in an invoice  |  |  |   |
| 2. Apply billing rules  |  |  |   |
| 3. Describe the conditions specified in a sales contract  |  |  |   |
| 4. Identify the information that must be conveyed to the customer when concluding a distance contract             |  |  |   |
| 5. Explain the circumstances that permit price changes  |  |  |   |
| 6. Identify the grounds for making a cancellation   |  |  |   |
| 7. Identify the offences associated with a failure to comply with the legislation and the corresponding penalties |  |  |   |
| <b>Total</b>  |  |  |   |

**Keep up the hard work! Review this topic or go on to the next section.**

## Answers Test your knowledge

1. **True.** To the extent that all the conditions outlined in section 13.2 have been met, in particular the insertion of a clause either allowing for a price increase in the verbal or written contract or mentioning the possibility of such an increase (announced more than 30 days prior to the date on which the services must be provided). (s. 13.2, T.A.R.)
2. **False.** The exchange rate has not increased by more than 5% between the date of the sale and the 45<sup>th</sup> day prior to departure. (s. 13.2a) i, T.A.R.)
3. **True.** If the sales tax rate increases, the merchant remitting the sales tax may require the amount thereof from the customer. (s. 13.2 a) i, T.A.R.)
4. **True.** When the price increase exceeds 7%, the travel agent cannot force the customer to pay the corresponding amount. The customer has the choice of paying the requested increase, cancelling the contract and obtaining a reimbursement, or accepting replacement services offered by the travel agent. (s. 13.2 ii, T.A.R.)
5. **True.** Travel agents are exempt from entering this information on the invoice if they attach the brochure describing the services purchased or another written message outlining the conditions for reimbursement and they inform the customer of its content. (s. 18, T.A.R.)
6. **True.** When, for a reason of force majeure, travel agents cannot perform their obligation to provide a service, they can cancel the contract and reimburse the customer or offer replacement services, which the customer is not obliged to accept. (s. 20, T.A.R., ss. 1693 and 1694 C.C.Q.)

Result: \_\_\_\_\_ /6

## Supplementary readings and exercises

### EXERCISE 1: Applying billing rules

Read the situation below involving Four Suns Agency and complete the standard invoice including each of the headings shown in the 7.1.1.1 Billing Guide section. The answer for this exercise is provided in Appendix 3.

#### Background: Sale of a vacation package

At Mr. Fortunato's Four Suns Agency, a new counsellor, Ruth Wright has received a couple and offered them a vacation package provided by ABC Tours. After going over the product following the detailed description in the **tour operator's** brochure, the customers bought the package including a double occupancy seven-night stay, at the Coco Beach Vacation Resort in Punta Cana, Dominican Republic.

Vacation dates: December 19 to December 26, 20XX

Flight itinerary:

19 December Montreal (YUL) 3:45 p.m. Airciel Flight 972 Economy class (Y)

26 December Punta Cana (PUJ) 3:30 p.m. Airciel Flight 973 Economy class (Y)

Fare: \$1,508.00 per person in double occupancy, plus \$668.00 other charges

The customers have refused insurance.

Customer names: Mr. and Ms. Joe and Jane Murphy

10, Village Road, St-Lac, Quebec, G9P 3P6

To conclude the sale in the absence of Mr. Fortunato, the counsellor must prepare the invoice indicating the administration and document issue charges as specified in the agency's regular procedure.

Please complete the invoice below.

