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Description: TICO Manual Read the Text Version Every person who works for a registered Ontario travel agency or booking website, and sells travel services or provides travel advice to the public must, by law, meet TICO's Education Standards. For more information about becoming a TICO Certified Travel Counsellor or Supervisor/Manager in Ontario, click here. The Education Standards Program is administered by Oliver’s Publishing Inc., a recognized leader in regulated e-learning. The program consists of two levels: 1) Travel Counsellor 2) Supervisor/Manager To enroll in the program, click here. Looking for a copy of your TICO Certificate? Please contact Oliver's at the contact information below. IMPORTANT NOTE: Successfully passing the TICO Education Standards Exam allows you to sell travel services or provide travel advice to the public on behalf of a TICO registered Ontario travel agency. It does not mean that you are licensed to sell travel services in Ontario. A pass certificate for the exam is not the same as a TICO registration. If you are not working for a TICO registered travel agency and you wish to sell travel services in Ontario, you need to contact TICO’s registration department to obtain registration before you can start selling travel services. If you have any questions or require assistance regarding TICO’s Education Standards Program, please contact Oliver's at This email address is being protected from spambots. You need JavaScript enabled to view it. or call 1-800-238-0377 (Mon-Fri 9 am – 5 pm ET) Cliquez ici pour ces information en francais In order to provide you with the best online experience this website uses cookies.By using our website, you agree to our use of cookies. Learn more. 0 ratings0% found this document useful (0 votes)2K viewsThis document outlines the education standards for Ontario travel counsellors and supervisors/managers as administered by the Canadian Institute of Travel Counsellors (CITC). It provides an ...SaveSave TICO Manual e For Later0%0% found this document useful, undefined The Travel Industry Council of Ontario (TICO) has updated its Education Standards Study Manual, now available in English and French as PDF downloads, free of charge, from both the TICO and the Canadian Institute of Travel Counsellors (CITC) web sites. The Study Manual is also available for purchase in a coil-bound edition for $15, plus tax, from CITC. Individuals planning to write one of the TICO exams in the near future should note the following dates: Exams written on or before Jan. 15 will be based on the old version of the Study Manual; Exams that will be written on or after Jan. 23 will be based on the new version of the Study Manual. 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The program consists of two levels: Ontario, it is essential that you 1) Travel Counsellor and 2) Supervisor/Manager. become familiar with the rules TICO has developed the Education Standards Study Manual to governing both your conduct help individuals prepare for exams at both levels. The manual and the legal consequences of is therefore organized into two sections: your actions (or failure to act). Successful completion of this • The Travel Counsellor section (Modules 1–5) contains program will allow you to information that all travel counsellors must know. This continue selling travel products includes agency supervisors/managers, owners of travel in Ontario – and to do so with agencies, and anyone else who provides travel advice to the confidence and expertise. public on behalf of an Ontario-registered travel agency. All such individuals will be tested on their knowledge and understanding of these five modules. • The Supervisor/Manager section (Modules 6–9) contains additional information that all agency supervisors/managers must know. It is highly recommended that all travel counsellors read through the entire Study Manual to get a better overview of their obligations under the Travel Industry Act, 2002 and Ontario Regulation 26/05. However, only supervisors/managers will be tested on the content of these four modules if they are required to write the Supervisor/Manager Exam. • A glossary of terms and phrases used in the Study Manual is provided on page 107. Consult the glossary as needed while you work through the manual. Please note that you will not be permitted to take outside reference materials such as dictionaries into the exam room. • When you have completed the Travel Counsellor section of the Study Manual, you are encouraged to take the Sample Travel Counsellor Exam (starting on page 113). If you are required to take the Supervisor/Manager Exam, the sample exam for that (see page 119) will help you prepare. TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers vPreface Although it is not necessary, candidates preparing for the exam can also download copies of the Act and Regulation from the vi TICO website at www.tico.ca/legislation-regulation.html. Study tips • Dedicate time to concentrating on the material in the Study Manual. • Divide the Study Manual into sections or sub-sections and set a goal to study one area every day until you have reviewed all the required modules. • Write down areas that you feel uncertain about, or areas where you feel you will need to spend time reviewing before the exam. Return to those areas at the end of your studies. • Complete the self-test at the end of each module, as well as the sample exam at the back of the Study Manual. • Remember that the purpose of the exam is to ensure that you fully understand your obligations as a travel professional and can deal with the public competently and comfortably. Acknowledgements The Study Manual was made possible by the hard work and dedication of the following people: David Wright, CTM, the author of the Study Manual Georgina Montgomery, general editor Donna Lindenberg, layout and production Steve Gillick, CTM, President Michael Pepper, President and CEO, TICO Tracey McKiernan, TICO Legal Counsel Education Standards Committee, TICO, chaired by Mike Foster TICO Board of Directors Toronto, Ontario Fall 2011 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersIntroduction Introduction The Education Standards program is aimed at ensuring that working travel professionals in Ontario have the background and knowledge to conduct their daily business in keeping with provincial legal requirements. The program is designed to help sellers of travel services in Ontario comply with the Educational Requirements set out in the province’s Travel Industry Act, 2002 (referred to after this simply as the Act) and Ontario Regulation 26/05 (the Regulation). Students in travel programs who wish to have a career in the retail or wholesale sectors of the Ontario travel industry will also find the manual useful. The current Act and Regulation came into force on July 1, 2005. Ontario travel counsellors already in business have until July 1, 2009, to meet the Educational Requirements. All new travel counsellors and supervisor/managers entering the business after this date must already meet the requirements to enter the occupation. Why were the Education Standards brought in? Several changes have taken place since Ontario introduced the Travel Industry Act in 1974: • Ontario’s travel industry has grown to be one of bankruptcies over the last decade have led to leg- the largest in Canada, and the number of people islative changes that go beyond the scope of the who travel is increasing every year. 1974 Act. • In response to these changing conditions, • Consumers have become better educated and the Ontario government approved self- informed – and therefore more likely to take legal management for the travel industry. In 1997, the action if they are dissatisfied with the travel Province gave the Travel Industry Council of services or travel advice they receive. Ontario (TICO) responsibility for the administra- tion of the Act. Further changes to the Act were • Rapidly changing technology has brought many brought into effect in July 2005. issues to the forefront. Especially challenging has been the growth of the Internet as a sales and • As a result of consumer complaints received at marketing tool. Regulating “virtual” versus “bricks TICO and compliance issues identified by TICO and mortar” travel agencies was not a concern 30 staff, it became apparent that many registrants years ago. were not familiar with their responsibilities under the Act and Regulation. If registrants are educated • The nature of competition in the industry is more and understand their legal obligations, they will be complex than before. On the one hand, competi- better able to serve their clients and avoid prob- tion has increased. Consumers can now choose lems with the regulator. from more destinations, suppliers, and distributors than ever before. On the other hand, some aspects • Having a standard gives agencies a competitive of competition have decreased because the con- advantage in the marketplace. Agencies that solidation of airlines, suppliers, and retailers has show they comply with the legislation will instill reduced consumer choice. confidence in their clients. This can lead to greater revenues and return business. • Vertical integration in the industry has increased. Examples of vertical integration: when a tour • Having a standard in Ontario raises operator buys a retail chain to gain more control the profile of both the travel consultants and the over how and where the operator’s products are industry itself. It emphasizes the professionalism sold; and when an airline purchases tour compa- of Ontario travel sellers, which may help to attract nies and retailers. future candidates for employment. • A number of high profile closures and TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers viiIntroduction Who Is Obligated to Meet the Educational Requirements? Definitions Travel Industry Council of The Travel Counsellor Exam Ontario (TICO) is a not-for- profit corporation that Every person who sells or offers to sell travel services or regulates travel agents and provides travel advice to the public on behalf of a registered travel wholesalers in the Ontario travel agency must meet the Educational Requirements province. It is financed by the by July 1, 2009. Examples are front-line personnel who work as retail and wholesale travel travel counsellors, reservations agents, and employees of web- community. based travel service companies and call centres, where the company is registered in Ontario. The following groups must therefore take and pass the Travel Counsellor Exam: • Individuals working at out-of-province call centres and after-hours emergency centres who are providing travel advice and selling or offering to sell travel services on behalf of an Ontario registered travel agency. This would not include individuals who are only taking messages and not responding to the queries on behalf of the registrant. Further, it would not apply where the registrant has clearly informed the customer that it is a separate entity not regulated by TICO that will be dealing with the customer and taking payment in those situations and, as a result, the consumer protection provisions available in Ontario, such as the Compensation Fund, would not apply to any transac-tions between the customer and the unregistered entity. • Students from a travel program who are on work placement (either paid or voluntary) if they deal directly with the public. • Where travel schools operate a travel agency in Ontario, both students and their supervisors in the agency. viii TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersThe Supervisor/Manager Exam Introduction All supervisors/managers of travel agents on record with TICO If you are unsure about your must meet the Educational Requirements. status, contact TICO by phone at (905) 624-6241 or toll-free • The individual who is on record with TICO as being a at 1-888-451-TICO (8426), or by supervisor/manager before July 1, 2009, will be “grand- email to . fathered” as long as their responsibilities will not change after July 1, 2009. This means they are granted a temporary exemption and do not have to pass the Supervisor/Manager Exam by July 1, 2009. • Those who are not on record as being a supervisor/manager with TICO on July 1, 2009, but who will act as the supervisor/manager of record on or after that date must take and pass the Supervisor/Manager Exam. Who Is Not Obligated to Meet the Educational Requirements? • Travel program instructors are not obligated to meet the requirements, because educators do not normally deal directly with consumers in a travel sales situation. Neverthe- less, TICO strongly recommends that educators complete the program as part of their regular professional development activities. • Individuals employed by suppliers of travel services not covered by the Ontario legislation (such as airlines, cruise lines, or car rental companies) are not obligated to meet the requirements. Program Content As shown in the Table of Contents, the Study Manual is divided into nine modules: • Modules 1–5 apply to all travel counsellors, including supervisors and managers. • Modules 6–9 apply to those supervisors and managers who are required to write the Supervisor/Manager Exam. TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers ixIntroduction Ways to Complete the Program The program is designed so that individuals anywhere in x Ontario can access the training available. You may complete the program in any of the following ways: • As a self-study program. Review the Study Manual at your own pace and then complete the sample questions and the sample exam. • In your agency/organization under the direction of your in- house trainer. • In a classroom setting with an instructor. This can be facili- tated in situations where 20 or more candidates request an instructor. Fee depends on the number of participants. Length of Time to Complete the Program When offered as classroom-based training, the Travel Counsellor program can be completed over 12 hours of instruction (five modules of two hours each, plus a review module). However, the modules can be combined to create a more compressed training program, such as three 4-hour modules spread over a one-week period, two full-day training modules, or any other combination that suits a learner’s needs. Note: The 12-hour length is a guideline only. What is important is that candidates achieve the learning outcomes (confirmed by passing the exam). Testing There are three exam options: • The Travel Counsellor Exam consists of 50 multiple-choice questions. Candidates have 90 minutes to complete the exam. • The Supervisor/Manager Exam consists of 30 multiple- choice questions. Candidates have 60 minutes to complete the exam. • A combined Travel Counsellor Exam and Supervisor/Man- ager Exam is also available. It consists of 80 multiple-choice questions. Candidates have 150 minutes to finish the exam. TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersIntroduction Candidates writing the exams may not use any reference materials. All exams are “closed book” and written in a supervised (or “proctored”) environment. Candidates can arrange a time, date, and location that are convenient for their work and study schedule. To be successful, candidates must achieve a “pass.” Exam marks are reported only as “pass” or “fail.” (Each exam has its own pass mark. Every exam is built from a random group of questions from a larger bank of questions. Each question is reviewed and rated by an expert industry committee to determine how difficult the question is and how likely it is that a candidate can select the correct answer. Pass marks are averaged to determine what is called the “examination standard.”) If your score is higher than or equal to the exam standard, you will receive a pass result. If your score is lower than the standard, you will receive a fail result. Some examples of types of exam questions are included as review questions in the program materials. A sample exam is also provided at the back of the Study Manual. TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers xixii TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersTRAVEL COuNSELLOR SECTION The Travel Counsellor section (Modules 1–5) contains information that all travel counsellors must know. This includes agency supervisor/managers, owners of travel agencies, and anyone else who provides travel advice to the public on behalf of an Ontario-registered travel agency. All such individuals will be tested on their knowledge and understanding of these five modules. TICO EduCaTIOn STandardS fOr OnTarIO TravEl COunSEllOrS and SupErvISOr/ManagErSTICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersTICO’s Role in the Travel Industry Module 1 Module Outcomes Module Summary TICO is a not-for-profit After successfully completing this module, you will be able to: corporation that regulates, and • Explain TICO’s mandate in the travel industry is financed by, the retail and • Describe the ongoing relationship between TICO and the wholesale travel community. provincial government Definitions • Identify TICO’s organizational structure and board The Travel Industry Compensa- tion Fund (or, simply, Compen- membership sation Fund) refunds (fully or in • Describe TICO’s mission, vision, and values part) eligible consumers who • Explain TICO’s responsibilities bought travel services from TICO’s Mandate an Ontario-registered travel On June 25, 1997, the Ontario government delegated the agency but did not receive administration of the Travel Industry Act to the Travel Industry them because of the bank- Council of Ontario (TICO). TICO is a not-for-profit corpora- ruptcy or insolvency of a regis- tion that regulates, and is financed by, the retail and wholesale trant or an airline or cruise line travel community. TICO also assumed responsibility for the end supplier. industry-financed Travel Industry Compensation Fund. The Act governs travel retailers and wholesalers registered in Ontario. An end supplier is a person TICO is financed entirely from the registration fees of travel that operates a travel service agencies and travel wholesalers registered in Ontario. Those for which they have owner- same agencies and wholesalers also finance the Travel Industry ship. Examples of end suppli- Compensation Fund. See Module 5 for information about the ers include airlines, cruise lines, Compensation Fund. For more information on registration, see hotels and car rental compa- Module 6 in the Supervisor/Manager section of the manual. nies. End suppliers do not need Relationship Between TICO and the Ministry to be registered under the The provincial Ministry of Consumer Services (“the Ministry”) Travel Industry Act, 2002 pro- is currently responsible for consumer legislation in Ontario, vided that they do not other- including the Travel Industry Act, 2002. wise act as a travel agent or In meeting its administrative responsibilities, TICO works travel wholesaler in Ontario. cooperatively with the government in several ways on behalf of The Travel Industry Compensa- the travel industry and consumers. For example, TICO: tion Fund does not cover the • holds regular liaison meetings with the Ministry to maintain non-provision of travel services by an end supplier except for communications and address issues; airlines and cruise lines. TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 1Module 1: TICO’s Role in the Travel Industry The provincial Ministry of Con- • consults with the Ministry on policy and legal issues to sumer Services (“the Ministry”) ensure that the legislation remains relevant to all three is currently responsible for con- stakeholder groups – government, the travel industry, and sumer legislation in Ontario, consumers; including the Travel Industry Act, 2002. • works with the Ministry to move recommendations forward through the legislative process. This was the process used to develop the changes that resulted in the Travel Industry Act, 2002; and • works with the Ministry to finalize outstanding items on the Administrative Agreement, the document setting out the responsibilities of TICO as the administrative authority for the Ontario travel industry. TICO is required by the Ministry to submit an Annual Report and an annual Business Plan. These documents outline TICO’s financial position, discuss issues that have arisen, describe the organization’s achievements in the past year, and set objectives for the coming three years. Both documents are posted on the TICO website at www.tico.ca. TICO’s Organizational Structure TICO is managed by a Board of Directors and a Chief Executive Officer (CEO). The Board is made up of 15 members: 10 repre- sentatives from the travel industry and 5 individuals appointed by the Ministry to represent consumers, business, and government. TICO’s organizational structure is shown in Figure 1.1. The Board is responsible for overseeing the general operation of TICO (and not the day-to-day operations) and for hiring the CEO. The CEO manages the financial and operational affairs of TICO. The Board carries out its work through committees, which research, consult, and make recommendations to the Board. For example, committees make suggestions for industry improvement and legislative changes, and help form and over- see TICO’s policies. Currently, there are 10 Board committees: • Alternate Finance – makes recommendations to the Board with respect to alternative methods of financing the Travel Industry Compensation Fund. • Audit – reviews internal controls, accounting and invest- ment policies, investment reports, and financial statements of the organization and reports to the Board. 2 TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers• Business Strategy – develops and monitors TICO’s business Module 1: TICO’s Role in the Travel Industry policies and plans and works on TICO’s consumer awareness campaign. In addition to the Board committees, TICO also has a • Compensation Fund – reviews and makes recommendations Consumer Advisory Commit- to the Board regarding the payment of claims against the tee. This committee is made up fund. of individuals representing vari- ous consumer interests. The • Complaints – reviews, monitors, and addresses complaints purpose of this committee is to against TICO and makes recommendations regarding give TICO input and a consumer TICO’s complaints procedures and standards. perspective on issues. • E-Commerce – reviews e-commerce issues to identify challenges and make recommendations regarding consumer protection and the delivery of TICO’s services through the Internet. • Executive – reviews large closures, manages emergency issues, provides support to the CEO, and makes recommen- dations regarding the composition of Board committees. • Governance – reviews criteria, communication, and reten- tion issues related to Board membership, and helps clarify the Board’s role and responsibilities. • Legislative and Regulatory Review – works closely with stake- holders, including the Ministry, on issues where legislative or regulatory changes would be beneficial. • Education Standards – is involved in the development and implementation of the Education Standards program. Board of Directors Board Committees Chief Executive Officer Registrar Legal Counsel Director of Operations & Manager, Administration & Claims Chief Financial Officer Legal Services Registration Compensation Accounting Inspections & Consumer Administrative Claims Fund Finances Investigations Complaints Services Processing Figure 1.1: Organizational structure of TICO. TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 3Module 1: tIco’s role In the travel Industry TICO’s mission is to promote a TICO’s Mission, Vision, and Values fair and informed marketplace A mission statement expresses clearly an organization’s purpose where consumers can be confi- or reason for existing. TICO’s mission is to promote a fair dent in their travel purchases. and informed marketplace where consumers can be confident in their travel purchases. This work is designed to support the Ministry’s mission to maintain “a fair, safe and informed marketplace as it relates to Ontario’s Travel Industry Act.” The goal of consumer protection is clear from both statements. MISSION STATEMENT To promote a fair and informed marketplace where consumers can be confident in their travel purchases. TICO’s vision A vision statement expresses the direction the organization wants to achieve. TICO’s goals are to be: • a leader in developing an improved system of consumer protection; • a model for a progressive, fair, and firm administrator of industry regulations; and • a developer, promoter, and advocate of good business ethics and harmonized standards in the travel industry. TICO’s values Supporting a mission statement are values that set the perfor- mance standards and direct the implementation of the organiza- tion’s mission. Examples of values include service excellence, innovation, diversity, creativity, honesty, and integrity. Values are beliefs that an organization’s members share and try to put into practice. These values guide the organization’s members in performing their work. 4 TICO EduCaTIOn STandardS fOr OnTarIO TravEl COunSEllOrS and SupErvISOr/ManagErSTICO’s values are that it will be: Module 1: TICO’s Role in the Travel Industry • ethical in everything it does; • fair but firm in its dealing with registrants and consumers; Definition • responsive and open in communicating with consumers and A registrant is a travel agent or a travel wholesaler who is reg- registrants, while respecting the business confidentiality of istered as a travel agent, travel registrants; and wholesaler, or both under the • visionary in its approach to improving the industry and Travel Industry Act, 2002. industry practices, while staying accountable to all stake- holders for the cost-effectiveness and practicality of solu- tions and initiatives. TICO’s Responsibilities TICO’s primary responsibilities are to: • administer the Travel Industry Act, 2002; and • ensure that registrants follow the rules so that consumers are protected and can be confident in their travel purchases. TICO works with three groups to carry out its mandate: consumers, the travel industry, and government. TICO seeks input from each of these stakeholder groups: • Consumers – TICO’s goal is to increase consumers’ aware- ness of their rights and responsibilities under the Travel Industry Act, 2002. In support of this work, TICO launched a Consumer Awareness Campaign in 1999. The aim of the ongoing campaign is to educate consumers and promote awareness about TICO, the Compensation Fund, and the protection available to consumers when they purchase travel services from an Ontario-registered travel agency. Since then, TICO has continued to promote awareness through television, radio, and newspaper ad campaigns. Recent television advertisements can be viewed on TICO’s website. Window displays and decals for the travel industry and informational material for consumers have also been distributed by the organization. TICO’s services to consumers are explained in more detail in the rest of this section. TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 5Module 1: TICO’s Role in the Travel Industry • Travel Industry – TICO holds stakeholder meetings when required to ask for the industry’s views and opinions. This was the method used to assess the industry’s reaction to the changes that resulted in the Travel Industry Act, 2002. TICO also holds an Annual General Meeting. • Government – The Ministry has delegated responsibility for administering the Travel Industry Act, 2002 to TICO, and holds TICO accountable for correctly performing this func- tion. TICO’s delegated responsibilities The Ministry has given TICO specific responsibility for the following: registration • Processing new applications and ensuring that criteria and standards are met. • Processing registration renewals and ensuring that criteria and standards continue to be met, such as financial viability, supervisor/manager qualifications, and advertising standards. • Responding to registrant and consumer inquiries. consumer protection • Administering the Travel Industry Compensation Fund. • Conducting inspections, including: ïï financial reviews of registrants to minimize risk to consumers; and ïï checking compliance of registrants with advertising regula- tions, terms and conditions of registration, and disclosure to consumers (such as conditions of booking). • Maintaining compliance with the Act and Regulation by ensuring that registrants correct deficiencies that have been identified. • Investigating instances of suspected breaches of the Act that could result in prosecution. • Enforcing the Act and Regulation through suspensions, proposals to revoke registrations, the laying of charges under provincial statutes, and referrals to criminal authorities. • Dealing with consumer inquiries. • Improving consumer education. 