 **Exercise - Completing a standard invoice**

| <b>INVOICE</b>  |             |                |             |  |                     |       |       |
|---|-------------|----------------|-------------|--|---------------------|-------|-------|
| <b>Four Suns Inc. Agency</b><br>1324, des Jardins Street<br>Québec (Quebec)<br>G1R 6P7<br>Telephone: 418 658-4455, Ext. 225<br>Fax: 418 658-4452<br>Email: foursuns@net.com |             |                |             | Date :<br><br>Invoice No.: 120000<br>File No.:<br>GST No.:<br>QST No.: |                     |       |       |
| <b>Client(s):</b> Address :   |             |                |             |  |                     |       |       |
| <b>Counsellor:</b>  |             |                |             |  |                     |       |       |
| DESCRIPTION   | Product No. | Quantity       | Price       | Other charges  | GST                 | QST   | TOTAL |
| <b>1.</b><br><br>OTHER:   |             |                |             |  |                     |       |       |
| <b>2.</b><br><br>OTHER:   |             |                |             |  |                     |       |       |
| <b>3.</b><br><br>OTHER:   |             |                |             |  |                     |       |       |
|   |             |                |             |  | <b>TOTAL :</b>      |       |       |
|   |             |                |             |  | <b>Deposit:</b>     |       |       |
|   |             |                |             |  | <b>Balance due:</b> |       |       |
| <b>ITINERARY:</b>   |             |                |             |  |                     |       |       |
| Date  | Departure   | Departure time | Destination | Arrival time   | Flight              | Class |       |
| <b>OTHER:</b>   |             |                |             |  |                     |       |       |



# CONCLUSION

A decorative dotted line in a teal color starts to the right of the 'CONCLUSION' header, extends horizontally to the right, then turns 90 degrees downward and continues vertically down the right side of the page.

Operating a travel agency and dealing with customers are serious responsibilities. This commercial activity, like every other, requires a good understanding of the applicable laws and regulations on the part of owners and their employees. Ignorance of these rules can result in embarrassing situations which can be easily avoided. No company wants to be famous for its mistakes! The years of hard work necessary to consolidate a good reputation should never be tainted by violations of any part of the extensive legislation governing the travel industry. As a travel manager or counsellor, it is your duty to know and understand the legislation that pertains to your activity. The purpose of this guide has been to inform you thereof. Now it's your job to apply what you've learned!



The background features a light blue, stylized map of the world with dashed lines representing flight paths. Several airplane silhouettes are scattered across the map, flying in various directions. The word "APPENDICES" is prominently displayed in the upper left quadrant of the page.

# APPENDICES

## Travel Counsellor Employment Contract (French-language version)

Le « DATE »\*

« PRÉNOM, NOM »  
 « ADRESSE »  
 « VILLE », Québec  
 « CODE POSTAL »

**Objet : Contrat de conseiller en voyages avec « NOM DE L'EMPLOYEUR »**

« MONSIEUR OU MADAME »,

Cette lettre confirme les termes de notre contrat exclusif concernant votre emploi chez « NOM DE L'ENTREPRISE », situé(e) au « ADRESSE DE L'ENTREPRISE ».

### A – Poste

Vous êtes embauché(e) à titre de conseiller(ère) en voyages. Votre statut sera celui d'un(e) vendeur(se) à commission salarié(e) à temps plein de 35 heures par semaine. À ce titre, vous relevez du (de la) soussigné(e).

### B – Terme

Votre entrée en fonction sera le « DATE » avec une période de probation de trois mois.

### C – Rémunération

Votre rémunération hebdomadaire est fixée au taux horaire de « \$ » plus « % » des revenus générés par les commissions. Le paiement des commissions sera versé une fois que les montants à recevoir et à payer, en lien avec le dossier-client, auront été réglés. Les déductions à la source seront retenues sur votre paye en respect avec la Loi.

### D – Dépenses

Toutes les dépenses relatives à votre poste sont soumises à la politique de l'entreprise.

\* Complete the requested information highlighted in blue.

## Travel Counsellor Employment Contract (cont.)

### E – Vacances annuelles

Une année complète de travail vous donne droit à 10 jours de vacances.

### F – Confidentialité et conflits d'intérêts

Il est convenu qu'en acceptant le poste de conseiller(ère) en voyages chez « NOM DE L'EMPLOYEUR », vous vous engagez à une entente d'exclusivité et à traiter l'information acquise dans le cours normal de votre fonction, de manière confidentielle en tout temps et en tout lieu. Il est aussi convenu qu'en acceptant votre poste, vous vous engagez à dénoncer au (à la) soussigné(e) toutes situations pouvant constituer un conflit d'intérêts.

### G – Obligations

Entendu que le conseiller(ère) en voyages

- est lié(e) par contrat de travail exclusivement avec « NOM DE L'ENTREPRISE »
- ne reçoit pas de clients à domicile
- perçoit les fonds d'un client pour le compte de « NOM DE L'ENTREPRISE »
- remet à un client dont il perçoit les fonds un reçu conforme
- fait de la publicité exclusivement au nom de « NOM DE L'ENTREPRISE »
- détient le certificat officiel de conseiller(ère) en voyages délivré par l'Office de la protection du consommateur.

Lu et accepté,

\_\_\_\_\_  
« PRÉNOM ET NOM DE L'EMPLOYÉ »

\_\_\_\_\_  
Date

\_\_\_\_\_  
« PRÉNOM ET NOM DE L'EMPLOYEUR »


\_\_\_\_\_  
Date

\* Complete the requested information highlighted in blue.



## Answers - Exercise 1

| INVOICE   |                            |                |                            |  |                     |            |            |
|---|----------------------------|----------------|----------------------------|--|---------------------|------------|------------|
| <b>Four Suns Inc. Agency</b><br>1324, des Jardins Street<br>Québec (Quebec)<br>G1R 6P7<br>Telephone: 418 658-4455, Ext. 225<br>Fax: 418 658-4452<br>Email: foursuns@net.com |                            |                |                            | Date: xx-yy-2xxx<br>Invoice No.: 120000<br>File No.: 000089<br>GST No.: 815936847<br>QST No.: 1352684712 |                     |            |            |
| <b>5 Customer(s):</b> Ms. Jane Murphy<br>Mr. Joe Murphy   |                            |                |                            | Address:<br>10, Village Road<br>St-Lac (Quebec)<br>G9P 3P6   |                     |            |            |
| <b>6 Counsellor:</b> Ruth Wright  |                            |                |                            |  |                     |            |            |
| DESCRIPTION   | Product No.                | Quantity       | Price                      | Other charges  | GST                 | QST        | TOTAL      |
| 1.  | 409520                     | 2              | \$1,508.00                 | \$668.00   |                     |            | \$4,352.00 |
| DETAILS: Hotel Coco Beach package – all-inclusive formula – double occupancy – description and conditions as per ABC Tours brochure   |                            |                |                            |  |                     |            |            |
| 2.  |                            | 1              | \$4.35                     | \$0.00   |                     |            | \$4.35     |
| DETAILS: Travel Agency Customer Compensation Fund (FICAV) (0.35% of tourism products)   |                            |                |                            |  |                     |            |            |
| 3.  | 410259                     | 2              | \$50.00                    | \$0.00   | \$5.00              | \$9.98     | \$114.98   |
| DETAILS: Administration and document issue charges  |                            |                |                            |  |                     |            |            |
|   |                            |                |                            |  | <b>TOTAL:</b>       | \$4,471.33 |            |
|   |                            |                |                            |  | <b>Deposit:</b>     | \$4 471.33 |            |
|   |                            |                |                            |  | <b>Balance due:</b> | \$0        |            |
| <b>ITINERARY:</b>   |                            |                |                            |  |                     |            |            |
| Date  | Departure                  | Departure time | Destination                | Arrival time   | Flight              | Class      |            |
| Dec 19  | YUL (Montreal) QC          | 3:45 p.m.      | PUJ (Punta Cana) Dom. Rep. | 8:55 p.m.  | Airiel              | 972 Y      |            |
| Dec 26  | PUJ (Punta Cana) Dom. Rep. | 3:30 p.m.      | YUL (Montreal) QC          | 6:50 p.m.  | Airiel              | 973 Y      |            |
| <b>OTHER:</b>   |                            |                |                            |  |                     |            |            |
| You can use this space to write the following mandatory information:  |                            |                |                            |  |                     |            |            |
| 1. Conditions:  |                            |                |                            |  |                     |            |            |
| Cancellation charge before departure: non-reimbursable  |                            |                |                            |  |                     |            |            |
| Cancellation fee after departure: 100% non-reimbursable   |                            |                |                            |  |                     |            |            |
| (See the conditions in the ABC Tours brochure)  |                            |                |                            |  |                     |            |            |
| 2. The funds collected by Four Suns Agency are deposited in a trust account   |                            |                |                            |  |                     |            |            |
| 3. Travel insurance refused. Signature: _____   |                            |                |                            |  |                     |            |            |