6 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersModule 1: TICO’s Role in the Travel Industry complaint resolution • Resolving complaints between: ïï consumers and registrants ïï consumers and TICO ïï registrants and TICO • Where complaints have not been resolved, providing infor- mation on other options. government liaison • Working closely with the Ministry for purposes of issues management, regulatory reform, and matters of public interest. TICO’s additional responsibilities In addition to the above responsibilities, TICO carries out several other services, including: consumer awareness • Increasing consumer awareness of the benefits of purchasing travel services from Ontario registrants and of the risks in dealing with non-registrants. • Working to increase consumer and registrant awareness of electronic commerce (e-commerce) as it relates to the travel industry. • Working to create a climate of consumer confidence in purchasing travel services from registrants by: ïï performing services and special projects aimed at monitor- ing and ensuring compliance with the Act and Regulation (for example, conducting inspections to ensure that companies meet advertising guidelines, comply with invoicing requirements, and do not operate without being registered); and ïï reviewing all registrant financial statements to ensure compliance with the financial standards required by regu- lation. (The review helps identify registrants that may pose a financial risk to the Compensation Fund and should be targeted for site inspections.) • Producing materials and marketing campaigns to make consumers aware of the benefits of dealing with Ontario registrants. TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 7Module 1: TICO’s Role in the Travel Industry Industry Awareness Consumer and registrant • Maintaining an updated website that informs the education industry of issues, travel advisories, and consumer The marketing and educational awareness programs. The site can also be used to look up materials that TICO produces whether a particular travel agency or travel wholesaler is include booklets and flyers registered with TICO. for consumers and window displays and decals for regis- • Conducting inspections to maintain professional and finan- trants. Advertisements have cial standards. been placed in newspapers and on radio and television. • Establishing education standards that will help extend The TICO website provides TICO’s goal of improving industry professionalism. consumer travel tips and advisories, as well as consumer compensation information on legislation, complaints procedures, the • Providing compensation to consumers who purchased travel Travel Industry Compensation services from an Ontario registered travel agency but did Fund, and industry closures. not receive them because of the bankruptcy or insolvency of Perhaps most important, TICO a registrant or an airline or cruise line end supplier. has increased public awareness of its logo so that consumers • Providing consumers with other options where circum- will be sure to look for it in stances warrant such action. travel agencies, brochures, and other advertising materials. legislative and regulatory amendments An example of TICO’s role in • Working with the Ministry and travel industry to ensure the amending legislation Act and Regulation remain relevant to emerging issues. TICO worked hard to ensure that, where possible, consum- ethical conduct ers were compensated and Ontario-registered retailers • Promoting fair and ethical competition in the industry. were not held liable for the end • Supporting a Code of Ethics. supplier failure of Canada 3000 Airlines in 2001. As a result of the work of TICO and its indus- try allies, the Regulation was amended to allow for claims against the Compensation Fund in the event of the failure of an airline or cruise line end supplier where the customer booked their services through an Ontario registered travel agent. 8 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersModule 1: TICO’s Role in the Travel Industry Guide to finding information in the Act Ontario Regulation 26/05 follows a similar format: and Regulation Both the Act and the Regulation begin with a table of • Sections 1–2 provide definitions and exemptions contents to help you find particular information. The • Sections 3–7 explain application and renewal first section of an Act and Regulation usually begins with a list of definitions of the terms used in the procedures legislation. • Sections 8–21 identify business requirements for The Travel Industry Act, 2002 contains the following registration sections: • Sections 22–29 outline a registrants’ financial obli- • Sections 1–3 provide definitions of terms gations and record-keeping requirements • Sections 4–7 describe prohibitions against a • Sections 30–35 explain requirements for person acting as a travel agent or travel wholesaler representations unless he or she is registered to do so • Sections 36–47 summarize disclosure • Sections 7.1–15 give details of registration require- ments requirements for registrants • Sections 16–23 identify criteria for complaints, • Section 48 deals with disclosure of information on inspection, and discipline • Sections 24–34 explain conduct and offences registrants • Sections 35–40 cover general matters, such as • Section 49 identifies the prescribed period for confidentiality, fees, and certificates • Section 41 deals with the Travel Industry Compen- pre-approval of advertising sation Fund • Sections 50–55 describe the Compensation Fund • Sections 42–43 set out the authority of the Minister and Lieutenant Governor to make in general regulations • Sections 56–71 relate to claims made on the Fund • Sections 72–73 describe the Fund’s administration • Section 74 notes that previous legislation is revoked • Section 75 indicates when the current legislation comes into force The rest of the modules in this Study Manual provide details on how the Act and Regulation apply to your day-to-day business. TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 9Module 1: TICO’s Role in the Travel Industry SELF-TEST Test your knowledge by answering the following questions after completing Module 1. Check your answers in the Answer Key on page 103. Multiple Choice 1. TICO is funded by a. the Ontario government b. consumers c. Ontario registrants d. the Canadian travel industry 2. TICO works with consumers to ensure that a. they are aware of their rights under the Travel Industry Act, 2002 b. they take their vacations in Ontario c. the travel industry is promoted to consumers d. consumers receive the lowest price from travel agents 3. TICO enhances industry professionalism in many ways, including a. offering courses to travel counsellors to enhance their skill b. maintaining an informative and up-to-date website c. encouraging consumers to consider a career in travel d. working with end suppliers 10 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersOntario’s Travel Industry Act, 2002 Module 2 Module Outcomes Module Summary The Ontario Travel Industry Act, After successfully completing this module, you will be able to: 2002 sets down the rules un- • Describe the developments that led to the introduction of der which travel retailers and travel wholesalers must operate specific travel legislation in Canada in Ontario. Although there are • Recall which provinces have travel legislation and when it other laws that affect the op- erations of travel retailers and was introduced travel wholesalers, this Act is • Describe the main components of Ontario’s Travel Industry the focus of this manual. Act, 2002 The two components: The Act • List the individuals and organizations covered by theTravel and regulations A law (or Act) describes a par- Industry Act, 2002 and describe their roles ticular set of rules. A regulation Why Travel Legislation Is Needed in support of an Act describes The field of travel law is vast. It encompasses, for example, avia- how the rules will be enforced tion crash law, international law, hotel law, maritime law, and or applied. For example, the the Warsaw Convention. While it is important for registrants Ontario Travel Industry Act, to understand all laws affecting their business, the focus in 2002 states that a travel agent the Education Standards program is on the Travel Industry Act, or travel wholesaler must be 2002 and Ontario Regulation 26/05. registered in Ontario. Ontario A number of common travel problems can result from the Regulation 26/05 sets out the actions or arrangements that travel suppliers make. Such procedural rules (requirements) problems include: for registration and outlines • physical injuries registration procedures. • delays and cancellations • overbooking The Regulation gives the gov- • discrimination ernment the power to make a • lost, damaged, or stolen baggage, and law without further legislation. • misrepresentation concerning transportation, accommoda- This means that detailed requirements do not have to tion, tours, and other travel services. be debated in the legislature. Travel agents – even if they do not cause the above problems – So, for example, if there are may have to deal with the fallout from them. exceptions to a law, they are However, suppliers are not the only source of potential prob- described in the Regulation lems. Some problems may be created by travel counsellors who rather than in the Act. It is fail to book travel products correctly, which results in travel easier to make changes to a arrangement errors or delays. For example, an air carrier may Regulation than to change the Act itself. TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 11Module 2: Ontario’s Travel Industry Act, 2002 Travel agencies are responsible refuse to board a passenger because he or she does not have for the actions of their a required visa. The travel counsellor may be responsible for employees or outside sales failing to properly research the need for the visa. Some other representatives, and for examples of problems created by a travel agent are: failing to ensuring that those individuals confirm reservations; providing misinformation; misrepresent- meet the educational ing facts; failing to investigate destinations and suppliers before requirements. This includes recommending them; failing to keep current on industry devel- out-of-province employees or opments; and failing to warn clients of hazardous conditions. To representatives who sell travel avoid making any of these mistakes, it is essential that all travel services and answer questions counsellors educate themselves about the relevant rules and act about travel services from appropriately to reduce or eliminate such problems. customers who believe they are dealing with the Ontario- Note: While travel counsellors have to meet the Education registered agency. Standards, TICO does not register individuals. Travel agencies are responsible for the actions of their employees or outside sales representatives, and for ensuring that those individuals meet the educational requirements. This includes out-of-province employees or representatives who sell travel services and answer questions about travel services from customers who believe they are dealing with the Ontario-registered agency. Consumer Travel Protection in Ontario, Quebec, and British Columbia The introduction of regularly scheduled jet airline service in the late 1950s marked the start of today’s tourism industry. Technological developments in the 1960s brought larger and faster planes. Larger planes with more seating capacity, however, must be filled with paying passengers. Europeans were the first to realize the potential of “bulk buying” for the travel industry. Before long, low-cost charter flights and tour packages using bulk-buying techniques were introduced to the marketplace. These ideas quickly spread across the Atlantic. By the early 1970s, charters and packaged holidays were well established in Canada and modern mass tourism had begun. Such rapid growth and innovation often brings “growing pains.” When new business ideas are developed, few rules are initially in place to govern them. This was the case with mass travel. Each day brought more people and new companies into the industry. 12 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersModule 2: Ontario’s Travel Industry Act, 2002 This unregulated growth became a crisis in 1973 and 1974. The Ontario uses six mechanisms to media carried many reports of travellers who had purchased a protect consumers: vacation only to find, on arrival at their destination, no hotel room for them and no record of their booking. In other cases, • a registration system the holiday went well until travellers arrived at the airport to • posting of security head home and found that there was no flight. Still others paid • a compensation fund for trips to “travel agents” who disappeared with their money. A • trust accounting rash of such problems, together with the collapse of several tour • truth in advertising companies, prompted governments in three provinces to take • supervision/educational action to protect consumers: • Quebec’s Travel Agents Act was enacted in 1974. requirements • Ontario’s Travel Industry Act was enacted in 1974. • British Columbia’s Travel Agents Registration Act was enacted in 1977. Each of these Acts was designed to protect consumers in vari- ous ways, but especially to compensate travellers who paid for services they did not receive. Such protection was necessary because of the bankruptcies and other problems noted above, and because of the special nature of travel purchases. Travel is one of the few products that a person buys before being able to inspect or try the merchandise. This removes one of the consumer’s most effective means of leverage: that of refusing to pay until he or she is satisfied with the product. Without such recourse, consumers are left with little protection if they are dissatisfied with the product. Today, Ontario, Quebec, and British Columbia use some or all of the following six mechanisms to protect consumers: • a registration system • posting of security • a compensation fund • trust accounting • truth in advertising • supervision/educational requirements TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 13Module 2: Ontario’s Travel Industry Act, 2002 Registration system All three provinces have made it illegal for a travel agent or a travel wholesaler to carry on business unless that business is registered with the province. The definitions of travel agent and travel wholesaler may differ from one province to another, but the intent is the same. Companies must meet certain criteria in order to obtain a licence from the province concerned. For those interested in more information on registration require- ments, see Module 6 in the Supervisor/Manager section of the manual. Posting of security Ontario requires new registrants to post a security deposit of $10,000. The Registrar retains these funds until after the regis- trant has filed two consecutive annual financial statements and the Registrar is satisfied with the registrant’s compliance. In theory, a registrant could provide a bond as security, but doing so tends to be more costly than posting a security deposit. For those inter- ested in more information on posting of security, see Module 7 in the Supervisor/Manager section of the manual. Compensation fund Each of the three provinces has a compensation fund. The funding, administration and coverage of the compensation fund varies from province to province. Ontario’s Travel Industry Compensation Fund is discussed in Module 5. Trust accounting All three provinces impose trust accounting on travel compa- nies. This means that monies collected from consumers must be placed in a trust account and used to pay for the consumer’s travel purchases. A trust account is separate from the general account, which is used to pay all business expenses. Commis- sions and other charges are transferred from the trust account to the general account only after the clients travel or all suppli- ers have been paid. Should a tour operator or travel agency go bankrupt, the clients’ funds can be returned. For those inter- ested in more information on trust accounting, see Module 7 in the Supervisor/Manager section of the manual. 14 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersModule 2: Ontario’s Travel Industry Act, 2002 Truth in advertising If consumers purchase travel from an Ontario agency, even All three provinces forbid a registrant from making false, mis- if they do not reside in Ontario, leading, or deceptive statements in any advertisement relating they would be covered by the to travel services. Advertising in Ontario is discussed in Module Ontario Compensation Fund. 3, along with registrant obligations before the sale. Supervision and Educational Requirements If a customer purchases travel services from a registered As part of the registration process for travel agencies, all three Ontario travel agency, which provinces require agency personnel to have a certain level include services provided by an of expertise and experience. In Ontario, as of July 1, 2009, out-of-province wholesaler, the Educational Requirements replaced the vague “sufficient experi- customer will NOT be protected ence” requirement that prevailed in previous versions of the by the Compensation Fund legislation. Supervisor/managers must also show competence by in the event that the out-of- passing an exam related to their duties and responsibilities province wholesaler fails to under the Act and Regulation. These topics are discussed more provide the travel services. fully in Module 6. Please make sure that your What Happens in Provinces Where There Is No Travel clients understand this if they Legislation? are booking such services The British Columbia, Ontario, and Quebec laws operate only through your travel agency. within those provinces. This means the laws protect only those The customer would only be consumers who purchase travel services from registered sellers. protected if the registered For example, if an Ontario tour operator goes bankrupt, those travel agency were to fail. consumers who had purchased their vacation from a licensed Ontario retailer would be able to make a claim from the Travel Industry Compensation Fund. Consumers in other provinces who purchase travel from an agency in their province are not protected by the Ontario Compensation Fund. This applies even if consumers purchase the tour from a chain or franchised agency that has branches in both their home province and Ontario. However, if a consumer purchases travel from an Ontario-based agency – even if he or she does not reside in Ontario – he or she is covered by the Ontario Compensation Fund. TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 15Module 2: Ontario’s Travel Industry Act, 2002 The Main Components of the Ontario Travel Industry Act, 2002 A brief history of the Act The Ontario Travel Industry Act was passed in 1974 and has been revised several times since then to reflect changes in the travel industry. It was set up to protect consumers by: • requiring all travel agents and wholesalers operating in Ontario to be registered to conduct business; • ensuring that minimum financial requirements are met by travel agents and wholesalers; • providing compensation for consumers who do not receive the travel services for which they paid, because of the bank- ruptcy or insolvency of either a registrant or an airline or cruise line end supplier; • making all travel agents and wholesalers responsible for truth in their advertising; and • requiring travel agencies to be supervised by people who, in the Registrar’s opinion, have travel expertise and experience. Since 1997, the Act and Regulation have been administered by TICO. The authority to make legislative and regulatory changes remains with the Ontario government. The revised Travel Industry Act, 2002 and Ontario Regulation 26/05 came into effect on July 1, 2005. They include the following protections: • Consumers must receive full disclosure of relevant informa- tion before purchasing travel services. They must also be notified of any changes after the travel services have been purchased. • The Compensation Fund may assist consumers who book with an Ontario-registered travel agency and are stranded abroad. • The Compensation Fund compensates those who have paid for but not received travel services purchased through regis- tered Ontario travel agencies. • Travel agencies must disclose the availability of both trip cancellation and out-of-province health insurance when making a sale. • Registrants must either place consumers’ deposits into trust accounts or post security with TICO in lieu of trust accounting. 16 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersModule 2: Ontario’s Travel Industry Act, 2002 The players and their roles Disclosure of information on The Act involves the following parties: registrants • Registrar – The TICO Board of Directors appoints a Regis- The Act empowers the Registrar to make information about trar to carry out its administrative and regulatory functions. registrants available to the The Registrar’s powers and functions are described in the public. The Regulation specifies Act. Essentially, the Registrar supervises the administration the information that is to be of the Act and Regulation, including registration procedures made available and the manner (such as changes and renewals), financial procedures, in which it can be distributed. advertising and site inspections, complaints, discipline, and the Compensation Fund (including claims and appeals). The Regulation makes the According to the Act, the Registrar cannot be the Director. registration process transparent The Board of Directors may appoint up to a maximum of to the public. It states that two Deputy Registrars. A Deputy Registrar shall perform the Registrar can make the such duties as are assigned by the Registrar and shall act as following information available the Registrar in the Registrar’s absence to the public by electronic or • Registrant – A registrant is a travel agent or a travel whole- other means: the names of saler who is registered as a travel agent, travel wholesaler, or persons registered as travel both under the Travel Industry Act, 2002. agents or travel wholesalers, • Non-registrant – A non-registrant is an organization or the status of registrations, individual that sells or supplies travel services but is not and business contact details. registered in Ontario. Examples include: A registrant’s status includes ïï wholesalers and retailers not located in Ontario; whether the registrant has ïï companies that sell to clients in Ontario by means of been charged with an offence by TICO and what advertising, the Internet, or toll-free phone line, but actions were taken by the whose home base or call centre is not located in Ontario; Licence Appeal Tribunal as a ïï end suppliers (e.g., airlines, hotels, rail services, cruise result of a hearing. lines) that may or may not be located in Ontario; and ïï anyone who is operating in Ontario illegally. Definitions • Travel agent – A travel agent is a person who sells, to con- Travel services, according to sumers, travel services provided by another person. the Travel Industry Act, 2002, • Travel wholesaler – A travel wholesaler is a person who means transportation or acquires rights to travel services for the purpose of resale sleeping accommodation to a travel agent, or who carries on the business of dealing for the use of a traveller, with travel agents or travel wholesalers for the sale of travel tourist or sightseer or other services provided by another person. services combined with that • Outside sales representative – An outside sales representative transportation or sleeping is a travel counsellor who works from a location other than accommodation. the registered office of a travel agency. However, all sales must be processed through the registered office, either in Accommodation, according to Ontario Regulation 26/05, is any room that is to be used for lodging by the customer or other person for whom the travel services were purchased, and includes any facilities and services related to the room. It does not include meals. TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 17Module 2: Ontario’s Travel Industry Act, 2002 person or by electronic means. In addition, the registrant must record the outside sales representative as either an employee or contractor for the company. An outside sales representative may also be an employee of a travel wholesaler who contacts travel agents, either in person or by mail, telephone, or email with the purpose of selling travel services. An outside sales representative is bound by the Act and Regulation in the same way as any other seller of travel products. He or she must have a written contract with a registrant. • Statutory Director – As defined by the Act, the Statutory Director (usually referred to simply as the Director) is the person appointed by the TICO Board of Directors to perform specific statutory functions. The Director cannot be the Registrar. The position of Statutory Director is an official position at TICO, distinct from a regular Board member position. The Board of Directors may appoint a maximum of two Deputy Directors. A Deputy Director shall perform such duties as are assigned by the Director and shall act as Director in his or her absence. • Licence Appeal Tribunal – The Tribunal is an independent body appointed by the Ontario government. It hears ap- peals of proposals to suspend, revoke, or refuse to grant or renew a travel business’s registration. It also hears appeals of decisions to deny claims against the Compensation Fund. 18 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersModule 2: Ontario’s Travel Industry Act, 2002 SELF-TEST Test your knowledge by answering the following questions after completing Module 2. Check your answers in the Answer Key on page 103. Multiple Choice 1. The registration and inspection of travel businesses in Ontario is conducted by a. the federal government b. International Air Transport Association (IATA) c. the Ministry of Consumer Services d. the Travel Industry Council of Ontario (TICO) 2. The Travel Industry Act, 2002 defines travel agent as a. a person who owns and operates a travel service b. a person who sells travel services provided by another person c. a person who sells travel services to other travel agents and wholesalers d. a person who conducts sightseeing tours 3. The Travel Industry Compensation Fund applies to a. Ontario consumers who purchase travel from any travel agency in Canada b. Manitoba consumers who purchase travel from an Ontario travel agency c. Manitoba consumers who purchase from a local agency that has a branch agency in Ontario d. Ontario consumers who travel exclusively in Ontario TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 1920 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersM 3Registrant Obligations – Before the Sale odule Module Outcomes Module Summary The Travel Industry Act, 2002 After successfully completing this module, you will be able to: and Ontario Regulation 26/05 • Define the terms representation and disclosure set out clear obligations that • Describe registrant obligations with respect to representa- registrants must meet when advertising travel services and tions and disclosures conducting activities related to • Explain requirements regarding the availability of trip can- making a sale. The intent of the legislation is to ensure that cellation insurance and out-of-province health insurance clients are given all the facts • Correctly apply the requirements of the Act before a sale they need to make an informed purchase. is made • Correctly apply the Act and Regulation to all advertising Section 31 of the Regulation • Discuss the requirement for truth in advertising • Recognize advertisements that do or do not meet the requirements of the Act and Regulation • Describe the Registrar’s powers under the Act and Regulation with respect to advertising The Travel Industry Act, 2002 places particular obligations on registrants with respect to their dealings with clients. The requirements vary depending on when the interaction between seller and client takes place. This module covers registrant obligations before a sale has been made. Module 4 deals with registrant obligations after the sale has been made but before the client travels. Representations A representation is a presentation of fact made in person, electronically, or in print in order to induce someone to act or enter into a contract. Examples of representations include oral presentations, advertisements, brochures, and websites. Registrants must ensure that any representations made on their behalf comply with the Act and Regulation. Therefore, all regis- trants must understand what is acceptable under the legislation. The main obligations of a registrant in making representations include the following: • Written representations – All written representations, such as newspaper advertisements, brochures, or websites, must contain the registrant’s business name, address, and TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 21Module 3: Registrant Obligations – Before the Sale Section 33 of the Regulation registration number. Residential phone numbers should not be included in written representations. • Oral representations – Oral representations (for example, a sales presentation) do not have to include the registrant’s business name, address, and registration number. Time and space limitations A representation displayed on a billboard or bus board or made through any other medium with similar time or space limita- tions is not required to include a registrant’s business name, address, and registration number. An example of a time and space limitation can be found on a billboard that you might see on a highway or on a bus board (which is usually an advertisement on a bus or at a bus shelter). In these cases, consumers are driving or walking by the sign, often in a matter of seconds, so they need to be able to read and absorb the information quickly. The wording on the sign should therefore be quite large and only key phrases can be mentioned. Note: Registrants should not assume that something is a limited medium unless TICO has specifically stated that the medium has time or space limitations. Price in representations For all forms of representation, any statement made about price must be clear, comprehensible, and prominent. The intent is that consum- ers should know exactly what their travel services would cost. Prices must reflect the total amount to be paid for the travel services. This amount can be shown in any of three ways: • as a total price, including all fees, levies, service charges, and surcharges; • as a base price plus a total for all fees, levies, service charges, and surcharges; or • as a base price plus an itemized list of all fees, levies, service charges, and surcharges. The only items that need not be included are provincial retail sales tax (PST), federal Goods and Services Tax (GST) and Harmonized Sales Tax (HST). 22 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersModule 3: Registrant Obligations – Before the Sale Where a base price plus tax option is used in a representation, Examples of conditions affect- the total amount of these charges must be printed adjacent or ing a travel service price: near the base price. The total cannot be put in the fine print. If • The price of a cabin on a the additional fees and charges are shown only in the fine print, the representation will not meet the legal requirements. cruise ship varies according Representations must also include a comment about any condi- to location, room type, and tions that affect or limit the price offered, regardless of the time inclusions. or space limitations of the medium used. If the conditions are • The price of a tour package very detailed, the representation can refer consumers to where varies according to departure they can find more detailed information. The important point date, room type, and is that the representation must still identify the condition. inclusions. For example, the price of a cruise may vary by the standard of • The price shown is per person accommodation the client chooses. The representation must based on double occupancy, indicate this, but could refer the client to a website for more but different prices apply information on the standards of accommodation available. to singles, triples, quads, and An example of a correct written representation is shown in children. Figure 3.1. Additional guidelines for registrants who wish to advertise travel Figure 3.1: An example of a correct services: advertisement. • Because the goal of this part of the Regulation is to give consumers a clear idea of what their costs will be, it is not acceptable to show a price as open-ended, without an upper limit, because doing so could be misleading. TICO suggests that such advertisements show a price range (for example, from $X to $Y), as long as both prices are available; and that the representation list the conditions that could cause the price to vary. Such a listing would give consumers a realistic idea of the potential cost of the services being advertised. Figure 3.2 shows an example of an advertise- ment that meets these requirements. • There should be a reasonable description of the travel services being discussed and a statement that further infor- mation is available from a travel agent. • The price of travel services referred to in a representation must be applicable at the time; must be in Canadian currency unless clearly indicated that it is otherwise; and must not refer to a previous price. • When the names of air carriers, hotels and travel whole- salers, where applicable, are not disclosed in the representa- tion that refers to a price and are not known and disclosed by the travel agent at the time of the sale, the registrant shall disclose the names to all customers who have entered TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 23Module 3: Registrant Obligations – Before the Sale Figure 3.2: An example of an advertisement that meets the requirements in showing “from ... to” prices. Section 34 of the Regulation into an agreement with the registrant for those travel services when the information becomes available. Information to be included in written representations Written representations – for example, brochures and websites – relating to specific travel services, must include the following information: • Deposit and final payment requirements. This means amounts and due dates. • Total price, including all taxes and service charges as described above. • Cancellation terms and charges. This means the conditions under which a client may cancel, the details of any charges, and the dates to which the charges apply. • Availability and cost of trip cancellation insurance and out- of-province health insurance, if applicable. (This is covered in more detail below under “Disclosure.”) • Refund policy, including any penalty provisions. • Accommodation and transportation details, including the name of the principal carrier, class of service, and all departure and arrival

points. This description must be fair and accurate to confirm the truthfulness and content of the representations. (Truth in advertising is discussed below.) • Details of any construction or renovation that is likely to interfere with the client's use and enjoyment of the accommodation. This includes the anticipated start date and duration of any work. 24 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersModule 3: Registrant Obligations – Before the Sale • Period to which the representation applies. This means that Section 35 of the Regulation clients should be informed if the price of travel services refers to specific dates or duration. Another example is the Section 36 of the Regulation validity period usually printed in a tour operator's brochure. Disclosure in business means Time and space limitations giving complete information Representations made through a medium with time or space about any matter that the other limitations, such as a billboard or bus board, do not need party should know in deciding to include all the information required in Section 34 of the to buy or contract. Regulation. For the purpose of Section 34, TICO also considers newspaper advertising to be a medium with time or space limi- tations. As such, not all the detailed information listed above needs to be in a newspaper advertisement. Still, as discussed earlier in this module, newspaper advertisements must include the following information: • registrant's business name, address, and TICO registration number; and • if the representation refers to a price, all the information required in Section 33 of the Regulation (see pages 22–23). Note: Where a medium does not allow for full disclosure, regis- trants are encouraged to advise customers where to obtain more detailed information. Photographs and other pictures used in representations Photographs used in any representation must accurately show what is being represented. If a picture that is not a photograph is used in a representation, the picture must accurately show what is being represented and state that it is not a photograph. Disclosure Disclosure refers to the need in business transactions to give complete information – that is, to tell the "whole truth" – about any matter that the other party should know in deciding to buy or contract. In addition to providing complete informa- tion in written materials such as brochures and advertisements, registrants must also provide complete information in their sales presentations (whether they make those in person or by telephone). TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 25Module 3: Registrant Obligations – Before the Sale What circumstances or Travel agents must disclose the following information before situations should a travel entering into an agreement or taking payment or credit card agent tell a client about? information from a client: Examples: • If a travel agent considers that there are any conditions If a country celebrates the Sabbath on a Saturday such that may affect a client's decision to purchase particular that banks and money- travel services, then the agent must inform the client. For changing facilities are closed example, if a client is a looking for a golf vacation and on that day, then the customer the proposed golf course is closed during the dates being should be informed of the fact. considered, then the travel agent is obligated to inform the Similarly, clients should be told client of this fact. whether it is acceptable to wear • As with written representations, the travel agent must shorts when shopping, and disclose the total price and travel dates and give a fair and whether there are likely to be accurate description of the travel services to be provided. power disruptions. Similarly, the agent must provide details of cancellation and refund policies, as well as any limitations to the transfer or cancellation of the travel services. Such limitations include the range of penalties or costs associated with the transfer or cancellation, and details of any non-refundable payments. • Travel agents must inform customers of the terms and conditions related to the purchase of the travel services, and advise where customers can find these details. • Travel agents must inform customers that trip cancellation insurance is available and what cancellation policies are related to the travel services being purchased. For example, it is important for clients to know that travel bookings are usually subject to cancellation penalties should an emergency arise and they need to change their travel plans. If the travel agent sells insurance, he or she must indicate on the invoice whether or not the customer has purchased trip cancellation insurance. If the travel agent does not sell insurance, he or she must indicate whether the customer was advised of the availability of trip cancellation insurance on the invoice. • Travel agents must advise clients about the availability of out-of-province health insurance. Many customers automatically purchase travel insurance for trips outside of Canada, but they may not always think of it when travelling to other provinces in Canada outside of Ontario. If the travel agent sells insurance, he or she must indicate on the invoice whether or not the customer has purchased out-of- province health insurance, if applicable. If the travel agent does not sell insurance, he or she must indicate whether the customer was advised of the availability of out-of-province heath insurance, if applicable. • When a client is proposing to travel outside of Canada, 26 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersModule 3: Registrant Obligations – Before the Sale the travel agent must inform the client of the typical Definition information and travel documents required for each person An affidavit is a formal legal travelling. What is considered "typical" information and statement written and sworn or travel documents may vary depending on the specific des- affirmed to before someone tination, but examples of typical kinds of information that authorized to administer an consumers should be advised about include: oath (such as a notary public). ïï whether a passport is required and whether the passport Affidavit requirements are discussed in more detail in must be valid for a certain period of time after the date of Module 5. departure; ïï whether a visa is required; and Section 44 of the Regulation ïï whether an affidavit or letter from the second parent is needed if one parent is travelling alone with a child. (This Section 28 of the Act advice need not be made in writing before the booking, but must appear in writing on the invoice.) Section 32 of the Regulation • Travel agents should also advise clients that entry to another country may be refused even if the required information and documentation are complete. This advice must also be in writing on the invoice. Invoicing requirements are discussed in Module 4. • Travel agents must tell clients about standards of accommo- dation, utilities, and services at the destination that may be different from those of Canada, as well as about differences in living standards and practices. It is impossible to list here all the situations that warrant explanation. • Travel agents must advise a client that they must answer any of the client's questions arising from the information provided in any related representation. • Travel agents must inform clients if they charge a coun- selling fee or service charge. They must also tell clients whether or not such charges are refundable, and must describe the conditions that apply to any refunds. False Advertising Ontario's revised Consumer Protection Act, 2002 (enacted July 30, 2005) incorporated and consolidated a number of consumer protection measures previously governed by several other laws. This Act safeguards consumers against unfair business practices, including false advertising. Section 28 of the Travel Industry Act, 2002 further protects travellers by specifically forbidding a registrant from making false, misleading, or deceptive statements relating to the provi- sion of travel services in any advertisement, circular, pamphlet, or material published by any means. Section 32 of the Regula- tion extends this prohibition to any representation. TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 27Module 3: Registrant Obligations – Before the Sale Section 29 of the Act If the Registrar considers that a registrant's advertising violates the Act, the Registrar has the power to order that the advertising be: Definitions • immediately stopped; An appeal is a legal term that • retracted, or that the registrant publish a correction as refers to a request for a deci- sion to be reconsidered by a equally prominent as the original publication; or higher authority. • stopped and that a retraction or correction be issued. A stay is a legal term that False advertising orders take effect immediately. refers to a short-term delay Registrants may appeal such an order and are entitled to a ordered by a judge or tribunal. hearing on it by the Licence Appeal Tribunal. • Should a registrant appeal a false advertising order, the Section 49 of the Regulation Tribunal may grant a stay until the Registrar's order becomes final. • If a registrant does not appeal the order or if the Tribunal upholds the order, the Registrar can direct the registrant to submit any proposed future advertising for approval before publication. The requirement applies to all statements in any advertisement, circular, pamphlet, or material to be published by any means. The Registrar can determine the duration for a registrant to submit advertising for pre- approval, but this period of time cannot be longer than 90 days. 28 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersModule 3: Registrant Obligations – Before the Sale SELF-TEST Test your knowledge by answering the following questions after completing Module 3. Check your answers in the Answer Key on page 103. Multiple Choice 1. In cases where the Registrar issues a false advertising order because a registrant's advertising violates the Act, when does the order take effect? a. on the date the advertisement would next have appeared b. immediately c. one week after the order is issued d. one month after the order is issued 2. ABC agency is promoting a resort on its website. It has included an artist's drawing of the resort as part of the representation. Would TICO approve of this? a. no, because only photographs may be used in a representation b. yes, as long as the representation states that the drawing is fairly accurate c. no, unless the date on which the drawing was made is included d. yes, as long as the drawing is accurate and the represen- tation states that the drawing is not a photograph 3. When a travel agent publishes a price in a tour brochure or similar representation, Ontario Regulation 26/05 demands that he or she show a. Provincial Sales Tax (PST) b. Goods and Services Tax (GST) c. Harmonized Sales Tax (HST) d. All taxes except PST, GST and HST TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 29Module 3: Registrant Obligations – Before the Sale Extra Question: Identify at least five problems with the follow- ing advertisement: 30 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersRegistrant Obligations – M 4After the Sale but Before Client Travels odule Module Outcomes Module Summary The Travel Industry Act, 2002 and After successfully completing this module, you will be Regulation require registrants able to: to meet a number of obliga- • Correctly apply the Act and Regulation after a sale is made, tions in following through with a client between the time he or but before the client has travelled she purchases a travel service • Describe the invoicing requirements imposed by the Act and the time he or she actually travels. Registrants must be and Regulation meticulous in notifying cus- • Explain what changes to travel arrangements must be tomers of changes to travel arrangements, verifying accom- disclosed to a client modations and travel docu- • Verify the condition of accommodation as required by ments, and generally ensuring that customers get the travel the Regulation services they purchased. • List situations that require notice, refund, or replacement • Identify travel agent and travel wholesaler requirements Section 38(1) of the Regulation regarding documentation • List the circumstances under which a travel wholesaler must provide travel services • Explain the duty of a registrant who resells travel services Module 3 explained what information must be given to a potential customer in an advertisement or other type of repre- sentation before a travel agent makes a sale. Module 4 explains the obligations that a registrant must meet after a sale but before the client departs on the trip. These fall into four main areas: • invoicing requirements; • requirements to inform customers of any changes that might affect their purchase; • requirements to verify travel wholesaler documents; and • requirements for a travel wholesaler to provide travel services. Invoicing Requirements After making a sale, a travel agent must promptly issue the customer a statement, invoice, or receipt. By law, this document must meet the requirements listed below. As you read through the list, refer to Figure 4.1 as an example of a correct invoice. Note: A statement, invoice, or receipt can be more than one page, as long as the first page shows that more pages follow. TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 31Module 4: Registrant Obligations – After the Sale but Before Client Travels If the document is prepared by hand, it must be pre-numbered (in consecutive numbers, such as 101, 102, 103, etc.). If the document is prepared on a computer, it must be assigned a unique identifier (also known as a locator number). Whichever way the document is prepared, it must include the following details: Agency's and counsellors' identification • the name under which the travel agent carries on business • the travel agent's business address, telephone, and registra- tion numbers • contact information such as the travel agent's fax number and email address • the name of the travel counsellor who made the booking and accepted the first payment Customer identification • the name and address of the person who purchased the travel services • the name, if known, of each person on whose behalf the payment is made (that is, those people travelling) Travel services details • the date of the booking • a fair and accurate description of the travel services contracted for, including destination, departure date, and names of the persons who will provide the travel services • if the travel agent sells insurance, a statement whether or not the customer has purchased trip cancellation insurance and, if applicable, out-of-province health insurance • if the travel agent does not sell insurance, a statement whether the customer was advised of the availability of trip cancellation insurance and, if applicable, out-of-province health insurance • the advice given to the customer regarding the typical infor- mation and travel documents (passport, visas, etc.) needed for each person for whom travel services were purchased • a statement that entry to a country may be refused even if the required information and travel documents are complete • a statement that living standards and practices at the destination may differ from those in Canada, and that the standards and conditions concerning the provision of utili- ties, services, or accommodation may differ 32 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersModule 4: Registrant Obligations – After the Sale but Before Client Travels Payment details Section 38(2) of the Regulation • the date of the first payment • the amount of the payment and whether it is full or partial payment • the amount of any balance owing, if known, and the date when it is to be paid • any fees, levies, service charges, surcharges, taxes and other charges, and whether these amounts are refundable or non- refundable Note: TICO does not expect registrants to separate out every individual fee if they do not have the information. It is acceptable to combine charges on an invoice, but those that are non-refundable must be identified. • the total price of the travel services purchased • whether or not the contract permits price increases. If it does permit price increases, then the following statements must be added: »»a statement that no price increases are permitted after the customer has paid in full; and »»a statement that if the total price of the travel services is increased and the cumulative increase is more than 7%, then the customer has the right to cancel the contract and obtain a full refund. Note: This does not apply if the increase is the result of an increase in PST, GST or HST. For any travel service that a travel agent sells on behalf of a travel wholesaler, the wholesaler must promptly issue the agent a statement, invoice, or receipt. If the document is prepared by hand, it must be pre-numbered (in consecutive numbers, such as 101, 102, 103, etc.). If the document is prepared on a computer, it must be assigned a unique identifier (also known as a locator number). Whichever way the document is prepared, it must include the following details: • the name and address of the travel agent through whom the wholesaler is selling the travel service • the terms of payment and amount paid • the name of each customer and, if known, each other per- son for whom the travel service is being purchased • the destination of each customer and other person and, if relevant, the departure date TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 33Module 4: Registrant Obligations – After the Sale but Before Client Travels ABC TRAVEL INVOICE 123 ANY STREET ANYWHERE, ONTARIO X0X 0X0 Telephone: (555) 555-5555 Fax: (555) 555-5557 Email: TICO Registration #: 1234567 GST #: R123456789 DATE: January 12, 2011 INVOICE #: A123 PAGE #: 1 of 2 BOOKING #: A11111111 AGENT: Booka Trip CUSTOMER: Iwanna Travel 456 Home Avenue, Here, Ontario X1X 1X1 Telephone: (555) 555-0005 SERVICES PURCHASED: QTY PRICE TAXES GST PST HST TOTAL DESCRIPTION VACATION PACKAGE TO 1 $1,891.95 $247.00 - - $3-.25 $2,142.20 ACAPULCO, MEXICO NOTES: Services provided by: ABC Air, ABC Tour Operator and the Acapulco Grand Resort. Travel dates: March 12-19, 2011 Includes return airfare Toronto – Acapulco, deluxe ocean view room with golf daily. Package is non-refundable. No changes permitted. Further terms and conditions may be found in the tour operator's brochure. Trip cancellation insurance and out-of-province health insurance were offered and declined. Your flight from Toronto to Acapulco departs from Toronto International Airport. Please review your itinerary to ensure that all information is correct. Check in 2 – 3 hours prior to departure. Please note that flight times are subject to change. Please re-confirm flight times prior to departure. This contract permits price increases. No price increases are permitted after the customer has paid in full. If the price increase is more than 7% (except for increases resulting from an increase in retail sales tax, federal Goods and Services Tax or Harmonized Sales Tax), the customer has the right to cancel the contract and obtain a full refund. Documentation requirements: You have indicated that you are a Canadian citizen. Canadian citizens are required to present a valid passport in order to enter and exit Mexico. Canadians without a valid passport will be refused entry and returned to Canada. Mexican tourist cards will be provided by ABC Tour Operator at airport check-in. Please note that entry to another country may be refused even if the required information and travel documents are complete. Living standards and practices at the destination and standards and conditions there with respect to the provision of utilities, services and accommodation may differ from those found in Canada. Deposit of $1,000.00 paid in cash on January 12, 2011. BALANCE of $1,142.20 DUE on FEBRUARY 17, 2011. Thank you for booking with ABC Travel. We wish you a safe and enjoyable trip. If you have any questions, please do not hesitate to call. Figure 4.1: An example of a correct invoice. 34 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersModule 4: Registrant Obligations – After the Sale but Before Client Travels Disclosure of Changes to the Travel Services Purchased Section 37 of the Regulation The above invoicing requirements describe a registrant's Customers must be informed obligations after making a sale. However, the registrant's legal promptly of any changes to obligations to the customer do not end there. Situations can travel services they have still arise before the customer's departure that may force a purchased. change in the travel arrangements made for him or her. Some changes may be minor, but others can be serious enough to Section 40 of the Regulation disrupt a client's travel plans. As discussed below, the legislation identifies several situations in which a registrant must inform a client or travel agent of any changes to the travel services purchased. When to inform a customer of a change The disclosure requirement applies specifically to representations (most commonly advertisements) in which changes to the details are made after a customer has purchased the travel services. If a travel agent or travel wholesaler becomes aware of such a change, then he or she must inform the customer promptly. Any change – such as a change in price, carrier, dates, or quality of accommodation – could affect the customer's decision to travel. Notice and offer of refund or replacement If a registrant becomes aware that one of the following situa- tions or events has occurred, he or she must promptly inform the customer or travel agent and offer the customer the choice of a full refund immediately or comparable alternative travel services acceptable to the customer. This action must be taken if the registrant becomes aware of any of the following: • a different cruise ship has been substituted; • the accommodation or standard of accommodation has been changed; • where the contract permits a price increase, the cumula- tive increase is more than 7% of the total price (excluding increases caused by an increase in PST, GST or HST); • where the contract does not permit a price increase and the total price of the travel services is increased, whatever the amount or reason; TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 35Module 4: Registrant Obligations – After the Sale but Before Client Travels Definition • the documents needed for the trip change because the Force majeure refers to natural transportation routing has changed and there is not enough disasters (such as floods, hurri- time for the person to obtain the documents before the canes, and other "acts of God") departure date; or or acts of people (such as riots, • the scheduled departure of any transportation is delayed strikes, and war) that prevent or advanced by 24 hours or more – unless the change is the suppliers and subcontractors result of: from meeting their obligations. »»mechanical problems »»a strike or lock-out In the legislation, the term is »»safety considerations »»a force majeure used to remove liability if some »»weather conditions unexpected or unavoidable event prevents registrants or Registrants must create a file, documenting their actions, if a suppliers from meeting their change or situation arises that might affect a client's decision obligations to a client or travel to purchase the original travel service. The file must include agent. details, in writing, of the: Section 39 of the Regulation • information communicated to the customer; • date on which the information was communicated to the customer; • communication method used; and • choice the customer made. Verifying condition of accommodation Often, the most important factor in determining whether a consumer enjoys a travel experience is the quality of accom- modation. The legislation therefore aims to ensure (as far as it is reasonable to do so) that clients receive the accommodation they paid for. Registrants who acquire rights to accommodation for the pur- pose of selling it to a customer are required to take reasonable measures to ensure that the accommodation the customer finds on arrival is in the same condition as described or presented before being purchased. Registrants have several obligations if they learn that the accom- modation is not in the same condition as described during the sales process: • The customer or customer's travel agent must be notified of the fact and offered a full and immediate refund (including all fees, levies, service charges, surcharges, taxes, and other charges) or comparable alternative travel services that are acceptable to the customer. 