**Answers - Exercise 1 (cont.)**
**INVOICE (cont.)**
**Explanation of the calculations of the FICAV, GST, and QST**

The FICAV contribution is calculated as follows:

You sell a package at \$4,352.00.

Price of tourism products including other charges \$4,352.00.

**13** FICAV  $(0.01\% \times \$4,352.00) = \$4.35$   $(\$4,352.00 + \$4.35) = \$4,356.35$

**Sub-total: \$4,367.23**

Other (administration and document issue charges): \$100.00

GST  $(\$100 \times 5\%) + \$5.00$

QST  $[(\$100 \times 9.975\%) + \$9.98$

**Sub-total  $(\$100 + \$5 + \$9.98) = \$114.98$**

**Total:  $(\$4,356.35 + \$114.98) = \$4,471.33$**

- 1** Keep a copy and give one copy to the customer (ss. 18.1 and 18.3, T.A.R.)
- 2** Enter billing date (s. 18.2 a))
- 3** Use consecutively pre-numbered invoices and keep one copy in numerical sequence for inspection purposes (s. 18.1, T.A.R.)
- 4** If you have to collect GST and QST, you must register for the GST and QST by completing the Registration Form (LM-1), Revenu Québec, [www.revenuquebec.ca/en](http://www.revenuquebec.ca/en)
- 5** Enter the last and first name of all customers as well as the address of one of the customers (s. 18.2b)
- 6** Enter the name of the counsellor who concluded the sale (s. 18.2h)
- 7** Businesses and employers are mandated to collect taxes if applicable. In this exercise, the tourism products and services are not taxable (GST-QST). For additional information, please visit [www.revenuquebec.ca/en](http://www.revenuquebec.ca/en).
- 8** Indicate the amount of the FICAV contribution, which applies only on tourist products before applicable taxes (and not on the account administration and document issue fees, insurance, travel guides, etc.). Total of tourist products for this invoice: \$4,352.00 (s. 18.2g)). This amount may be claimed in addition to or included in the price charged for the product.
- 9** Specify the amount received and the balance owing, if any (s. 18.2 c), T.A.R.).
- 10** Enter this information or provide the customer with the brochure (ss. 18.2 f), 18.4 T.A.R.).
- 11** Inform the customer that these amounts are collected in a trust (s. 18.2 e)).
- 12** Obligation to inform the customer of the terms of reimbursement or non-reimbursement (s. 16 T.A.R.). Insurance provides compensation for amounts not reimbursed (see Topic 6 of this guide).
- 13** When the amounts of tourist products and services are taxable, the amount of the FICAV contribution is also taxable. For this fiscal year, the tourist products and services are not taxable (GST-QST), therefore, the FICAV contribution is not taxable either. For additional information, please visit [www.revenuquebec.ca/en](http://www.revenuquebec.ca/en).



# GLOSSARY

## A

**Act:** In the strict legal sense, a written, general, and permanent rule of law, passed in the National Assembly.

**Anniversary date:** For travel agents, the date on which they must renew their licence, or the first day of the 8<sup>th</sup> month after the end of the fiscal year of the travel agent; for travel counsellors, the date on which they must renew their certificate, or the 1<sup>st</sup> day of each year after the certificate is first issued.

**Appeal:** In the strict legal sense, right or action to enter an appeal before a jurisdictional or administrative authority in order to obtain the cancellation or review of a legal decision or administrative act.