36 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersModule 4: Registrant Obligations – After the Sale but Before Client Travels • If the customer purchased the accommodation as part of Definition a package, the refund or alternative services applies to the Accommodation is defined in whole package. Ontario Regulation 26/05 as being "any room that is to be • If the purchased accommodation is not part of a package, used for lodging by the cus- the refund or alternative service applies to the accommoda- tomer or other person for tion only. whom the travel services were purchased and includes other As for any of the other changes, registrants must document facilities and services related to situations where they offer customers a choice of a refund or the room that are for the use of alternative services. Registrants must create a file and include in the customer or other person, writing details of the: but does not include meals." • information communicated to the customer; • date on which the information was communicated to the Section 41 of the Regulation customer; Section 42 of the Regulation • communication method used; and • choice the customer made. Section 43 of the Regulation Requirement to Provide and Verify Travel Documents If a travel agent sells travel services and pays the travel wholesaler 21 days or more before the day of departure, the wholesaler must forward all tickets, vouchers, the itinerary, and other related documents to the travel agent at least 14 days before the customer's departure date (unless the agent or customer direct otherwise). After receiving these documents from the wholesaler or other person, the travel agent must ensure that all the information is correct before giving the ticket, voucher, itinerary, or other documents to the customer who purchased the travel services. Travel Wholesaler's Requirement to Provide Travel Services A travel wholesaler cannot refuse to provide travel services already purchased if: • the customer has paid a travel agent for the travel services; and • the travel wholesaler has given tickets (or other documents related to the travel services) to the travel agent for distribu- tion to the customer. This provision applies even if the travel agent has not yet paid the travel wholesaler for the travel services. TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 37Module 4: Registrant Obligations – After the Sale but Before Client Travels Section 45 of the Regulation Duty of Registrants Who Resell Travel Services A travel wholesaler or travel agent who has acquired the rights Section 46 of the Regulation to travel services for resale must have a written agreement with any supplier whose travel services the wholesaler or agent is The message is clear for all reselling. registrants: Know what travel What if the supplier fails to provide the travel services bought services you sold your and paid for by the customer? The answer is that a registrant clients, be aware of any who acquired the rights to travel services for resale must changes that affect those reimburse the customer or provide comparable alternative travel travel services, communicate services acceptable to the customer. these changes to your clients, and advise the clients of their rights under the Act and Regulation. Invoicing Checklist The invoice shown in Figure 4.1 is just one example of an acceptable invoice. Not all invoices must be in the format presented. Registrants may use whatever format they wish. What is important is that invoices contain all the information specified in Section 38 of the Regulation. Do the invoices provided by your office to consumers contain all of the following information? _____ name and address of the customer who purchased the travel services _____ name (if known) of each person on whose behalf the payment is made _____ date of the booking _____ date of the first payment _____ amount of the payment, indicating whether it is a full or partial payment 38 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersModule 4: Registrant Obligations – After the Sale but Before Client Travels _____ amount of any balance owing _____ due date when any balance owing must be paid _____ any fees, levies, service charges, surcharges, taxes, or other charges, and whether these amounts are refund- able or not _____ total price of the travel services _____ name under which the travel agent carries on business _____ travel agent's address, telephone number, and any other relevant contact information (such as a fax number or email address) _____ TICO registration number _____ a fair and accurate description of the travel services, including the destination, departure date, and the name of persons who will provide the travel services _____ if the travel agent sells insurance, an indication of whether the customer has purchased trip cancellation insurance and, if applicable, out-of-province health insurance _____ if the travel agent does not sell insurance, a statement whether the customer was advised of the availability of trip cancellation insurance and, if applicable, out-of-province health insurance _____ an indication of whether the contract permits price increases _____ if the contract permits price increases, a statement that no price increases are permitted after the customer has paid in full _____ if the contract permits price increases, a statement that if the total price of the travel services increases more than 7% (and is not the result of an increase in retail sales tax, federal Goods and Services Tax or Harmonized Sales Tax), the cus- tomer has the right to cancel the contract and obtain a full refund _____ a description of the typical information and travel documents that will be needed by each person for whom travel services were purchased _____ that entry to another country may be refused even if the required information and travel documents are complete _____ that living standards and practices at the destination may differ from those in Canada and the standards and conditions at the destination with respect to the provision of utilities, services, and accommodation may differ _____ the name of the travel counsellor who made the booking and accepted the first payment TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 39Module 4: Registrant Obligations – After the Sale but Before Client Travels SELF-TEST Test your knowledge by answering the following questions after completing Module 4. Check your answers in the Answer Key on page 103. Multiple Choice 1. The statement included on the customer's invoice says that price increases are permitted. The customer will have to pay more if the price is increased by a. 7% after the customer has paid in full b. 5% before the customer has paid in full c. 10% before the customer has paid in full d. 8% before the customer has paid in full 2. Joe Smith purchases travel services from ABC agency, which includes a scheduled flight. Joe may be entitled to a full immediate refund or comparable alternative travel services if the scheduled flight is delayed by a. 12 hours b. 25 hours because of a severe snow storm c. 25 hours d. 12 hours because of safety considerations 3. Whose responsibility is it to check that a client's accommo- dation is going to be in the same condition as when it was described to the client at the time of purchase? a. client b. Registrar c. registrant d. hotel supplying the accommodation 40 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersModule 4: Registrant Obligations – After the Sale but Before Client Travels Extra Question: Identify three problems with the following invoice: INVOICE ABC Travel TICO Registration #: 1234567 GST #: R123456789 DATE: January 12, 2011 INVOICE #: A123 PAGE #: 1 of 1 BOOKING #: A11111111 PASSENGER: World Traveller 456 Main Street Somewhere, Ontario X1X 1X1 Telephone: (555) 555-5555 DESCRIPTION QTY PRICE TAXES GST PST HST TOTAL VACATION PACKAGE TO 1 $1,891.95 $247.00 - - $3.25 $2,142.20 ACAPULCO, MEXICO Includes return airfare Toronto – Acapulco and accommodations. Travel Dates: March 12–19, 2011. Services provided by: ABC Air, ABC Tour Operator and the Acapulco Grand Resort. Package is non-refundable. No changes permitted. Further terms and conditions may be found in the tour operator's brochure. Trip cancellation insurance and out- of-province health insurance were offered and declined. Paid in full by VISA on January 12, 2011. This contract permits price increases. No price increases are permitted after the customer has paid in full. If the price increase is more than 7%, except increases resulting from an increase in retail sales tax, federal goods and services tax or harmonized sales tax, the customer has the right to cancel the contract and obtain a full refund. Living standards and practices at the destination and standards and conditions there with respect to the provision of utilities, services and accommodation may differ from those found in Canada. Thank you for booking with ABC Travel. TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 4142 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersM 5Ontario Travel Industry Compensation Fund odule Module Outcomes Module Summary The Travel Industry Compensa- After successfully completing this module, you will be able to: tion Fund protects consumers • Explain the purpose of the Travel Industry Compensation Fund who book through an Ontario • Describe how the Compensation Fund is financed registered travel agency and • Identify the two types of claims who do not receive their travel • Explain who is allowed to make each type of claim on the services as a result of the failure of an Ontario registered travel Compensation Fund agency, an Ontario registered • Explain claim limits travel wholesaler or an end • Explain the claims procedure supplier airline or cruise line. • Explain the appeals process and who may appeal TICO's Board of Directors • Describe how the Compensation Fund is administered determines whether a claim Purpose of the Travel Industry Compensation Fund meets the requirements for The purpose of the Travel Industry Compensation Fund compensation. (usually referred to simply as the Compensation Fund, or the Section 52 of the Regulation Fund) is to protect consumers who purchase travel services from Ontario-registered retailers. If travel services cannot be Section 72 of the Regulation provided because of the financial failure of a registrant or an Section 70 of the Regulation airline or cruise line end supplier, then a consumer may be eligible to receive compensation from the Fund. 43 Note: Consumers do not have to live in Ontario to be covered by the Fund. As long as consumers purchase travel services from an Ontario registered travel agency, they are protected by the Compensation Fund in the event that they do not receive their travel services as a result of the failure of an Ontario registered travel retailer, an Ontario registered travel wholesaler or an airline or cruise line. The Fund is made up of: • contributions made by registrants (discussed below); • any money borrowed under this or an earlier Regulation; • recoveries of money paid from the Fund; and • income earned on the money in the Fund. TICO has the legal right to borrow money to supplement the Fund. A registrant is required to reimburse the Fund for any claims paid to the registrant's customers under the following circumstances: TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersModule 5: Ontario Travel Industry Compensation Fund • the registrant is bankrupt or insolvent or has ceased to carry on business; or • the registrant purchased travel services on the customer's behalf, extending credit to the customer, and the customer paid the registrant for the travel services after the supplier of the travel services had become bankrupt or insolvent or ceased to carry on business. Payments to Finance the Fund Definition A travel agent or travel wholesaler must contribute to the Travel A claimant is someone who Industry Compensation Fund. Contributions must be made officially makes a claim to a twice a year (at a six-month interval), with each payment based benefit or right. In the case of on the company's gross sales in Ontario. The payment schedule the Travel Industry Compensa- approved by TICO's Board of Directors is shown in Figure 5.1. tion Fund, a claimant is When registrants make payments to the Fund, each payment someone who wishes to be must be accompanied by a completed return that shows the paid back ("reimbursed") for registrant's sales in Ontario for the preceding fiscal half-year and what he or she spent on a the amount owing to TICO. This return must be certified for travel service but did not accuracy by the registrant or an authorized officer or partner of receive or someone who wish- the registrant. es to be reimbursed for rea- Eligibility to Make a Claim sonable expenses incurred to complete a trip. There are two possible types of claim on the Travel Industry Compensation Fund: • A Standard Claim is a claim for travel services that were paid for but not provided as a result of the failure of an Ontario-registered travel agent, an Ontario-registered travel wholesaler or an airline or cruise line. A customer, a travel agent or a travel wholesaler may make a standard claim. See Sections 57, 58 and 59 of the Regulation. • A Trip Completion Expense Claim is a claim for reason- able expenses incurred to complete a trip where a customer or another person has begun a trip that cannot be com- pleted because travel services have not been provided as the result of the failure of a TICO registrant. A customer or a travel agent may make a trip completion expense claim. See Sections 57.1 and 58.1 of the Regulation. Section 56 of the Regulation The TICO Board of Directors is responsible for determining whether all or part of a claim is eligible for reimbursement. The Board is also responsible for deciding on the eligible amount of a claim. 44 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersModule 5: Ontario Travel Industry Compensation Fund PAYMENT SCHEDULE Compensation Fund Contribution Rates Clause 12 (1) (c) of the Safety and Consumer Statutes Administration Act, 1996 allows TICO to set the payments that persons are required to make to the Compensation Fund. It is the TICO Board of Directors that approves the Payment Schedule and any changes to the contribution rates. This Payment Schedule sets out TICO Compensation Fund Contribution Rates for travel agents and travel wholesalers. This Payment Schedule was approved by the TICO Board of Directors and comes into force on May 1, 2013. All payments received under this Schedule will be deposited into the Ontario Travel Industry Compensation Fund. Travel Agents: A travel agent shall, twice a year, make payments in the amount that is the greater of the following: 1. $25 plus the applicable taxes. 2. The amount of, (a) $0.05 plus the applicable taxes for every $1,000 or part of $1,000 of sales in Ontario made before May 1, 2013, and (b) $0.15 plus the applicable taxes for every $1,000 or part of $1,000 of sales in Ontario made on or after May 1, 2013. Travel Wholesalers: A travel wholesaler shall, twice a year, make payments in the amount that is the greater of the fol- lowing: 1. $25 plus the applicable taxes. 2. The amount of, (a) $0.05 plus the applicable taxes for every $1,000 or part of $1,000 of sales in Ontario made before May 1, 2013, and (b) $0.15 plus the applicable taxes for every $1,000 or part of $1,000 of sales in Ontario made on or after May 1, 2013. Due Date: Contributions required under this Payment Schedule shall be made to TICO, (a) within 90 days after the end of the first half of the registrant's fiscal year; and (b) within 90 days after the end of the second half of the registrant's fiscal year. Format: Payments shall be accompanied by a completed return in a form approved by the Registrar indicat- ing the registrant's sales in Ontario for the preceding fiscal half-year and the amount of payments owing to the administrative authority. The return shall be certified, as to the accuracy of the infor- mation contained in it, by the registrant or an authorized officer or partner of the registrant. Outstanding Payments: Effective May 1, 2013, this Schedule replaces all previous Compensation Fund Contribution Rate Payment Schedules. Any required registrant payments that were owed under a previous Payment Schedule and which have not been paid prior to the effective date of this Payment Schedule con- tinue to remain due and owing to TICO. Figure 5.1: TICO Compensation Fund Contribution Rate Payment Schedule. 45 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersModule 5: Ontario Travel Industry Compensation Fund Section 57 of the Regulation Standard Claims Consumers Before allowing a claim, TICO Consumers who have booked and paid for travel services through may ask claimants to provide a registered travel agent may make a claim against the Fund. A proof that they have not been consumer whose booking was not made through a registered reimbursed by other parties. travel agent is not eligible to make a claim. The intent here is to ensure that Claims can only be made against the Fund for the non-provi- consumers do not "double dip" sion of travel services for two reasons: – that is, receive compensation • the bankruptcy or insolvency of a registrant; or twice for the same claim. • the failure of an airline or cruise line end supplier. Before making a claim against the Fund, a consumer must first seek payment from any other person or company that may be Standard claims are based on Remember that claims against the Compensation Fund for the the cost of the original travel non-provision of travel services can only be made for two reasons: services purchased, not on the • the bankruptcy or insolvency of a registrant; or cost of alternate or replace- • the failure of an airline or cruise line end supplier. ment travel services. The Fund will not reimburse consumers for any of the following claims: The Fund will not reimburse • Any alternative or replacement travel purchased. consumers for travel services • Travel services that were not provided because an end supplier that were not provided because an end supplier (other than an airline or cruise line) declared bankruptcy or (other than an airline or cruise became insolvent or ceased to carry on business. This could line) declared bankruptcy or include an out-of-province wholesaler. became insolvent or ceased to • Travel services or alternative services that were provided. carry on business. This could • Travel services that were available but were not received be- include an out-of-province cause of an act or failure to act on the part of the customer or wholesaler. another person for whom the travel services were purchased. For example, the person decided not to stay in the hotel that was booked, or the person chose to cancel the reservation, which was 100% non-refundable. • Counselling fees paid to a travel agent. • Travel services that were to be received as a prize, award, or goodwill gesture. • Travel services that the customer obtained with a voucher, certificate, coupon, or similar document that the customer did not pay for. • Travel services that the customer did not pay for with cash or by a cheque, credit card, or other similar payment method. • Insurance premiums. • A claim that is based on the cost, value, or quality of the travel services or alternative travel services. • A claim in connection with travel services provided to enable immediate departure or trip completion. • Consequential or indirect damages incurred as a result of the failure to provide the travel services. 46 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersModule 5: Ontario Travel Industry Compensation Fund legally obligated to reimburse or compensate them (for example, an insurance company or a credit card company). In other words, consumers are eligible to make a claim only if no other party has reimbursed them. Travel agents Section 58 of the Regulation A travel agent can make a claim on the Compensation Fund if The Fund will not reimburse the following requirements are met: travel agents for any of the • The customer must have booked and paid for the travel ser- following claims: • any commission; and vices through an Ontario-registered travel agency. • any remuneration, such as a • The travel agent must have dealt with a registered travel whole- service charge, owing on the saler, an airline or cruise line in good faith and at arm's length. travel services purchased by • The travel agent must have passed all or part of the the customer. customer's money to the travel wholesaler, airline, or cruise line. • The travel agent has either: ïï refunded the customer (Note: If the travel agent is still holding any of the customer's money, the travel agency is responsible for refunding that money to the customer); or ïï provided alternative travel services for the customer because the original services were not provided because of a registrant or airline or cruise line failure. (Note: This condition does not apply if the travel agent has acquired the rights to the travel services for resale.) • It is clear that the customer would have an eligible claim against the Compensation Fund. Travel wholesalers Section 59 of the Regulation A travel wholesaler can make a claim on the Compensation Fund for money it has paid out to: • reimburse a customer for travel services paid for but not provided; or • provide the customer with travel services for which the travel wholesaler has not been paid by the travel agent. However, such a claim applies only if: • the travel agent is a registrant; • the travel wholesaler dealt with the travel agent in good faith and at arm's length; • the travel agent failed to pass all or part of the customer's money to the travel wholesaler; • the travel wholesaler has had no previous dealings with the travel agent in which the travel agent failed to pass the TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 47Module 5: Ontario Travel Industry Compensation Fund customer's money to the travel wholesaler (or defaulted in another way); • the travel wholesaler has taken reasonable measures to ensure that the travel agent is reliable and financially responsible; and • the travel agent received the customer's money and it is clear that the customer would otherwise have had a claim against the Fund. The amount of any reimbursement can apply only to the portion of the customer's money that the travel agent received but failed to pass on to the travel wholesaler. The Fund will not reimburse travel wholesalers for any of the following claims: • Any amount owing from a travel agent that represents a commission or other remuneration (including a travel service charge). • A payment made by credit card if the registrant who processed the payment did not first re- ceive approval for the payment from the customer and from the card issuer (in keeping with the agreement between the cardholder and the registrant). • A cheque received from a travel agent unless the cheque is: »» received by the travel wholesaler within seven days of the start of the travel services; »» promptly deposited in a properly maintained account by the wholesaler; and »» returned to the travel wholesaler by the financial institution because of insufficient funds. • Any portion of the claim that is greater than the travel wholesaler's volume of business with the travel agent for a "normal" week, based on typical selling patterns over the 12 months, right before the customer's departure. Section 66 of the Regulation Claims Limit Claims on the Compensation Fund are limited. Definition • The maximum refund is $5,000 per person. Any action that leads to claims • The maximum payable for claims for reimbursement or being made on the Travel Industry Compensation Fund immediate departure in response to any single event or is called an event. An example "major event" is $5 million, plus any money TICO can is the failure of a registrant. recover from third parties. However, an action that • If all claims for an event exceed $5 million, TICO will has particularly serious prorate the claims it receives. (Prorate means to assess and consequences is called a divide the claims proportionately.) major event. • An additional $2 million may be paid from the Fund for trip completion to assist travellers who are stranded in a destination. Trip completion includes payments directed by the Director for trip completion and claims for trip completion expenses approved by the Board. If $2 million 48 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersModule 5: Ontario Travel Industry Compensation Fund is not enough to cover this cost, the Director may, with the Board's approval, call for additional funds to be used for "trip completion" (see page 50). However, these additional funds cannot exceed $5 million. As well, these additional funds will be deducted from the $5 million available to reimburse consumers for claims or to pay for "immediate departures" (see page 49) because of the event in question. • Payments for trip completion take precedence (meaning, are the first paid out) over other claims on the Fund. Major Event Sections 1 and 65 of the Claims that are the result of a major event may be treated Regulation differently from the way other claims are treated. The Director has the power to decide whether or not an event is a major one. In making that decision, he or she must consider the: • nature of the events; • number of claims arising or potentially arising from the event; and • need to protect the Fund. When a major event occurs, the Board may wait to pay any claims until it is satisfied that it has received all claims likely to be made in response to the event. Alternatively, the Board may decide to reimburse the claims in instalments or to reimburse the claims only partially. Immediate Departure Section 68 of the Regulation Failures often occur with little advance notice. This can affect consumers who are about to travel, as well as those who have already reached their destination. The legislation is designed to help consumers whether they are just about to leave for a destination or are stranded at one. The Fund will pay for the immediate departure of passengers under certain conditions. The Director is responsible for decid- ing whether or not TICO will authorize such payments. In making that decision, he or she must consider the: • the welfare of the customer or other person; • how practical it is to arrange immediate departure; and • the need to protect the Fund. TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 49Module 5: Ontario Travel Industry Compensation Fund Several criteria must be met before payment for an immediate departure will be considered: • The customer must have been preparing for immediate departure and been prevented from doing so through no fault of his or her own. • Immediate payment from the Fund is needed to lessen the customer's or other person's suffering. • It is likely that the customer would be eligible for reim- bursement from the Fund. • A maximum of $5,000 per person may be paid for immedi- ate departure. • The maximum amount that may be paid from the Fund to reimburse consumers or to enable immediate departure for an event or major event is $5 million. Trip Completion Funding for trip completion is intended to assist people who are unable to get home or continue their trip because travel services have not been provided. The Fund is most commonly used for trip completion when a travel wholesale registrant fails, leaving a group of people stranded in a destination. Payments for trip completion take precedence over other claims on the Fund. Director Directed Trip Completion Section 69 of the Regulation Depending on the circumstances, the Director may instruct TICO to use money from the Fund to pay, or assist in paying, The director may direct pay- for the cost of: ments from the Fund to pay • trip completion; and for trip completion or in cer- • accommodation and meals needed by the affected tain circumstances where the Director has not arranged for customers before their trip can be completed. trip completion, a consumer Trip completion can be achieved by taking customers either to may make a trip completion ex- their final destination or home (as long as the cost of taking pense claim on the Compensa- them home does not exceed the cost of taking them to the final tion Fund. destination). Consumers may be stranded in countless locations when an airline end supplier fails. At such times, TICO may not have complete information on the whereabouts of all travellers caught in diverse and numerous locations. In these situations, it is up to travellers to make their own arrangements to return home. They can then make a standard claim on the Compensa- tion Fund for the portion of travel services they did not receive. 