**Applicant:** Person who submits a request in a motion.

## C

**Carrier:** Any person or company that operates a commercial business consisting of the transportation of travelers.

**Case law:** Set of decisions rendered by the courts.

**Chargeback:** Crediting the credit card account of a consumer with the amount payable by a merchant who has failed to reimburse a purchase.

**Civil law:** Branch of private law that contains the fundamental rules governing individuals, the family, property, and obligations. It constitutes the law that usually applies to relations between individuals.

**Civil liability:** Obligation of a person to repair the harm caused to another by his or her

own fault or by the act or fault of another person or by the act of things in his or her custody.

**Civil remedy:** Remedy available under civil law.

**Class action:** Procedure that enables a person to assert before the courts not only his or her own rights but also those of a group of individuals without having received from them a **mandate** to represent them, when their claims are sufficiently similar to justify combining them in the same lawsuit.

**Contract:** A business or service contract is a contract by which a person, the contractor or the provider of services, as the case may be, undertakes to carry out physical or intellectual work for another person, the customer, or to provide a service, for a price which the customer commits to pay.

**Corporate charter:** A legal document creating a company or a stock corporation, issued by the government at the request of the shareholders and specifying the shareholders' rights and obligations.

**Customer:** Any person receiving tourism services from a travel agent, excluding any direct or indirect supplier of a travel agent.

## D

**Damages:** Money paid as compensation for damage to the victim of an act performed by a person whose civil **liability** was incurred OR amount of money that a **debtor** must pay to his or her creditor for failure to perform or for negligent performance or delay in performance of the debtor's obligation.

**Debtor:** Person who is required to fulfill an obligation towards another person.

## E

**Establishment:** Place of business, located in Quebec, that is distinct from any other and is equipped with autonomous facilities.

**Extended undertaking:** In cases where several members of an industry sign an identical voluntary undertaking, the government may extend this undertaking to the whole industry.

## F

**Force majeure:** Unforeseeable, unavoidable, or irresistible event from a cause that is external to the debtor and that frees the debtor of his or her obligation.

**Funds:** Includes cash, cheques, or other negotiable instruments, as well as any amount representing the monetary equivalent of all or part of a payment by credit card or debit card, or of any other form of payment.

## G

**General licence:** Licence that authorizes a person dealing with the general public or the members of a particular group, directly or through another travel agent, to perform the operations outlined in section 2 of the Travel Agents Act.

**Gross income:** The total amount paid or payable for the benefit of the travel agent.

**Guilty plea:** Declaration in which a **defendant** admits being guilty of the charge brought against him or her.

## I

**Implementing regulation:** Regulation intended to ensure the implementation of a law. It is based on a law and its provisions may not contradict this law.

**Individual security:** Contract by which a person, the **surety**, assumes an obligation to a creditor, at no charge or for remuneration, to fulfill the obligation of the **debtor** if the debtor fails to fulfill it. Individual security may

also refer to a deposit of money or securities intended to guarantee future claims.

**Intermediary:** Person whose work consists in bringing together two or more persons to conclude an agreement.

**Investor:** The word "investor" refers to all shareholders of a travel agent. However, in the case of a travel agent whose shares are listed on a stock exchange, "investor" refers only to a shareholder holding 10% or more of voting shares.

## J

**Joint and several liability:** Liability of more than one person, where each person is legally responsible for the others' actions.

## L

**Liability:** Obligation of a person to answer for his or her actions or to repair the harm caused to another by his or her own fault or by the act or fault of another person or by the act of things in his or her custody.

## M

**Mandatory:** Person to whom a **mandate** is conferred by another person.

**Mandate:** Contract by which a person, the **mandator**, gives the power to be represented in the execution of a legal transaction with a third party to another person, the **mandatory**, who by accepting this office, undertakes to perform it.

**Mandator:** Person who confers a **mandate** on someone else.

## O

**Obligations:** In the broad sense, synonym of duties imposed in general by law or contract.

**Obligation of compliance:** Obligation to deliver goods or provide a service in

accordance with the description thereof in the contract.

**Obligation of means (or obligation of diligence):** Obligation by which the debtor is required only to apply all possible means to achieve a specific result without necessarily obtaining said result.

**Obligation of result:** Obligation by which the **debtor** is required to achieve a specific result and is held liable therefore, unless the debtor can prove the existence of a fortuitous event.

**Officer:** A director, member of a partnership, person exercising duties of management as well as any person who in fact performs such duties on behalf of an association, corporation, or person.

## P

**Penal charges:** Legal procedures filed against a presumed offender under a provincial law or a municipal by-law.

**Penal liability:** Obligation of a person to answer for his or her infringement of the rules established to protect public peace and order in society and, where applicable, to suffer the penalty prescribed by law.

**Penal sanction:** Sanction imposed by law on the perpetrator of an offence.

**Plaintiff:** Person who brings an action.

**President:** President of the *Office de la protection du consommateur*.

**Principal establishment:** Main establishment at which the licensee performs his or her operations.

**Prosecutor:** Person who, in penal matters, is authorized to seek a legal remedy from an individual.

**Provisional administrator:** Person appointed by the president of the *Office de la protection du consommateur* to temporarily manage or terminate the business of a travel agent, if the situation so requires.

**Punitive damages:** Damages awarded to a victim not in compensation for the harm actually incurred, but to punish the

malicious conduct or the intention to harm of its perpetrator.

## R

**Recourse:** The right or the act of **appealing** to a judicial or administrative authority to overturn or review a prior ruling or administrative decision.

**Regulation:** Normative legislation, general and impersonal in nature, enacted by an executive power pursuant to an enabling statute, which is enforceable when in effect (for example, a government regulation or a municipal by-law).

**Restricted licence:** Permit allowing a person to deal with the general public or with members of a particular group, directly or through another travel agent holding a general licence, to perform the operations covered by the class of restricted licence issued.

**Rights:** By extension, any prerogative or fundamental right recognized by objective law to the members of a society in general.

## S


**Service provider:** In a service contract, the person who undertakes to provide a service to another for a price which the other person undertakes to pay.

**Supplier:** Person who provides merchandise or services to another person.

**Surety:** Person who agrees to take responsibility for the fulfillment of an undertaking of a **debtor** if that debtor defaults.

## T

**Tour operator:** Person who negotiates various rates with suppliers of tourism products and combines the purchased components (accommodation, transportation, tours, etc.) to create a package that the operator offers to wholesale travel agents, retailers, and consumers (at the retail price, base price, or preferential price, as appropriate).



The tour operator manages all steps in the organization and sale of the package. A retail or wholesale travel agent or a host tourism agency can be a tour operator.

**Travel agent:** A person, partnership, or association that, on behalf of a third party or of its members, engages in or offers to engage in, or issues vouchers for, any of these operations: a) the booking or reservation of lodging accommodation; b) the booking or reservation of transportation services; or c) the arranging of travel services.

**Travel arrangements:** The negotiation of various rates with suppliers of tourism services in order to combine the components purchased (accommodation, transportation, meals, tours, etc.) and manage all the steps in the organization and sale of the trip.

**Trust account:** Account opened with a financial institution, in which are deposited sums of money remitted to a person authorized to hold them on behalf of another and to use them for specifically provided purposes.

**Trustee:** Person who administers a trust and who must accordingly act with integrity, good faith, diligence, and competence in the best interests of the beneficiary that the trustee represents.

**Turnover:** Total amount of money paid or payable by the customers of the travel agent, including the amounts paid directly to another agent or to a supplier.

## V

**Voluntary undertaking:** Under the Consumer Protection Act, when the OPC president deems that a merchant has contravened the legislation, whose application is monitored by the Office, the president may accept a voluntary undertaking by this merchant to apply the corrective measures listed in the undertaking.