50 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersModule 5: Ontario Travel Industry Compensation Fund Note: Under these circumstances, the claim can be made on the unused portion of the original ticket only, and not on new services purchased. Trip Completion Expense Claims Where a customer or another person has begun a trip that can- Section 57.1 of the Regulation not be completed because travel services have not been provided as the result of the failure of a TICO registrant and the Director has not arranged for trip completion, the Regulation allows a consumer to make a claim on the Compensation Fund for rea- sonable expenses incurred to complete a trip. The requirements for a trip completion expense claim are as follows: • In order to be eligible for compensation from the Com- pensation Fund, the customer must have booked through a registered Ontario travel agent and paid money to or through the travel agent. • The customer must make a demand for payment from the registered travel agent and wholesaler, from any other person who received the customer's money or from any other person who may be legally obligated to reimburse or compensate the customer, including an insurance company. • In order to be eligible for compensation from the Compen- sation Fund, the customer must not have been reimbursed by any other party. • TICO may require claimants to provide proof that they have not been reimbursed by other parties prior to allowing the claim. What is covered? • A consumer may only claim for the following reasonable expenses related to trip completion: ïï The cost of airfare, car hires or other transportation required in order to bring the customer or other person to the final destination. The individual may also be returned home if it is his or her preference and can be done for a cost that does not exceed the cost to bring the person to the final destination. ïï The cost of necessary accommodation and meals for the customer or other person before the trip can be completed. ïï Costs related to obtaining access to money or making financing arrangements to enable one to pay for the above costs. For example, this could include costs of wire trans- fers or costs of phone calls and faxes to arrange for funds to be sent. TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 51Module 5: Ontario Travel Industry Compensation Fund An individual may only make a What is not covered? trip completion expense claim • An individual must make every reasonable effort to obtain if the travel services were not provided because a TICO regis- services comparable to those originally purchased. Expenses trant failed. An individual is not may not be covered if there has been unreasonable upgrad- entitled to be reimbursed for ing of services. trip completion expenses if the • An individual must make every reasonable effort to travel services were not provid- as close to the originally scheduled travel date as possible. ed because an end supplier be- Consumers who chose to extend their vacation for an extra came bankrupt or insolvent or week, for example, would not be entitled to reimbursement ceased to carry on business. for accommodation and meal expenses. • An individual is not entitled to be reimbursed if the travel services were not provided because an end supplier became bankrupt or insolvent or ceased to carry on business. An individual is only entitled to reimbursement under this section if the services were not provided because a TICO registrant failed. • An individual is not eligible to be reimbursed if he or she was notified that the Director had made alternate arrange- ments for him or her to travel pursuant to Section 69 of the Regulation and he or she did not take advantage of those arrangements though it was possible to do so. • A claimant is not entitled to be reimbursed for the follow- ing: ïï payments for travel services that were provided or for which alternate travel services were made available; ïï payments for travel services that were available, but were not received because of an act or a failure to act on the part of the customer or of another person for whom the travel services were purchased; ïï counseling fees paid to a travel agent; ïï amounts for travel services that were to be received as a prize, award or goodwill gesture; ïï amounts for travel services that the customer obtained with a voucher, certificate, coupon or similar document that the customer did not pay for; ïï amounts for travel services that the customer did not pay for with cash or by a cheque, credit card or other similar payment method; ïï insurance premiums; ïï expenses based on the cost, value or quality or the travel services or alternate travel services; ïï expenses in connection with travel services that were provided under section 68 or 69; and ïï amounts for consequential or indirect damages incurred as a result of the failure to provide the services. 52 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersModule 5: Ontario Travel Industry Compensation Fund A travel agent may make a claim on the Compensation Fund Section 58.1 of the Regulation for money paid by the travel agent to reimburse a customer for reasonable trip completion expenses in the following circum- stances: • A travel agent is only able to claim on the Fund if they have refunded a customer for the following reasonable trip completion expenses: ïï The cost of airfare, car hires or other transportation required in order to bring the customer or other person to the final destination. The individual may also be returned home if it is his or her preference and can be done for a cost that does not exceed the cost to bring the person to the final destination. ïï The cost of necessary accommodation and meals for the customer or other person before the trip can be com- pleted. ïï Costs related to obtaining access to money or making financing arrangements to enable one to pay for the above costs. For example, this could include costs of wire trans- fers or costs of phone calls and faxes to arrange for funds to be sent. • The travel agent is only able to claim the amount for which the customer would have been entitled to claim under the consumer trip completion reimbursement section. • The customer must have booked their travel services through a registered Ontario travel agency and made pay- ment to or through the travel agency. • The travel agent must have dealt with a travel wholesaler in good faith and at arm's length. • The travel agent must have passed all or part of the cus- tomer's money to the travel wholesaler. If the travel agent is still holding any of the customer's money, the travel agency will be responsible for refunding that money. • The travel services were not provided as a result of the failure of a registrant. • If the travel agent acquired the rights to travel services for resale, the travel agent would not have a claim on the Com- pensation Fund. • The travel agent is only entitled to be reimbursed if the customer would otherwise have had a claim against the Compensation Fund. • The travel agent is not entitled to be reimbursed for any commission or other remuneration, including a service charge owing on account of the travel services purchased by the customer. TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 53Module 5: Ontario Travel Industry Compensation Fund No matter how customers complete their trips – whether it is coordinated by TICO or they make their own way home – the same limits apply as for other types of claims: • The maximum payable for trip completion is $5,000 per person. • The maximum payable for trip completion for all claims arising from an event is $2 million. Trip completion includes payments directed by the Director for trip comple- tion and claims approved by the Board for trip completion expenses. If $2 million is not enough to pay for this, the Director may (with the Board's approval) allow for ad- ditional funds to be used for trip completion, as long as the additional funds do not exceed $5 million. However, these additional funds will be deducted from the $5 million available to reimburse consumers or pay for immediate departures in response to the event in question. Claims Summary To summarize, there are two possible types of claim on the Travel Industry Compensation Fund: A Standard Claim is a claim for travel services that were paid for but not provided as a result of the failure of an Ontario registered travel agent, an Ontario registered travel whole- saler or an airline or cruise line. A customer, a travel agent or a travel wholesaler may make a standard claim. See Sections 57, 58 and 59 of the Regulation. A Trip Completion Expense Claim is a claim for reasonable expenses incurred to complete a trip where a customer or an- other person has begun a trip that cannot be completed because travel services have not been provided as the result of the failure of a TICO registrant. A customer or a travel agent may make a trip completion expense claim. See Sections 57.1 and 58.1 of the Regulation. Consumer Claims Procedure To make a claim on the Compensation Fund, consumers must meet the following requirements: Seeking reimbursement from other parties • Consumers must first try to recover their money from other parties that might be legally obligated to reimburse or compensate the customer. This means they must ask for 54 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersModule 5: Ontario Travel Industry Compensation Fund payment from the registered travel agent or wholesaler they dealt with. They must also approach any other party who received their money, such as a credit card company or an insurance company. • If a consumer is making a claim as the result of an airline or cruise line failure, he or she can apply to the Fund directly: it is not necessary to ask the travel agent or wholesaler first. However, consumers must still contact any other party (such as a credit card company or insurance company) that received their money and may be required by law to reim- burse or compensate them. Filing deadline • A standard claim must be made to the Board of Directors Section 60 of the Regulation within six months of the registrant or end supplier failure. Definition • A trip completion expense claim must be made to the A Standard Claim is a claim for Board of Directors within three months after the relevant travel services that were paid registrant becomes bankrupt or insolvent or ceases to carry for but not provided as a result on business. As payments for trip completion take priority of the failure of an Ontario reg- over other claims, the shorter filing deadline for claims for istered travel agent, an Ontario trip completion expenses will allow TICO to determine the registered travel wholesaler or possible exposure (amount of claims) sooner and minimize an airline or cruise line. A cus- the delays in paying out other claims. tomer, a travel agent or a travel wholesaler may make a stan- • A claim to be reimbursed that is made after the end of the dard claim. See Sections 57, 58 specified time period is not valid. and 59 of the Regulation. Review pages 44–49 of this • The TICO Board of Directors has no authority to approve Study Guide. claims received after the filing deadline. Definition • Consumers and registrants must ensure their claims are A Trip Completion Expense made in a timely way. Claim is a claim for reasonable expenses incurred to complete • TICO encourages claimants to get their claim forms filed a trip where a customer or an- with TICO as soon as possible to ensure they meet the other person has begun a trip filing deadline. Additional information or documentation that cannot be completed be- can be provided after the claim has been filed. cause travel services have not been provided as the result of the failure of a TICO registrant. A customer or a travel agent may make a trip completion ex- pense claim. See Sections 57.1 and 58.1 of the Regulation. Review pages 50–54 of this Study Guide. TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 55Module 5: Ontario Travel Industry Compensation Fund Section 61 of the Regulation Basic documentation requirements • Claimants must complete a TICO claim form and provide A standard claim must be made to the Board of Directors supporting documents to show that payment was made within 6 months of the reg- to an Ontario-registered travel agent. This could include a istrant or end supplier failure. copy of the claimant's cancelled cheque or credit card state- A trip completion expense ment and the receipt for the travel services. claim must be made to the • TICO registrants must also provide proof that a refund or Board of Directors within three alternative travel services were provided in support of their months after the registrant be- claims. comes bankrupt or insolvent or ceases to carry on business. Affidavit requirement Claimants are required to complete an affidavit in support of their claim. An affidavit is a legal written document that a claimant must swear or affirm is true, in front of a commis- sioner of oaths, a notary public, or a lawyer. Additional information requirement If a claim is received incomplete, the TICO Board may ask the claimant to provide additional information or documentation to prove his or her claim. In such cases, the claimant has 12 months from receiving the request to provide the details. If a claimant does not do so, TICO will consider the claim "abandoned." Depending on the circumstances, TICO may give a claimant additional time to provide the requested details. Section 62 of the Regulation Subrogation section of the claim form Subrogation is a legal term. It describes a situation in which one claimant is substituted by another claimant who takes on the legal rights and claims of the original person. For example, imagine that Amy is owed $100 by John. If Duncan steps in and pays Amy the $100 on John's behalf, then John now owes Duncan the money – and Duncan has the legal right to collect it from John. If the TICO Board determines that all or part of a claim is eligible, the Board can require a claimant to transfer to TICO his or her interest in a claim against a third party (for example, a registrant who has defaulted). To put this subrogation into effect, the claimant must sign any documents necessary to make the transfer legal. TICO may then reimburse the claimant from the Compensation Fund and try to recover the funds from the third party. 56 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersModule 5: Ontario Travel Industry Compensation Fund Appeals Process Section 71 of the Regulation The TICO Board must immediately notify the claimant in writing if it decides that a claim or any part of it is not eligible for reimbursement. The Board must also tell the claimant that he or she has the right to a hearing before the Licence Appeal Tribunal, and how and when to request a hearing. Claimants who wish to appeal a Board decision are entitled to a hearing before the Tribunal as long as they mail or deliver a written request to the Registrar and the Tribunal within 15 days after being informed that their claim was denied. • If a claimant does not request a hearing, then the decision of the TICO Board becomes final. • If a claimant does request a hearing, then the Tribunal will select a date and hold the hearing. The parties required to be involved at the hearing are the claimant, TICO, and any other person specified by the Tribunal. The Tribunal has the power to either: allow the claim in whole or in part and direct TICO to pay the amount allowed from the Fund; or deny the claim in whole or in part. Administration of the Compensation Fund TICO may borrow money to supplement the Compensation Section 72 of the Regulation Fund. If the Fund has more money than what it needs to meet Section 74 of the Regulation TICO's immediate needs, TICO can invest funds in authorized investments. Section 73 of the Regulation TICO's Board of Directors may retain the services of experts Section 75 of the Regulation or advisors, such as legal counsel, accountants, staff, or trade associations, to: administer and manage the Fund; investigate claims; and maintain and protect the Fund. The Fund may be used to pay these individuals for their services. To ensure that the Fund is properly managed, the Director can request from the Fund administrators any information, books, records, or documents related to the Fund. The Director can also request an audit of the affairs of the Fund. If that happens, the TICO Board must assist the auditors and provide any information they require. TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 57Module 5: Ontario Travel Industry Compensation Fund SELF-TEST Test your knowledge by answering the following questions after completing Module 5. Check your answers in the Answer Key on page 104. Multiple Choice 1. Which item takes precedence over other claims on the Travel Industry Compensation Fund? Payments for a. immediate departure b. trip interruption c. trip completion d. a major event 2. Joe Smith purchases a package tour from ABC agency that includes a return economy flight. The airline end supplier becomes bankrupt during Joe's trip and he is stranded at the destination. He purchases a business class flight home and then makes a claim on the Compensation Fund for his trip completion expenses. Will his trip completion expense claim be successful? a. yes, because he was forced to make his own arrangements to get home as the Director did not direct payments for trip completion b. no, because trip completion expense claims may only be made when a trip cannot be completed because travel services were not provided as a result of the failure of a registrant c. yes, because the Fund is primarily concerned with "trip completion" and getting stranded Ontarians home d. no, because he purchased a business class flight and he had to obtain services comparable to those originally purchased (i.e. an economy flight) 3. A consumer who wishes to make a standard claim on the Compensation Fund for travel services paid for but not provided must do so a. any time; there is no limitation b. immediately c. within three months of the registrant's or end supplier's failure d. within six months of the registrant's or end supplier's failure Now that you have completed the Travel Counsellor section, read Next Steps (page 105) and take the Travel Counsellor Sample Exam (which starts on page 113). 58 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersSuPERVISOR/MANAGER SECTION The Supervisor/Manager section (Modules 6–9) contains additional information that all agency supervisor/managers must know. It is highly recommended that all travel counsellors read through the entire Study Manual to get a better overview of their obligations under the Travel Industry Act, 2002 and Ontario Regulation 26/05. However, only supervisor/managers will be tested on the content of these four modules if they are required to write the supervisor/ manager exam. TICO EduCaTIOn STandardS fOr OnTarIO TravEl COunSEllOrS and SupErvISOr/ManagErS60 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersM 6Registration Requirements odule Module Outcomes Module Summary The Travel Industry Act, 2002 After successfully completing this module, you will be able to: and Regulation require that all • Identify who must be registered and who is exempt under travel agents and travel whole- salers in Ontario be registered. the Ontario Travel Industry Act, 2002 With few exceptions, no one • Describe the requirements for registration, renewals, and may sell travel services in the province

without receiving a changes under the Act Registration Certificate. TICO • Explain the conditions related to registration administers the registration • Explain appeals procedures requirements. • Explain procedures for inspections and investigations • Identify offences and disciplinary actions under the Act Companies not required to • Explain the
confidentiality requirements of the Act be registered Who Must Be Registered The legislation does not require Every travel retailer or wholesaler – whether a company or an the following companies to be individual – intending to conduct business in Ontario must regis- registered: ter with TICO. An agency or wholesaler in Ontario not registered •
wholesalers and retailers not with TICO is forbidden by law from selling travel services in the province. located in Ontario; Any travel company or individual legally registered in the • companies that sell to clients province is called a “registrant.” A registrant who is an individual must be a resident of Canada. Registration is not transferable. in Ontario
by means of adver- Exemptions tising, the Internet, or a toll- Several groups and individuals are exempt from the registration free phone line, but whose requirement. The following table summarizes the main examples. home base or call centre is Note: Because the groups listed are not required to register with not located in Ontario; and TICO, the
Travel Industry Compensation Fund does not cover • end suppliers (for example: consumers who book with them. airlines, cruise lines, hotels and car rental companies). Section 2 of the Regulation TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 61Module 6: Registration Requirements Group or individual
Exemption details exempted This exemption allows a hotel, for example, to create a package of accommodation, theatre tickets, and local transport to the theatre without the need to register. TICO interprets “local” to be within End supplier of 25 kilometres of the accommodation. accommodation who also This applies only if the local supplier does
not request more than 25% of payment in advance or provides local travel services payment more than 30 days in advance. The purpose of this exemption is to assist local tourism purchased from another businesses. For example, the exemption would allow a white-water rafting company to create a person package with accommodation and meals
provided by another company that does not need to be End supplier (excluding registered. The Compensation Fund would not protect consumers in this case. The limit on the airline, cruise line, or bus line) amount of funds that such businesses may collect in advance (up to 25% of the travel services) is who also provides local travel intended to
reduce the potential loss to consumers should a business fail to deliver the services. services purchased from another person There are several limits to this exemption. The person arranging the trip must be employed to Public carrier that sells teach in the institution, and the institution’s board, principal, or governing body must approve scheduled
transportation the trip. The teacher must receive no gain or profit for arranging the travel services other than (such as a bus line) participating in the trip. The exemption applies to one-day tours for students as part of the Agent appointed by licensed curriculum (for example, a field trip to the Royal Ontario Museum). public carriers to sell their bus
This exemption covers only overland travel services, as long as all of the following conditions are travel services satisfied: Public carrier that sells one- day tours • The travel services must be provided only to members of the organization, team, or Person selling guide or association. sightseeing services in Ontario Educational institution • The group
must exist primarily for educational, cultural, religious, or athletic purposes Religious organization, and the travel services be provided for those purposes. amateur sports team, or unincorporated association • Any funds received for the travel services must be deposited into a trust account and disbursed only to pay suppliers of the travel services or
a travel agent. Not-for-profit corporations operating as clubs • Neither the organization, team, or association nor its members or employees may receive any gain or profit from providing the travel services, other than participating in the travel services. • The travel services must not include a destination located more than 2,000 kilometres from the
departure point. • The vehicle used for transportation must remain at the destination to ensure that return transportation is available. This exemption applies only to overland travel services, as long as the following conditions are satisfied: • The travel services must be provided only to members of the club. • The corporation must exist primarily for
educational, cultural, religious, or athletic purposes and the travel services be provided for those purposes. • Any funds received for the travel services must be deposited into a trust account and only disbursed to pay suppliers of the travel services or a travel agent. • Neither the corporation nor any of its members, officers, directors, or employees
may receive any profit or gain from the provision of the travel services other than participating in the travel services. • The travel services must not include a destination located more than 2,000 kilometres from the departure point. • The vehicle used for transportation must remain at the destination to ensure that return transportation is available.
62 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersRequirements to Become Registered Module 6: Registration Requirements To become registered, an applicant must meet several requirements: Section 5 of the Regulation • If the applicant is an individual, he or she must be at least Section 6 of the Regulation 18
years old and a resident of Canada. • The applicant must not owe TICO any Travel Industry Compensation Fund payments – or, if the applicant does owe such contributions, he or she must have made arrange- ments acceptable to the Registrar to pay the amount. • TICO must not have an outstanding judgement against the applicant – or, if TICO does
have such a judgement, the applicant must have made arrangements acceptable to the Registrar to satisfy the judgement. • TICO must not have paid any claims from the Com- pensation Fund in relation to the applicant’s bankruptcy, insolvency, or ceasing business – or, if TICO has paid such claims, the applicant must have reimbursed TICO for both
the claims and TICO’s costs, or made arrangements accept- able to the Registrar to do so. • If required to provide security, the applicant must have done so. • Anyone else associated with the applicant’s business (con- sidered an “interested person,” as defined in section 8 of the Act; see Glossary, page 108) must also satisfy all of the above conditions.
Requirements for Renewals To continue being registered through a renewal, a registrant must meet several requirements: • If the registrant is an individual, he or she must be a resident of Canada. • The registrant must not owe TICO any Travel Industry Compensation Fund payments – or, if the registrant does owe such contributions, he or she must
have made arrange- ments acceptable to the Registrar to pay the amount. • TICO must not have an outstanding judgement against the registrant – or, if TICO does have such a judgement, the registrant must have made arrangements acceptable to the Registrar to satisfy the judgement. • TICO must not have paid any claims from the Com- pensation
Fund in relation to the registrant’s bankruptcy, TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 63Module 6: Registration Requirements Section 3 of the Regulation insolvency, or ceasing business – or, if TICO has paid such Section 25 of the Regulation claims, the registrant must have reimbursed TICO for both the
claims and TICO’s costs, or made arrangements accept- able to the Registrar to do so. • If required to provide security, the registrant must have done so. Forms and Fees To register, a travel agency or wholesaler must: 1. complete a registration form; 2. submit the form to TICO with the required fee; 3. make renewal payments every year to maintain
the registration; 4. register branch offices separately from head offices; and 5. pay registration and renewal fees for branch offices. Registration and renewal fees are set by TICO and published in a Fee Schedule, as shown on page 65. TICO will consult with the travel industry before making any changes to the fee structure. The TICO Board must
approve changes to the fee structure. Applications and renewals must: • be submitted on the forms provided by TICO; • contain all the required information; and • be accompanied by the appropriate fee. Any applications that do not meet these requirements will be considered incomplete and TICO will not process them. Security Deposit for New
Applicants In addition to the fees noted above, any company that was not registered in the previous 12 months must provide $10,000 in security to TICO. The security deposit will not be returned until at least two consecutive annual financial statements are filed and then only at the discretion of the Registrar, depending on whether or not the
registrant is in good standing and in compliance with the Act and Regulation. 64 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersModule 6: Registration Requirements FEE SCHEDULE Registration and Renewal Fees Section 3(1) of Ontario Regulation 26/05 provides that an application for registration or for renewal
of registration as a travel agent or a travel wholesaler shall be accompanied by the rel- evant fee set by the administrative authority under clause 12 (1) (b) of the Safety and Consumer Statutes Administration Act, 1996. This Fee Schedule sets out TICO registration and renewal fees. This Fee Schedule comes into force on July 1, 2011. The applicable
fees are for a one year period. REGISTRATION: The following fees are payable at the time of registration: ENTITY REQUIRED FEE Travel Agent or Travel Wholesale – Head Office $3,000 Travel Agent or Travel Wholesale – Branch Office $800 Registration fees are not refundable. RENEWAL: A renewal fee is payable for each retail and wholesale
registration held. The renewal fees are based on reported sales in Ontario during the last fiscal year as follows: SALES VOLUME RENEWAL FEE $2,000,000 or less $300 More than $2,000,000 but not more than $5,000,000 $600 More than $5,000,000 but not more than $10,000,000 $900 More than $10,000,000 but not more than $50,000,000 $1,200
Over $50,000,000 $1,800 An additional fee of $300 is required for each branch office. Annual renewal fees are payable 90 days after the registrant’s year end. Branch renewal dates will be aligned with the renewal date of their head office. Thus, registrants with branches will renew all of their entities simultaneously (head office and all branches).