**Voucher:** Document that informs the supplier of a tourism service that the holder of the voucher is authorized to exchange it for the service in question.

# MEDIAGRAPHY

## Main laws and regulations referred to

- Civil Code of Québec (*L.Q., 1991, c. 64*),  
<http://legisquebec.gouv.qc.ca/en/showdoc/cs/CCQ-1991>.
- Carriage by Air Act (*L.R.C., 1985, c. C-26*),  
<http://laws-lois.justice.gc.ca/eng/acts/C-26/>.
- Act respecting the distribution of financial products and services (*L.R.Q., c. D-9.2*),  
<http://legisquebec.gouv.qc.ca/en/ShowDoc/cs/D-9.2>.
- Consumer Protection Act (*L.R.Q., c. P-40.1*),  
<http://legisquebec.gouv.qc.ca/en/showdoc/cs/P-40.1>.
- Act respecting the Québec sales tax (*L.R.Q., c. T-0.1*),  
<http://legisquebec.gouv.qc.ca/en/ShowDoc/cs/T-0.1>.
- Travel Agent Act (*L.R.Q., c. A-10*),  
<http://legisquebec.gouv.qc.ca/en/ShowDoc/cs/A-10>.
- Regulation respecting the Québec sales tax (*c. T-0.1, r. 1*),  
<http://legisquebec.gouv.qc.ca/en/ShowDoc/cr/T-0.1,%20r.%201>.
- Regulation respecting travel agents (*R.R.Q., c. A-10, r. 1*),  
<http://legisquebec.gouv.qc.ca/en/ShowDoc/cr/A-10,%20r.%201>.

## Main websites referred to

- *Autorité des marchés financiers*, <https://lautorite.qc.ca/en/general-public>.
- *Les Publications du Québec*,  
<https://www.publicationsduquebec.gouv.qc.ca/cspq/en>.
- Department of Justice Canada, <http://www.justice.gc.ca/eng>.
- *Ministère de la Justice du Québec*, <https://www.justice.gouv.qc.ca/en>.
- *Office de la protection du consommateur*,  
<https://www.opc.gouv.qc.ca/en/home>.
- *Société québécoise d'information juridique – Jugements*, in french only:  
<http://citoyens.soquij.qc.ca>.

## Complementary references

- JOLIN, Louis, *Droit du tourisme au Québec*, Montréal, Presses de l'Université du Québec, 3<sup>rd</sup> edition, 2011, 164 p.
- REID, Hubert, Ad. E., *Dictionnaire de droit québécois et canadien*, Montréal, Wilson et Lafleur, 5<sup>th</sup> edition, 2015, 902 p.





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at ITHQ

# Laws and Regulations Applicable to **THE TRAVEL INDUSTRY** *Textbook for Travel Professionals*

This study guide brings together all the information needed to prepare for the mandatory certification exam for travel agents and counsellors. It is also a reference tool on laws and regulations governing the travel industry for travel professionals who are committed to building trust and providing the highest level of service for their customers.

In this second edition of the textbook, the authors, Nathalie Gilbert and Isabelle Proulx, invite readers to reflect on the legal issues applying to their commercial practices by providing useful information and real-life situations.

This reader-friendly guide features

- Content presented by topic, thereby facilitating learning according to individual needs
- Separate sections that are specifically geared toward travel agency managers
- Sample study cases and exercises providing content review
- Answer keys to validate comprehension
- Supplementary readings and exercises expanding on covered topics
- A range of useful tools and references

This *textbook for travel professionals* is a valuable asset for all those hoping to pass the examination and a useful guide for future reference!

[www.ithq.qc.ca/expertise-et-recherche/formations-reglementees/professionnels-du-voyage](http://www.ithq.qc.ca/expertise-et-recherche/formations-reglementees/professionnels-du-voyage)  
[www.opc.gouv.qc.ca](http://www.opc.gouv.qc.ca)

Production of:

- Institut de tourisme et d'hôtellerie du Québec
- Office de la protection du consommateur



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