Figure 6.1: TICO Registration and Renewal Fee Schedule. TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 65Module 6: Registration Requirements Section 6 of the Act and Sections Requirements for Operating from an Office or Dwelling 10 and 11 of the Regulation All registrants must conduct their business only
from the place that is named as the office in their registration. If the business Section 9 of the Regulation has multiple locations, one must be registered as the head office and the others as branch offices. All branch offices must be Section 13 of the Regulation registered. All registrants must operate from a permanent place of business As a best
practice, it is recom- in Ontario. The place can be a home as long as the following mended that the Registration conditions are met: Certificate be clearly displayed • The registrant provides proof that the dwelling meets local in the registrant’s office. zoning requirements for conducting business. • The registrant has a business telephone number for
the company name and the number is different from any residential phone number. • The Registrar has access to the registrant’s business records. Business Name Requirements A registrant must have a legally registered business name and must conduct business under that name. The business name cannot specify a sponsorship or affiliation that
the registrant does not have. For example, a registrant may not name a travel agency “Disney Travel” (unless the company has the legal right to use this name or is owned or sponsored by the Disney Corporation). Certificate of Registration Once the registration procedure is completed, TICO issues the registrant a Registration Certificate. This
certificate must be kept at the office or branch for which it is issued and the regis- trant must show the certificate to anyone who asks to see it. As a best practice, it is recommended that the Registration Certificate be clearly displayed in the registrant’s office. TICO urges consumers to look for this certificate when dealing with a travel agent or
wholesaler. Every Registration Certificate has an expiry date. If a registered company closes down or has its registration revoked or suspended, the registrant must immediately return the Registration Certificate to the Registrar by registered mail or personal delivery. 66 TICO Education Standards for Ontario Travel Counsellors and
Supervisor/ManagersModule 6: Registration Requirements Requirements to Maintain Registered Status Section 12 of the Regulation Sale of travel services by travel agent Travel agents have certain obligations when they sell travel Barriers to registration services: Under section 8 of the Act, • Customers must be informed of the business name,
address, any applicant who meets the requirements is entitled to and telephone number of the registrant. This requirement is register (or renew). However, to ensure that consumers know who they are dealing with. the Registrar can refuse to • Travel agents must inform the customer of any connection register a company or individual between the
travel agency and any other registrant that for lack of financial responsibil- might influence the transaction. For example, if a wholesaler ity and for dishonesty. The owns a travel agency, then the consumer should be told this Registrar can also reject applica- in dealings with either the wholesaler or the travel agent. tions from anyone who is acting •
Travel services can be sold or offered only by a registrant in a way that breaks the law or by an individual who is employed by, or has a written any of the registration require- contract with, the registrant. ments, or who fails to provide Starting July 1, 2009, every person who sells (or offers to sell) travel the information requested. services or
provides travel advice to the public on behalf of a regis- tered Ontario travel agency must have passed the Travel Counsellor Sections 45–47 of the Exam. This includes the agency supervisor/manager. Regulations With respect to supervisor/managers, the individual who was on record with TICO as supervisor/manager on June 30, 2009 will be
grandfathered and will not be required to take the Supervisor/Man- ager Exam. All other supervisor/managers must pass the Supervisor/ Manager Exam within six months of accepting the supervisor/ manager position. Restrictions on resale of travel services Before travel wholesalers and travel agents can resell travel services, they must have a
written agreement with the supplier of the services, setting out all terms and conditions. This requirement confirms that the registrant has the legal right to sell the travel service. Registrants who have acquired such resale rights must also reimburse the customer, or provide alternative travel services acceptable to the customer, should the supplier
fail to provide the services paid for by the customer. Registrants cannot sell air transportation unless the air carrier is properly licensed, has the approvals needed (or has filed TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 67Module 6: Registration Requirements Sections 15–16 of the Regulation to obtain any
approvals needed), and has complied with the Section 25 of the Act regulatory requirements in all relevant jurisdictions. In Canada, this means that the air carrier must have met all safety and other requirements to be licensed by the federal government. Educational Requirements Each travel agency office must be managed and supervised by an
individual who, in the Registrar’s opinion, has “sufficient experience with and knowledge of the business of selling travel services” to ensure that the requirements of the Act and Regula- tion are met. In practice, the term “sufficient experience” has usually been interpreted to mean three years of travel selling experience. All new
supervisors/managers will also be required to pass the Supervisor/Manager Exam within six months of accepting the supervisor/manager position. To summarize, every travel agency must be managed and super- vised by an individual who meets the following requirements: • has passed the Travel Counsellor Exam; • has been approved by the
Registrar as having sufficient ex- perience with and knowledge of the business of selling travel services to ensure that the office is managed in compliance with the Act and Regulation; • was on record with TICO as supervisor/manager on June 30, 2009 and is grandfathered from taking the Supervisor/ Manager Exam or passes the Supervisor/Manager
Exam within six months of accepting the supervisor/manager posi- tion. All individuals selling travel services directly to the public on behalf of a registered Ontario travel agency are required to pass a Travel Counsellor Exam. Travel counsellors must be employees of, or have a contract with, the registrant. Registrants must keep accurate and up-to-
date records of these individuals. These records must include copies of the relevant certificates issued by TICO that show that the individuals have complied with the Education Standards. Legal Responsibility for Deposits Registrants are “jointly and severally liable” (responsible) for any money they receive from a client. As such, there may be
situations where they are responsible for repaying or refunding a 68 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersModule 6: Registration Requirements client. However, they are not liable to do so if all of the follow- Definitions ing conditions are met: Jointly and severally liable is a • The registrant has properly
disbursed the money received. legal term meaning that some- one has legal responsibility This means that the registrant has paid the appropriate both as an individual and as party (either another registrant or the supplier) for the travel part of a group. services. Good faith (as in, “acting in • The registrant acted in good faith and at arm’s length with
good faith”) means acting hon- anyone with whom the registrant would be jointly and estly, with no intent to defraud severally liable. or take advantage of someone, • The person with whom the registrant would be jointly observing reasonable business and severally liable is not in breach of a requirement to standards. be registered under the Act. A
registrant could not benefit Arm’s length refers to a relation- by dealing with an illegal operator (that is, someone who ship in which the two parties should be registered in Ontario but is not). are not related and do not have Notification of Changes close ties. A registrant must notify the Registrar if there are any changes to the registrant’s ownership,
share distribution, address, bank Section 5 of the Act account, or supervisor/manager. Some of these changes require the Registrar’s approval, and each must be reported within a Section 24 of the Act specific time frame. Some changes require advance notice; others do not. Section 15 of the Act • Changes to a corporation’s officers or directors
require the Registrar’s consent. Any change to a partnership is treated as Section 17 of the Regulation a new partnership for registration purposes. This means that any new partners would have to meet the same financial, moral, and other requirements for registration. • A change in address for service or any change in officers or directors of a
corporation or partnership must be made in writing to the Registrar within five days of the change occurring. If the notification is made by mail, then the mailing date is considered to be the notification date. Otherwise, the day on which the Registrar is actually notified is considered to be the notification date. • If anyone acquires or accumulates 10%
or more of the total shares, the Registrar must be informed within 30 days. This requirement extends to anyone already holding at least 10% of the total shares who increases his or her ownership in the corporation. • For any of the following, the Registrar requires at least five days’ advance notice: TICO Education Standards for Ontario Travel
Counsellors and Supervisor/Managers 69Module 6: Registration Requirements Section 18 of the Regulation ïï a change of address for the office or branch office of a Section 18.1 of the Regulation registrant; Section 21 of the Regulation ïï a change of the person identified to manage and supervise an office; or ïï a change in the name or number of an
account or in the financial institution in which the account is maintained. • If the registrant is not aware of a change to the supervisor/ manager at least five days before the change takes place, the registrant shall notify the Registrar immediately upon becoming aware of the change. • For any changes to the required information in a registrant’s
application for registration or renewal, other than a change described in section 17, the Registrar must be notified within five days after the change takes place. • A registrant is required to provide notice to the Registrar if it intends to stop selling travel services as follows: ïï A registrant that knows that it will close at least 10 days in advance, shall
provide written notice to the Registrar as soon as possible. The notice must be provided as soon as practicable and in any event at least 10 days before ceasing to sell travel services. ïï The written notice may be a letter setting out the date when the registrant intends to close the business. ïï If the registrant does not know that it will cease to sell travel
services at least 10 days in advance, it shall notify the Registrar as soon as possible after becoming aware. ïï A registrant that ceases to sell travel services shall provide a letter to the Registrar setting out the date that the regis- trant ceased to sell travel services, if notice of that date has not already been provided. ïï A letter must also be provided to
the Registrar setting out the location where the registrant’s business records relating to the travel services that were sold will be kept. • Registrants must promptly advise the Registrar in writing if they cease to trade with another registrant because of the other registrant’s apparent lack of financial responsibility. Compliance It is TICO’s
responsibility to ensure that registrants comply with the Act and Regulation. TICO has separate departments that deal with financial compliance and non-financial compli- ance issues: • Financial compliance issues concern the filing of financial 70 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersModule 6:
Registration Requirements statements and managing of working capital and trust By conducting business with an accounting. Ontario-registered travel agent, • Non-financial compliance issues concern disclosure and consumers ensure that they representations. Monitoring non-financial compliance can make a claim against the includes reviewing
newspaper, website, and brochure Travel Industry Compensation advertising, as well as looking at disclosure and invoicing Fund in the event of the bank- matters. The non-financial compliance department also ruptcy or insolvency of a TICO deals with people who are selling travel services without registrant or end supplier air- registration – a
violation of the Act. TICO receives informa- line or cruise line. As well, TICO tion about people operating without registration through registrants must comply with consumer complaints and complaints from other industry the consumer protection pro- members. TICO also becomes aware of people operating visions set out in the Act and without
registration through its own review of advertising. Regulation. Registrants who do not comply with any part of the Act or Regulation are contacted by TICO. TICO staff then follow Section 17 of the Act up to ensure that any problems are corrected. If a registrant fails to correct the problems, the Registrar may take further An inspector can enter a
administrative action, including issuing a proposal to revoke registrant’s premises at any the registrant’s registration. reasonable time to check that A registrant receiving a letter from TICO about apparent all legal requirements are being non-compliance must respond as soon as possible. A prompt complied with, to deal with a resolution of the
problem will ensure that the matter does not complaint, or to ensure that escalate and put the registrant’s licence in jeopardy. Failure to the registrant is meeting all respond is itself an act of non-compliance. registration requirements. Where a person or company is selling travel services without being registered with TICO, the non-registrant may be
charged with an offence under the Act. One of the ways in which TICO ensures that registrants are complying with the Act and Regulation is by conducting inspections. Inspections The Registrar may conduct inspections in person or designate an inspector. An inspector can enter a registrant’s premises at any reasonable time to check that all legal
requirements are being complied with, to deal with a complaint, or to ensure that the registrant is meeting all registration requirements. The person or company being inspected can ask the inspector to produce proof of his or her authority. TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 71Module 6: Registration
Requirements Sections 10–12 of the Act The inspector, by law, has free and open access to any materials that are relevant to the inspection, such as money, valuables, documents, and print or electronic records. The inspector may remove, examine, and copy these items as long as he or she first gives the person being inspected an itemized list of the
materials removed. All materials must be promptly returned to the person or company after the inspection is complete. Refusal, Suspension or Revocation of a Registration If a registrant fails to comply with the legislation, the Registrar has the power to propose to: • refuse to register an applicant; • suspend or revoke a registration; • refuse to renew
a registration if the applicant does not meet the registration requirements; and • apply conditions to an existing registration. If the Registrar proposes to take any of the above actions, the applicant or registrant must be notified in writing and told the reasons. He or she must also be advised of the right to appeal to the Licence Appeal Tribunal.
Refusal Common reasons why TICO would propose to refuse to register an applicant include: • the applicant has a serious criminal record; • financial concerns suggest that the applicant cannot be rea- sonably expected to be financially responsible in conducting its business; and • the applicant has made false statements on the application form.
Suspension In extreme cases, the Registrar may propose to suspend a registration. Generally, suspensions involve serious financial issues where the Registrar is concerned that the travelling public would be at risk if the registrant was to continue to operate. All suspensions take effect immediately once the Registrar issues the order. However, it must
be in the public interest to suspend a registration. 72 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersThe order expires 15 days after the written request for a hearing Module 6: Registration Requirements is received by the Licence Appeal Tribunal, unless the time is extended by the Tribunal. 73 Revocation
Common reasons why TICO would issue a proposal to revoke an applicant’s registration include: • the applicant fails to file financial statements; • the applicant demonstrates: ïï financial statement deficiencies; ïï working capital deficiencies; and/or ïï trust account deficiencies; • the applicant fails to file Travel Industry Compensation Fund
contributions; • the applicant uses false, misleading, or deceptive advertising; • the applicant has invoicing issues; • there are outstanding consumer complaints lodged against the applicant; and • the applicant fails to respond to the Registrar. Appeals to the Licence Appeal Tribunal Any applicant who has a registration or renewal refused or any
registrant who receives a proposal to revoke or suspend a regis- tration may appeal to the Licence Appeal Tribunal. The Licence Appeal Tribunal is an independent, quasi-judicial administrative tribunal. Its process is designed to be simple, timely, and less formal and expensive than a court process. The Tribunal members are appointed on a part-time
basis by Order-in- Council signed by the Lieutenant Governor of Ontario. They are drawn from across the province and represent different backgrounds and expertise related to law, industry, and consumer interests. To appeal a decision, an applicant or registrant must file a notice of appeal with the Tribunal within 15 days of being served with the
proposal. There is a filing fee to have an appeal heard by the Tribunal, and this amount is non-refundable. Registrants have the option of representing themselves, using a representative, or hiring an agent or lawyer to present their case at the Tribunal. If registrants choose to hire a lawyer, it is at their expense. If no hearing is requested, the
Registrar may carry out the proposal. TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersModule 6: Registration Requirements Section 14 of the Act and A Tribunal hearing includes the Registrar, the person making the Section 7 of the Regulation appeal, and any other parties the Tribunal considers necessary for the
proceedings. Tribunal members listen to the evidence Section 31 of the Act presented by the parties and issue a written decision. The Tribunal has the authority to confirm the Registrar’s decision or Definition set aside the decision and substitute another opinion. Like the The term reasonable is used in Registrar, the Tribunal may apply conditions to
a registration. law to mean behaviour that is TICO will continue to work with registrants to try to resolve logical, appropriate, or usual in the matter even after an appeal has been filed. In many cases, the circumstances. TICO and the registrant may be able to resolve the matter on consent. For example, the registrant may agree to additional terms
and conditions of registration to satisfy the Registrar that the problem leading to the proposal is being addressed. Re-applying When a registration or renewal is refused or revoked, a person must wait at least 30 days before re-applying for registration. That means that the individual cannot conduct business for at least 30 days. Upon re-applying, the
applicant must demon- strate that his or her circumstances have changed and that the requirements are now fully met. Offences Once a company has successfully completed the registration process, it is free to carry on business as long as it continues to meet the registration requirements. Giving false information or failing to comply with any part of
the legislation is an offence. Responsibility for an offence extends to the officers of a corpo- ration, who must show that they have taken “reasonable” care to prevent an offence being committed. • Any person convicted of an offence under the Act may have to pay a fine of not more than $50,000, face imprisonment for not more than two years less a
day, or both. • The maximum fine for a corporation convicted of an offence under the Act is $250,000. Proceedings must begin within two years of the Director being made aware of the facts of the offence. 74 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersModule 6: Registration Requirements The court may also
order a person or company convicted of an Section 32 of the Act offence to pay restitution in addition to the penalties described Section 35 of the Act above. If an insurer or the Compensation Fund has already paid the individual harmed, the court can order the payment to be made to the insurer or to the Fund. Confidentiality All information that
TICO obtains in the course of fulfilling its duties is confidential and cannot be communicated to others except under certain conditions. The exceptions are as follows: • Information can be revealed when it is required as part of administering the Act or it is related to a proceeding under the Act. • Information can be disclosed to an organization or
government agency that administers consumer protection legislation. • Information can be released to a law enforcement agency. • Information can be released to the individual’s legal counsel. • Information can be released with the consent of the individual concerned. No TICO staff can be required to give testimony in a civil proceeding with regard
to information obtained in the course of administering the Act, except in a proceeding under the Act. TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 75SELF-TEST Test your knowledge by answering the following questions after completing Module 6. Check your answers in the Answer Key on page 104. Multiple
Choice 1. According to the Travel Industry Act, 2002, which of the fol- lowing must be compliant with the Education Standards in a travel agency? a. all staff no matter what their role is in the agency b. all staff providing information about travel services to the public c. only the owner of the agency d. only the owner and the supervisor/manager of the
agency 2. What is the maximum penalty for a corporation that commits an offence under the Travel Industry Act, 2002? a. $250,000 b. $50,000 c. two years less a day in prison d. $50,000 and two years less a day in prison 3. Which of the following must register under the Travel Industry Act, 2002? a. an end supplier b. a travel agency in North Bay c.
a travel agency in Saskatoon d. an educational institution in Ottawa 76 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersFinancial and Record-Keeping Requirements Module 7 Module Outcomes Module Summary The Travel Industry Act, 2002 After successfully completing this module, you will be able to: and
Regulation place a number • Identify the financial and other records required under the of financial requirements on registrants. The intent is to Act and Regulation ensure that registered travel • Distinguish between trust and general accounts and describe companies in Ontario are set up and maintained in a sound each fiscal manner. The require- •
Describe the working capital and security requirements of ments set criteria that relate to business records, financial the Regulation statements, working capital, Financial Statement Reporting Requirements trust accounting, and security Every registrant must file a financial statement with TICO at deposits. least once a year. The financial statement
must be prepared by a Licensed Public Accountant and accompanied by either a Section 22 of the Regulation review engagement or audit, depending on the registrant’s sales volume. A review engagement or audit provides various levels of assurance to the reader of the financial statement that the state- ment fairly represents the financial position of
the registrant. The financial statement must be filed with TICO within 90 days of the registrant’s year end. Registrants with sales of more than $10 million annually must file financial statements more frequently, either semi-annually or quarterly. These financial statements can be the registrant’s internal financial statement – they do not have to be
prepared by a Licensed Public Accountant or accompanied by a review engagement or an audit report. The financial statement reporting requirements, summarized in Table 7.1, vary depending on the type of registrant and the sales volume. Where a registrant is a travel agent and a travel wholesaler, the business activities will be considered as one
for financial report- ing and the financial statements filed shall meet the wholesale requirement. This means that if the total retail and wholesale sales combined are greater than $10 million, registrants will have to meet greater filing requirements. This includes filing an- nual financial statements with an audit opinion as well as filing unaudited
interim financial statements. TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 77Module 7: Financial and Record-Keeping Requirements Table 7.1: Financial statement reporting requirements * Type of Sales volume ($) in Reporting requirements registrant Ontario in the previous Must file financial statements
annually with either: Travel agent Less thanfi$s1c0almyiellaiorn • a review engagement report by a Licensed Public or Accountant; or Travel wholesaler • an auditor’s report from a Licensed Public Accountant if the registrant is required to obtain such statements under the Business Corporations Act. Travel agent $10 million – $20 million All
documents must be submitted within 3 months of the end of the fiscal year. Travel wholesaler $10 million or more Must file: Travel agent $20 million or more • annual financial statements, with an audit opinion from a Licensed Public Accountant, within 3 months of the end of the fiscal year; and • unaudited financial statements twice yearly within 45
days after the end of each fiscal half-year. Must file: • annual financial statements, with an audit opinion from a Licensed Public Accountant, within 3 months after the end of the fiscal year; and • unaudited financial statements quarterly within 45 days after the end of each fiscal quarter. * Where a registrant is a travel agent and a travel wholesaler,
the business activities will be considered one for financial reporting and the financial statements filed shall meet the wholesale requirement. Definitions As defined in the Regulation, the registrant’s financial statement must include: • a statement of sales in Ontario made during the period to which the financial statements refer; • a balance sheet; • an
income statement; and • a reconciliation of the trust account with customer deposits. Licensed Public Accountant means a public accountant licensed under the Public Accounting Act, 2004. Sales in Ontario, when used in reference to a period of time, means: • in the case of a registered travel agent, the amount paid or to be paid to or through the
travel agent for all travel services sold in Ontario during the relevant period; or • in the case of a registered travel wholesaler, the amount paid or to be paid to or through the travel wholesaler for all travel services sold in Ontario during the relevant period. 78 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersModule
7: Financial and Record-Keeping Requirements Working Capital Section 24 of the Regulation Working capital is defined as a company’s ability to meet its Definitions liabilities as they come due. It is generally calculated by Working capital is defined as a subtracting current liabilities from current assets. company’s ability to meet its liabilities as they
come due. working capital = current assets minus current liabilities It is generally calculated by subtracting current liabilities Working capital can be positive or negative, depending on how from current assets. much debt the company is carrying. In general, companies that have a lot of working capital are more successful because Current liabilities
are those they are better equipped to withstand market changes, financial liabilities that are due downturns, or unexpected events. within one year, such as operating bank loans, accounts Registrants are required to maintain minimum working capital payable, and taxes payable. levels at all times. These minimums are based on the registrant’s sales.
Current assets are assets that can be converted to cash Working capital, as defined in the Regulation, excludes certain within one year. They include amounts. The following items must not be included in the cash and cash equivalents, calculation of working capital: accounts receivable, inventory, and marketable securities. • the $10,000 deposit that
all new registrants must provide to TICO; and Definition Under the legislation, an inter- • the value of capital belonging to any person who is an ested person is one who is “interested person” in relation to the registrant. associated with the registrant or who, in the opinion of the Table 7.2: Working capital requirements for registrants Registrar: • has
or may have a beneficial Sales volume Minimum working capital $500,000 or less $5,000 interest in the registrant’s More than $500,000 but not $10,000 business; more than $750,000 • exercises or may exercise More than $750,000 but not more $15,000 control either directly or than $1,000,000 indirectly over the registrant; More than $1,000,000
but not $20,000 or more than $2,000,000 • has provided, or may have More than $2,000,000 but not $25,000 provided, financing either more than $5, 000,000 directly or indirectly to the More than $5,000,000 but not $35,000 registrant’s business. more than $10,000,000 More than $10,000,000 but not $50,000 more than $20,000,000 More than
$20,000,000 $100,000 TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 79Module 7: Financial and Record-Keeping Requirements Sections 26 and 27 Trust Accounting of the Regulation In keeping with the goal of the Travel Industry Act, 2002 – namely, consumer protection – the legislation places conditions
Definition on the handling of consumers’ money. Trust accounting is one Trust accounting is a system in way of ensuring that consumers’ payments for travel services are which a consumer’s money is protected. At the same time, trust accounting helps TICO staff held in a separate bank monitor the financial situation of registrants. account (the trust
account). The following requirements must be met by registrants setting The registrant is not legally up trust accounts: permitted to use the funds in • All accounts must be maintained in an acceptable financial the trust account, other than to pay the supplier or refund institution in Ontario. Such an institution includes a bank the customer. This way,
if a listed in Schedule I or II of the Bank Act (Canada), a loan registrant becomes bankrupt or trust corporation, or a credit union as defined in the or insolvent, the clients’ money Credit Unions and Caisses Populaires Act, 1994. can be returned. • All accounts must be in the name under which the registrant is permitted to carry on business. For
example, accounts must be in the name of “Joe Smith Travel Agency” and not simply “Joe Smith.” • A trust account must be designated as a Travel Industry Act trust account. • When a registrant receives funds from customers as pay- ment for travel services, he or she must deposit those funds in a trust account within two banking days. All funds that
a registrant receives from customers for travel services must be deposited into a trust account. With a system of trust accounting in place, a registrant must operate two separate business accounts: a trust account and a general account. Trust account – The trust account is where all monies received from consumers are deposited. These funds must
remain in the trust account until the suppliers of the travel service have been paid in full. Only after that does the agency or wholesaler become eligible to collect the commission or mark-up earned on the sale of the travel service. At that point, the commission is transferred to the general account. The money in a trust account may not be used to pay
a registrant’s operating expenses. It can be used only to: 80 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersModule 7: Financial and Record-Keeping Requirements • pay the suppliers of the travel services for which the money Section 26.1 of the Regulation was received; • issue refunds to customers; and • transfer
the registrant’s commission or mark-up to the general account, after the supplier of the travel services has been paid in full. General account – The general account is the account used for operating expenses. Funds from the general account are used to pay salaries, rent, utilities, and similar operating expenses. After the suppliers have been paid in
full from the trust account, commission and mark-up may be transferred to the general account. The term “money that a registrant receives from customers for travel services” is used in the trust accounting and security in lieu of trust accounting sections. Money that a registrant re- ceives from customers for travel services in reference to a period of
time means the money for travel services that the registrant actually receives from customers during that period, but does not include: • amounts for travel services that are paid by customers through the registrant during that period; or • amounts for travel services sold to customers during that period if the amounts are to be paid to the registrant
outside of that period. For example, payments made by credit card through the regis- trant to a supplier’s merchant credit card account would not be considered money received because the registrant does not actu- ally handle the funds. Therefore, there is nothing to deposit in the trust account and the registrant would not need to provide security
on that amount in lieu of trust accounting. However, the amounts paid by credit card through the registrant would be considered sales under the definition of “sales in Ontario.” Please note that if the credit card payment is made to the regis- trant’s merchant credit card account, then the registrant does receive the money and the funds would need to
be deposited into the trust account and would be considered in the calcula- tion of any security in lieu of trust accounting. TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 81Module 7: Financial and Record-Keeping Requirements Section 28 of the Regulation Security Instead of Trust Accounting Registrants who
have been in business continuously for at least Definition one fiscal year have the option of filing a security deposit with In sections 27 and 28 of the TICO as an alternative to keeping a trust account. The follow- Regulation, money that a reg- ing requirements apply: istrant receives from customers • The security deposit provided must be equal to or
greater for travel services in reference to a period of time means the than one-sixth of the money that the registrant receives money for travel services that from customers for travel services for the 12-month period the registrant actually receives ending on the last day accounted for in the most recent an- from customers during the pe- nual, semi-
annual or quarterly financial statements. riod, but does not include, • The financial statements filed by the registrant shall set out o amounts for travel services the total amount of money that the registrant received from customers for travel services for the period to which the that are paid by customers statements relate. through the registrant dur- •
The registrant is responsible for ensuring that TICO receives ing the period; or the required deposit amount within 30 days after the regis- o amounts for travel servic- trant is required to file any financial statements. es sold to customers during • Registrants must continue to maintain a trust account until that period if the amounts they have received
a letter from the Registrar confirming are to be paid to the regis- that TICO has received the security amount. trant outside of that period. New Applicant Security A person who has not been registered at any time during the Section 25 of the Regulation previous 12 months must provide security to TICO when applying for registration. The security
amount is $10,000. TICO will return the $10,000 security deposit after the registrant has filed two consecutive annual financial statements (to show financial stability), and as long as the Registrar has no concerns about the registrant’s compliance with the Act or Regulation. However, if the Registrar does have concerns regarding the registrant’s
compliance, TICO can hold the $10,000 security until these concerns are resolved. New registrants must also operate both a trust account and a general account. If a registrant who has provided security to TICO becomes bankrupt or insolvent or closes down business for any other reason, TICO will, after at least six months have passed, return the
security – minus the amount for any claims paid out to customers because of the registrant’s closure. 82 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersModule 7: Financial and Record-Keeping Requirements Record-Keeping Section 29 of the Regulation All businesses must keep records for accounting, tax, and
other purposes. All business records must be maintained at the registrant’s principal place of business or at another location that has been approved by the Registrar in writing. All records must be kept for at least six years after the date of the relevant transaction. Registrants must maintain the following types of business records: • Accounting
records that set out in detail the registrant’s income and expenses. These records should include support- ing documentary evidence, including copies of statements, invoices, and customer receipts that have unique identifiers or serial numbers. • Banking records that identify all transactions made in con- nection with the registrant’s business. •
Written records of all payments to or from the registrant in relation to the purchase or sale of travel services. The records must be in a format that allows for easy identifica- tion of the transaction to which the payments relate (based on unique identifiers or serial numbers). • Records regarding the option of refund or alternative travel services.
Registrants must create a file to document what actions they took in responding to changes in the travel services purchased by a client (as those changes relate to offers of a refund or the provision of alternative travel services acceptable to the client). All registrant records must be open for inspection by the Registrar. TICO Education Standards for
Ontario Travel Counsellors and Supervisor/Managers 83Module 7: Financial and Record-Keeping Requirements Failure to file financial state- Financial Inspection Program ments as required, maintain TICO staff ensure that all registrants file their financial state- the appropriate level of work- ments on time, maintain the appropriate level of working
ing capital, or use the trust capital, and set up and use their trust accounts. Failure by a account will be reported to the registrant to file financial statements as required, maintain the Registrar and could result in appropriate level of working capital, or use the trust account administrative action such as will be reported to the Registrar. This could
result in adminis- warning letters and, in some trative action against the registrant, such as warning letters and cases, a proposal to revoke the even a proposal to revoke the registration. registration. The Financial Inspection Program involves two main parts: • financial statement bench reviews, and • site inspections. Financial statement bench
review – Once a registrant’s financial statements are received, they are reviewed by one of TICO’s financial inspectors. TICO’s financial inspectors all have an accounting designation, such as CA (Chartered Accountant), CMA (Certified Management Accountant), or CGA (Certified General Accountant). The financial inspector conducts a bench review,
which is an assessment of the registrant’s financial position. The inspector reviews the registrant’s financial statements and records the sales, working capital, and profit or losses. The bench reviews are used to determine whether a registrant is in compliance with the working capital and trust accounting requirements of the Regulation. Site
inspection – If the bench review indicates a potential problem with a registrant’s financial position, a site inspection may be initiated. A financial inspector visits the registrant’s office to look more closely at the registrant’s records, to assess whether a problem exists and, if it does, how severe it is. A site inspection may be scheduled to review working
capital issues, trust account- ing issues, or a history of financial losses. At the end, the financial inspector prepares an Inspection Report for the Registrar. Other triggers for site inspections Site inspections may also be initiated as a result of complaints from consumers, other registrants, or industry members. Financial inspectors visit all new
registrants in the first year of operation to ensure they are complying with the Act and Regulation. Monitor- 84 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersModule 7: Financial and Record-Keeping Requirements ing of all travel agencies takes place on a regular basis and any non-compliance issues are followed
up. Requests for further information After receiving the Inspection Report, the Registrar may ask for further information: • If the Registrar thinks that a registrant is in financial difficulty, the Registrar may require the registrant to provide a written statement of current net working capital – and may require that the statement be verified by affidavit.
• If the Registrar thinks that additional information is neces- sary to provide an accurate and complete review of the registrant’s financial position, the Registrar may require the registrant to file audited financial statements that consolidate the registrant’s financial statements with those of another registrant or of another person who is a shareholder
associated with the registrant. The importance of registrant compliance The objective of TICO’s staff when doing an inspection is to ensure that registrants comply with the Act and Regulation. TICO staff will work with registrants, wherever possible, to achieve compliance. For example, if a registrant does not meet the working capital requirements,
he or she will be asked to correct the problem within a reasonable period of time. Failure to do so may result in revocation of registration. For this reason, registrants are encouraged to resolve any issues as quickly and effectively as possible so that those issues do not escalate into major problems. TICO Education Standards for Ontario Travel
Counsellors and Supervisor/Managers 85SELF-TEST Test your knowledge by answering the following questions after completing Module 7. Check your answers in the Answer Key on page 104. Multiple Choice 1. “Sales in Ontario” refers to a. the amount paid to or through a travel agent or travel wholesaler for services sold in Ontario during a given
period of time b. the amount paid to travel agents only, for services sold to Ontario consumers during a given period of time c. the amount paid to travel wholesalers only, for all travel bookings originating in Ontario during a given period of time d. an annual list of travellers who booked through an Ontario-registered travel agent or wholesaler 2.
When registrants provide a security deposit, how many annual financial statements must they file before being eligible to have the security deposit returned? a. none b. one annual financial statement c. two annual financial statements d. two consecutive annual financial statements 3. ABC agency has been in business for six months. The adver- tising
bill must be paid. Can ABC take money from the company trust account to pay the bill? a. yes, but only after money is transferred from the general account to the trust account b. yes, because the trust account can be used for operating expenses such as advertising c. no, because only the general account can be used for operating expenses d. no,
because ABC does not have to maintain a trust account after being in business for six months 86 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersComplaints Module 8 Module Outcomes Module Summary TICO has a complaints process After successfully completing this module, you will be able to: that attempts to
resolve • Explain the TICO complaints process for disputes between disputes between consum- ers and registrants. It also has consumers and registrants a Complaints Committee that • Discuss how disputes between registrants are handled deals with any complaints • Discuss how complaints against TICO are handled made against TICO. TICO’s Role
in Handling Consumer Complaints As part of its mandate to promote a fair and informed market- place, the Travel Industry Council of Ontario (TICO) attempts to resolve disputes between consumers and registrants. TICO also examines each complaint against the requirements of the Travel Industry Act, 2002 and Ontario Regulation 26/05 to
determine if regulatory action is required. TICO does not have the authority or mandate to settle a dispute, impose a settlement, or act as an arbitrator in any complaint matter. The complaint-handling procedure Figure 8.1 shows TICO’s process for handling complaints made by consumers. The main steps are outlined below. 1. Before accepting a
complaint from the consumer, TICO first requires that he or she contact the travel agent or travel wholesaler to try to resolve the matter directly. Consumers are asked to put their complaint in writing to the registrant, explaining why they are not satisfied and how the matter could be resolved to their satisfaction. The complaint must be against an
Ontario-registered travel retailer or travel wholesaler or someone acting as an unregis- tered travel agent in Ontario. 2. If the consumer is unable to get the complaint resolved to his or her satisfaction by dealing directly with the registrant, he or she may then contact TICO to submit a formal complaint. TICO Education Standards for Ontario Travel
Counsellors and Supervisor/Managers 87Module 8: Complaints TICO will send a complaint form to the consumer, which must be completed and returned to TICO with all support- ing documentation. By signing the complaint form, the complainant gives TICO permission to share the information in it with the registrant – and with other government
and non-government sources, if necessary. Supporting documentation such as receipts, tickets, photos, and any other information to support the complaint must be submitted with the completed form. 3. Next, TICO sends the registrant a copy of the complaint and asks for the registrant’s position on the matter, in writing. TICO also outlines any
sections of the Act or Regulation that are applicable to the complaint. If it has concerns that provisions of the Act or Regulation may have been breached, TICO may ask the registrant to address specific issues. Consumer has a complaint. Consumer takes complaint to Registrant resolves END the travel company (registrant) complaint to consumer’s
Consumer approaches TICO involved. satisfaction. to file a complaint. Consumer remains dissatisfied with TICO refers consumer to the the outcome of the complaint lodged travel company (registrant) with the registrant. involved to give the registrant opportunity to resolve the Consumer files a complaint with complaint. TICO against the registrant.
TICO writes to the registrant regarding the complaint, referring to any applicable legislation, and requests a written reply detailing their position. Registrant describes its position, in writing, to TICO. Complaints staff assess the complaint file to determine if issues have been addressed and sufficient information received. TICO will assess whether
there have been any apparent breaches of the Travel Industry Act, 2002 or Ontario Regulation 26/05, and whether the file should be referred to the Compliance Department for further review. TICO writes to the consumer to explain the outcome and TICO’s position on the matter and relays any offer of a refund or compensation (if applicable) and
whether the complaint file will be referred to TICO’s Compliance Department for further review separately from the complaint matter filed. END Figure 8.1: Summary of the TICO consumer complaints process. 88 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersAll registrants who receive a written request for
information Module 8: Complaints about a complaint from the Registrar must provide the information, in writing, as soon as possible. Section 16 of the Act 4. After receiving a written response from the registrant, TICO reviews the information to determine the following: If resolution of a complaint • Has the registrant adequately identified and
addressed all cannot be reached, TICO will provide the consumer with the issues contained within the complaint? If further infor- information regarding options mation is required, TICO staff will contact the registrant. to pursue matters further, if • Has the registrant adequately addressed any possible applicable. infractions that TICO identified in
correspondence? • Is further investigation required, such as obtaining information from a third party? • From the information provided, can it be determined whether the Act or Regulation has been contravened? • Has the registrant made an offer of compensation to the complainant? Complaints that involve possible compliance issues are referred to
the Registrar, TICO’s Compliance Department, or both. In some cases, a review by the Registrar or Compli- ance Department may result in the registrant offering the complainant compensation. However, compliance activity is completely separate from the complaints process. TICO does not advise complainants regarding the outcome of com- pliance
related activity. 5. When the complaint has been reviewed and processed in its entirety, TICO sends the complainant a letter with the following information: • a statement that a response has been received from the registrant; • a summary of the registrant’s position on the matter; • details of any compensation or goodwill gesture offered by the
registrant, if applicable; • an explanation as to whether examination of the com- plaint did or did not reveal any contravention of the Act or Regulation; • reference to the sections of the Act or Regulation that apply to the complaint (and to possible contravention, if applicable); • if there is a possible contravention, notice that the complaint file has
been referred to the Compliance Department for further review; TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 89Module 8: Complaints Section 21 of the Regulation • an explanation that referrals are directed not at obtaining further compensation for the complaint, but at initiating the compliance process with
the registrant to address any breach of the Act; • a brief explanation of TICO’s role and authority in complaint handling (that TICO cannot compel the regis- trant to provide compensation and cannot impose a settlement); and • a statement that if the complainant is not satisfied by the outcome, he or she may pursue the matter through the legal
system and that they may wish to consider discussing the matter with legal counsel. TICO’s Role in Handling Registrant-to-Registrant Complaints Registrant-to-registrant disputes are not traditionally handled by TICO. The exception is if allegations of financial or other non-compliance issues with the Act are involved. TICO will make reasonable efforts
to refer the complainant to other organizations that may be of assistance. Example of a registrant-to-registrant complaint that TICO would address Imagine that Registrant A decides to stop doing business with Registrant B because the latter has given Registrant A several bad cheques for travel services purchased. In such a case, Registrant A must
notify the Registrar, in writing, explaining the reason for stopping the work association. In a situation like this, TICO would investigate the complaint and may conduct a financial inspection on Registrant B. The purpose of TICO’s review of this matter would not be to act as a collections agency for the complainant. Rather, it is to ensure that Registrant
B is not putting consumer funds at risk, and that it meets the financial requirements under the Regulation, such as maintaining trust accounting and having sufficient working capital. A registrant who stops dealing with another registrant because of the latter’s apparent lack of financial responsibility must notify the Registrar, in writing, of this fact
and outline the reasons for ceasing to do business with the registrant. 90 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersModule 8: Complaints TICO Complaints Committee Mandate The Complaints Committee is a committee of the TICO Board that provides a fair, transparent, and accountable procedure for
handling registrant and consumer complaints against TICO. The committee’s terms of reference include: • reviewing and resolving, as appropriate, complaints against TICO that are based on dissatisfaction with the quality and fairness of its services to registrants and consumers; • making any recommendations about TICO’s complaint- handling
procedures that may arise from reviews of particular complaints; • developing standards for handling complaints; and • reviewing, on an ongoing basis, trends of complaints to determine whether recommendations can be made to address the cause of the complaints. Composition and conduct of the Complaints Committee The committee is made up of
a minimum of: • one retail board member • one wholesale board member • one non-industry board member (the Chair) • one industry non-board member • TICO’s Chief Executive Officer (ex officio) Other members may be assigned to the committee at the discretion of the Chair and the TICO Board of Directors. Committee members are expected to
act scrupulously to avoid any actual, perceived, or potential conflicts of interest arising. If a member believes that he or she may be in a conflict of interest (real or potential), the member must disclose the conflict and withdraw from any discussion on the issue giving rise to the conflict. TICO Education Standards for Ontario Travel Counsellors and
Supervisor/Managers 91Module 8: Complaints Types of complaints referred to the Complaints Committee The following are examples of the types of complaints that the 92 Complaints Committee handles. • An alleged abuse of process (for example, if a registrant feels unfairly targeted for inspections, or if others perceive a registrant receiving
favouritism). • A consumer concern of inadequate action by TICO against a registrant. • A consumer or registrant’s dissatisfaction with service from TICO staff. • An alleged breach of TICO’s access to information policy. The following are examples of the types of complaints that the Complaints Committee does not handle: • A dispute over Travel
Industry Compensation Fund decisions. • A dispute over Notices of Proposal to Revoke Registration. • A claim that the Act, regulations, or by-laws are unfair or ineffective – unless the claim pertains to a specific complaint. Standard of Review The Complaints Committee evaluates any complaint according to a set of standards. The application of these
standards may vary depending on the nature of the complaint. Each complaint is reviewed with an eye to resolving it, as well as to determine whether there are broader issues that need addressing. The Complaints Committee recognizes that some complaints may indirectly involve regulatory changes and decision-making by the Registrar. The
committee may not interfere with the Registrar’s independent exercise of these statutory duties. Never- theless, the committee may review how those duties are carried out, consistent with its mandate to supervise the management of the business affairs of TICO. TICO Education Standards for Ontario Travel Counsellors and
Supervisor/ManagersSELF-TEST Module 8: Complaints Test your knowledge by answering the following questions after 93 completing Module 8. Check your answers in the Answer Key on page 104. Multiple Choice 1. A consumer is dissatisfied with a vacation tour package pur- chased from a travel agent at ABC Travel in Ontario. Who should the
consumer approach first to make a complaint? a. TICO b. Ministry of Consumer Services c. ABC Travel d. a lawyer 2. Which of the following statements is NOT TRUE, when it comes to describing TICO’s role in attempting to resolve disputes between consumers and registrants? a. TICO has the authority to impose a settlement in a dispute. b. TICO will
hear complaints between a consumer and an unregistered travel agent. c. TICO staff will review the complaint against the requirements of the Act and Regulation to determine if the registrant met their obligations. d. A complainant must fill out a complaint form and include information and supporting documents. 3. Which one of the following
complaints would NOT be heard by the Complaints Committee of TICO? a. a registrant feels that he is being unfairly targeted for TICO inspections b. a registrant wishes to dispute a Notice of Proposal to Revoke Registration c. a consumer is unhappy with the action that TICO took against a registrant d. a registrant is dissatisfied with the services
provided by TICO staff TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers94 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersM 9Investigations and Offences odule Module Outcomes Module Summary The Travel Industry Act, 2002 After successfully completing this module, you will
be able to: and Regulation provide • Understand the role and power of investigators in matters the financial, moral, and professional criteria that define where compliance with the Act has come into question the conduct expected of travel • Describe actions that are considered to be offences under agents and travel wholesalers. Improper conduct
may lead to the Act and Regulation administrative action or charges • Identify penalties that can be imposed if a registrant is being laid under the Act. found guilty of an offence Statutory Director (commonly Conduct referred to as the Director) – as As emphasized throughout this Study Manual, the main purpose defined by the Travel Industry of the
Travel Industry Act, 2002 and Ontario Regulation 26/05 is Act, 2002, the person appointed to protect consumers who purchase travel services from registered by the TICO Board to perform travel sellers in Ontario. The legislation specifically requires specific statutory functions. honesty and integrity by registrants in all aspects of their conduct. The
Director cannot be the Acceptable and proper conduct is essentially defined by all of the Registrar. The position of requirements of the legislation – all the points explained in this Statutory Director is an official Study Manual. Those who comply with the provisions of the position at TICO, distinct from a legislation are acting in a legally correct
manner. regular Board member Where the Director sees the need, he or she may apply to the position. Superior Court of Justice for an order that directs a person to comply with the Act, the Regulation, or a specific order made Section 30 of the Act under the Act. The individual can appeal such an order to the Divisional Court. Section 19 of the Act
TICO has inspectors who are authorized to conduct inspections to ensure that registrants are complying with the Act and Regulation. In the event that TICO has reason to believe that the Act or Regulation has been contravened or that an offence has been committed, the file may be referred to an investigator who is authorized to make an official
inquiry into the matter, which could lead to charges being laid under the statute. This Module will focus on investigations and offences. Investigations The Director has the authority to appoint investigators. These individuals are given a “certificate of appointment” that verifies TICO Education Standards for Ontario Travel Counsellors and
Supervisor/Managers 95Module 9: Investigations and Offences Section 20 of the Act their position as an investigator. All investigators must show this certificate upon request by those being investigated. Before entering any premises involved in an investigation, investigators must obtain a search warrant from a Justice of the Peace. Such a warrant
may authorize an investigator to under- take some or all of the following actions: • to enter or access a location specified in the warrant and to examine or seize anything described in the warrant; • to operate any data storage, process, or retrieval device or system of the business to produce information or evidence described in the warrant in any
form (for example, the warrant may authorize the investigator to access computer records of the business); and • to use any investigative techniques or procedures specified in the warrant. Conditions for Obtaining and Using a Search Warrant To obtain a search warrant, an investigator must have reason to believe that a person has contravened the
Act or Regulation, has committed an offence under the law, or may be otherwise unfit for registration. The investigator must also believe that informa- tion or evidence related to the registrant’s contravention exists in a building or other place and should be obtained. An investigator must obtain special authority to enter a dwell- ing (such as a private
home). Key points about the use of a search warrant: • A warrant may authorize people with special, expert, or professional knowledge to accompany and assist an investigator in carrying out the warrant. • Entry or access under a warrant must occur between 6 a.m. and 9 p.m. unless the warrant specifies otherwise. • A warrant expires 30 days after

it is issued, unless the Justice of the Peace extends the expiry date. • An investigator may call on the assistance of police officers in carrying out a warrant, who in turn may use whatever force is reasonably necessary for that purpose. • No one may obstruct an investigator in carrying out a warrant or withhold, alter, conceal, or destroy anything relevant to the investigation. 96 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersModule 9: Investigations and Offences • While carrying out a search warrant or otherwise conduct- Section 21 of the Act ing an investigation, the investigator has the power to seize items not specified in the warrant if he or she believes that Definition the items will provide evidence relating to the contravention An exigent circumstance refers of the Act or Regulation. to an emergency, a pressing necessity, or a set of circum- • Any items seized by an investigator must be returned to the stances requiring immediate registrant within a reasonable time. attention or swift action. Because the legislation does As well, an investigator may search without a warrant in not define what an exigent "exigent" circumstances – that is, if the conditions for obtain- circumstance is, TICO typically ing the warrant exist, but circumstances make it impractical to assesses these situations on a obtain the warrant. Note: This power does not apply to searches case-by-case basis. of buildings where someone lives. An investigator may call on police and use whatever force is Section 26 of the Act reasonably necessary to conduct the search. Improper Conduct Section 27 of the Act In addition to identifying the requirements for proper conduct, the legislation also specifies what TICO considers to be Section 28 of the Act improper conduct. This has also been discussed throughout the Study Manual. Actions that are considered to be improper fall Section 31 of the Act into three main areas. Registrants must not: • falsify information or documents related to the provision of travel services or encourage another person to falsify such information; • provide false or deceptive information related to the provision of travel services or encourage another person to provide such information; and • make false, misleading, or deceptive statements in any advertisement or published material. Penalties for Offences A registrant can be found guilty of an offence for: • providing false information in any application, financial statement, or return; • failing to comply with any order (other than an order of the Discipline Committee), direction, or other requirement under the Act; or • contravening or failing to comply with any section of the legislation. TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 97Module 9: Investigations and Offences Penalties imposed for offences are set out in the legislation. Penalties differ for individuals and corporations convicted of an offence: • Individuals convicted of an offence may be fined up to a maximum of $50,000, imprisoned for a term of up to two years less a day, or both. • A corporation convicted of an offence may be fined up to a maximum of $250,000. • Officers and directors of a corporation may be found guilty of an offence if they fail to take reasonable care to prevent the corporation from committing an offence. There is a time limit on prosecuting offences under the Act. No proceeding may be started more than two years after TICO's Director first became aware of the facts on which the proceed- ing is based. Note: TICO's Code of Ethics violations are not considered to be an offence under the Act. Section 32 of the Act Orders for compensation or restitution A person convicted of an offence may be ordered to pay com- Definition pensation or restitution in addition to other penalties imposed. Restitution means compensa- If an insurer or the Travel Industry Compensation Fund has tion or reparation made by one already compensated the individual harmed, the registrant may party for the loss suffered by be ordered to pay the compensation or restitution to the insurer another. or the Fund. 98 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersModule 9: Investigations and Offences Defaulting on fine payment Sections 33 and 34 of the Act If a fine payable for an offence is in default (that is, not paid) for at least 60 days, the Director may take either of the Definition following actions: A lien is a legal right or interest • Disclose to a consumer reporting agency (such as Equifax) the that a creditor has over another party's property. name of the defaulter, the amount of the fine, and the date the fine went into default. If the Director subsequently receives notice that the fine has been paid in full, he or she must advise the consumer reporting agency of that within 10 days. • Place a lien on real estate or personal property of the person in default. Within 10 days after the Director has been notified that the fine has been paid in full, he or she must discharge (withdraw) the lien. TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 99SELF-TEST Test your knowledge by answering the following questions after completing Module 9. Check your answers in the Answer Key on page 104. Multiple Choice 1. If a person refuses to comply with the Travel Industry Act, 2002 or Ontario Regulation 26/05, TICO can take a number of actions to correct the situation. Which of the following would TICO NOT be able to do? a. apply to the Superior Court of Justice for an order directing the person to comply b. begin an investigation c. obtain and execute a search warrant d. conduct a surprise raid on the person's home between 10:00 p.m. and 2:00 a.m. 2. Individuals convicted of an offence may face a. a fine of up to $50,000 b. imprisonment for a term of up to two years less a day c. both a fine of up to $50,000 and imprisonment for a term of up to two years less a day d. both a fine of up to $250,000 and imprisonment for a term of up to two years less a day 3. Restitution refers to a. a duty b. a tax c. compensation d. court fines Now that you have completed the Supervisor/Manager section, read Next Steps (page 105) and take the Supervisor/Manager Sample Exam (which starts on page 119). 100 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersADDITIONAL INFORMATION AND SAMPLE EXAM SECTION TICO EduCaTIOn STandardS fOr OnTarIO TravEl COunSElIOrS and SupErvISOr/ManagErS 101102 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersAnswer Key to Module Self-Tests 103 Module 1: TICO's Role in the Travel Industry 1. c 2. a 3. b Module 2: Ontario's Travel Industry Act, 2002 1. d 2. b 3. b Module 3: Registrant Obligations – Before the Sale 1. b 2. d 3. d Extra Question The following problems appear on the advertisement: • Prices are misleading. The advertisement does not state what is available for the price, if prices could vary, what the prices include, or if the offer is for a package or air only or is round trip or one-way. • No travel agency address is included. • Taxes are said to be extra, but what this means is not specified. Also, this information should not be shown in the fine print. • No terms or conditions are listed. • No statement is made that information is available from the agency. • No description is given of the travel services provided. • No TICO registration number appears. Module 4: Registrant Obligations – After the Sale but Before Client Travels 1. b 2. c 3. c TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersAnswer Key to Module Self-Tests Extra Question The following problems appear in the invoice: • No travel agent ïï address, ïï phone number, or ïï other contact information such as fax number or email address. • No name of travel counsellor. • No information about typical information and travel docu- ments that will be needed by the client. Module 5: Ontario Travel Compensation Fund 1. c 2. b 3. d Module 6: Registration Requirements 1. b 2. a 3. b Module 7: Financial and Record-Keeping Requirements 1. a 2. d 3. c Module 8: Complaints 1. c 2. a 3. b Module 9: Investigations and Offences 1. d 2. c 3. c 104 TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managersnext steps Now that you have finished reviewing the material in the Study Manual, re-read the study tips on page vi. Take the Sample Travel Counsellor Exam in Appendix 1. If you would like to (or are required to), take the Sample Supervisor/Manager Exam in Appendix 2. If you have successfully registered to write the exam, go to the appointed exam location with your proctor on the appointed date. Arrive at least 15 minutes early to allow time to present your photo identification and to sign in online using your TICO Exam Registration Number. Please remember that no outside materials are allowed into the examination room. Candidates should ensure that they understand the terminology used in the Study Manual (and summarized in the Glossary). No dictionaries or electronic devices may be taken into the exam. Results will be mailed to the person who actually wrote the exam, usually within 10 business days of writing. TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 105106 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersGlossary Accommodation – any room that is to be used for lodging by the customer or other person for whom the travel services were purchased and includes other facilities and services related to the room that are for the use of the customer or other person, but does not include meals. See also Travel services. Affidavit – a formal legal statement written and sworn to or affirmed before someone authorized to administer an oath (such as a commissioner of oaths, a notary public, or a lawyer). Appeal – a legal term that refers to a request for a decision to be reconsidered by a higher authority. Arm's length – a relationship in which the two parties are not related and do not have close ties. Claimant – someone who officially makes a claim to a benefit or right. In the case of the Travel Industry Compensation Fund, a claimant is someone who wishes to be paid back ("reimbursed") for what he or she spent on a travel service but did not receive or someone who wishes to be reimbursed for reasonable expenses incurred to complete a trip. Compensation Fund – see Travel Industry Compensation Fund. Current assets – the assets of a company that can be converted to cash within one year. They include the sum of cash and cash equivalents, accounts receivable, inventory, marketable securities, and prepaid expenses. Current assets are important to most companies as a source of funds for day- to-day operations. Current liabilities – the short-term debts that a company owes to its suppliers and creditors. These are all bills – such as operating bank loans, accounts payable, and taxes payable – that are due in less than a year. A company normally pays off its current liabilities by converting some of its current assets into cash. Director – see Statutory Director. End supplier – a person that operates a travel service for which they have ownership. Examples of end suppliers include airlines, cruise lines, hotels and car rental companies. End suppliers do not need to be registered under the Travel Industry Act, 2002 provided that they do not otherwise act as a travel agent or travel wholesaler in Ontario. The Travel Industry Compensation Fund does not cover the non-provision of travel services by an end supplier except for airlines and cruise lines. TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 107Glossary Event – any action that leads to claims being made on the Travel Industry Compensation Fund. An example is the failure of a registrant. An action that has particularly serious consequences is called a major event. Exigent circumstances – an emergency, a pressing necessity, or a set of circumstances requiring immediate attention or swift action. ("Exigent" describes something that requires immediate aid or action.) Because the legislation does not define what an exigent circumstance is, TICO typically assesses these situations on a case-by-case basis. Financial statement – as defined in the Regulation, financial statements must include the registrant's: • statement of sales in Ontario made during the period to which the financial statements refer; • balance sheet; • income statement; and • reconciliation of the trust account with customer deposits Force majeure – a legal term (from the French for "greater force") that refers to natural disasters (such as floods, hurricanes, and other so-called "acts of God") or acts of people (such as riots, strikes, and war) that prevent suppliers and subcontractors from meeting their obligations in a contract. In the legislation, the term is used to remove liability if some unexpected or unavoid- able event prevents registrants or suppliers from meeting their obligations to a client or travel agent. General account – the account used for operating expenses. Funds from the general account are used to pay salaries, rent, utilities, and similar operating expenses. After the suppliers have been paid in full from the trust account, commission and mark-up may be transferred to the general account. Good faith – (as in "acting in good faith") means acting honestly, with no intent to defraud or take advantage of someone, observing reasonable business standards. Home-based agent – see Outside sales representative. Interested person – as defined under the legislation, one who is associated with the registrant or who, in the opinion of the Registrar: • has or may have a beneficial interest in the registrant's business; • exercises or may exercise control either directly or indirectly over the registrant; or • has provided, or may have provided, financing either directly or indirectly to the registrant's business. Jointly and severally liable – a legal term meaning that someone has legal responsibility both as an individual and as part of a group. Liability – a financial obligation, debt, claim, or potential loss. 108 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersGlossary Liable – having a financial obligation, debt, claim, or potential loss. Licence Appeal Tribunal – an independent body appointed by the Ontario government. It hears appeals of proposals to suspend, revoke, or refuse to grant or renew a travel business's registration. It also hears appeals of decisions to deny claims against the Travel Industry Compensation Fund. Licensed Public Accountant – a public accountant licensed under the Public Accounting Act, 2004. Licensed accounting professionals (called certified public accountants or public accountants) prepare, evaluate, and attest to the accuracy and completeness of financial statements and related information. Lien – a legal right or interest that a creditor has over another party's property. Manager – a person who administers or supervises the affairs of a business or office. Money that a registrant receives from customers for travel services – In sections 27 and 28 of the Regu- lation, money that a registrant receives from customers for travel services in reference to a period of time means the money for travel services that the registrant actually receives from customers during the period, but does not include: • amounts for travel services that are paid by customers through the registrant during the period; or • amounts for travel services sold to customers during that period if the amounts are to be paid to the registrant outside of that period. Non-registrant – an organization or individual that sells or supplies travel services but is not registered in Ontario. Examples include: • wholesalers and retailers not located in Ontario; • companies that sell to clients in Ontario by means of advertising, the Internet, or toll-free phone line, but whose home base or call centre is not located in Ontario; • end suppliers (e.g., airlines, hotels, rail services, cruise lines) that may or may not be located in Ontario; and • anyone who is operating in Ontario illegally. Outside sales representative – a travel counsellor who works from a location other than the registered office of a travel agency. However, all sales must be processed through the registered office, either in person or by electronic means. In addition, the registrant must record the outside sales representative as either an employee or contractor for the company. An outside sales representative may also be an employee of a travel wholesaler who contacts travel agents, in person or by mail, telephone, or email with the purpose of selling travel services. An outside sales representative is bound by the Travel Industry Act, 2002 and Ontario Regulation 26/05 in the same way as any other seller of travel products. He or she must have a written contract with a registrant. TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 109Glossary Overland travel services – services for travel by, on, or across land. They do not include travel by air or by sea. Person – a human being or an entity (such as a corporation) that is recognized by law as having the rights and duties of a human being. Reasonable – a term used in law to mean behaviour that is logical, appropriate, or usual in the circumstances. Registrant – a travel agent or a travel wholesaler who is registered as a travel agent, travel wholesaler, or both under the Travel Industry Act, 2002. Representation – a presentation of fact made in person, electronically, or in print in order to induce someone to act or enter into a contract. Examples of representations include oral presentations, advertisements, brochures, and websites. Restitution – compensation or reparation made by one party for the loss suffered by another. Revocation – the act by which a person having authority calls back or annuls a power, gift or benefit, which had been bestowed upon another. Sales in Ontario – when used in reference to a period of time, means: • in the case of a registered travel agent, the amount paid or to be paid to or through the travel agent for all travel services sold in Ontario during the relevant period; or • in the case of a registered travel wholesaler, the amount paid or to be paid to or through the travel wholesaler for all travel services sold in Ontario during the relevant period. Standard Claim – is a claim for travel services that were paid for but not provided as a result of the failure of an Ontario registered travel agent, an Ontario registered travel wholesaler or an airline or cruise line. A customer, a travel agent or a travel wholesaler may make a standard claim. See Sections 57, 58 and 59 of the Regulation Statutory Director (commonly referred to as the Director) – the person appointed by the TICO Board to perform specific statutory functions. The Director cannot be the Registrar. The posi- tion of Statutory Director is an official position at TICO, distinct from a regular Board member position. Stay – a legal term that refers to a short-term delay ordered by a judge or tribunal. Supervisor – one having authority over others such as a manager. (See Manager) Travel agent – a person who sells, to consumers, travel services provided by another person. 110 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersGlossary Travel Industry Compensation Fund (commonly referred to as the Compensation Fund, or the Fund) – a fund that refunds, fully or in part, eligible consumers who bought travel services from an Ontario-registered travel agency, but did not receive them because of the bankruptcy or insolvency of a registrant or an airline or cruise line end supplier. Travel Industry Council of Ontario (TICO) – a not-for-profit corporation that regulates travel agents and travel wholesalers in the province. It is financed by the retail and wholesale travel community. Travel services – transportation or sleeping accommodation for the use of a traveller, tourist or sight- seer or other services combined with that transportation or sleeping accommodation. See also Accommodation. Travel wholesaler – a person who acquires rights to travel services for the purpose of resale to a travel agent, or who carries on the business of dealing with travel agents or travel wholesalers for the sale of travel services provided by another person. Trip Completion Expense Claim – is a claim for reasonable expenses incurred to complete a trip where a customer or another person has begun a trip that cannot be completed because travel services have not been provided as the result of the failure of a TICO registrant. A customer or a travel agent may make a trip completion expense claim. See Sections 57.1 and 58.1 of the Regulation. Trust account – the account where all monies received from consumers are deposited. These funds must remain in the trust account until the suppliers of the travel service have been paid in full. Trust accounting – a system in which a consumer's money is held in a separate bank account (the trust account). The registrant is not legally permitted to use the funds in the trust account, other than to pay the supplier or refund the customer. This way, if a registrant becomes bankrupt or insolvent, the clients' money can be returned. Only after the travel service has been paid in full does the agency or wholesaler become eligible to collect the commission or mark-up earned on the sale of the travel service. At that point, the commission is transferred to the general account. Working capital – a company's ability to meet its liabilities as they come due. It is generally calculated by subtracting current liabilities from current assets. working capital = current assets minus current liabilities Working capital can be positive or negative, depending on how much debt the company is carrying. In general, companies that have a lot of working capital are more successful because they are better equipped to withstand any market changes, financial downturns, or unexpected events. See also Current assets and Current liabilities. TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 111112 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersA 1Sample Travel Counsellor Exam ppendix 1. The phrase "to promote a fair and informed marketplace where consumers can be confident in their travel purchases" is the a. mission statement of the Ministry of Consumer Services b. mission statement of TICO c. vision statement of TICO d. purpose of the Travel Industry Act, 2002 2. The administration of the Travel Industry Act, 2002 was delegated to TICO by the a. federal government b. travel industry c. Ministry of Consumer and Corporate Affairs d. Ontario provincial government 3. TICO works with which three groups to carry out its mandate? a. consumers, travel retailers, the federal government b. travel retailers, travel wholesalers, consumers c. the travel industry, the provincial government, consumers d. suppliers, travel agents, consumers 4. The best description of Ontario's Travel Industry Act, 2002 is that it a. outlines the rights of consumers b. sets down the rules under which travel retailers and travel wholesalers must operate in Ontario c. goes into detail to explain the content of the related regulations d. provides guidelines to travel retailers and travel wholesalers about what must be included in vacation packages 5. TICO lays charges after discovering that a man has been selling travel services without being a registrant or an employee in a registrant's agency or office. When the man sees his name in the newspaper, he threatens to take legal action against TICO for violating his privacy. He will lose the case because a. Ontario Regulation 26/05 provides that TICO's Registrar must make these details available to the public b. the Ministry of Consumer Services lays charges against illegal sellers of travel, not TICO c. no law says a person has to be registered to sell travel services in Ontario d. Ontario Regulation 26/05 specifically states that no one can take legal action against TICO TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 113Appendix 1: Sample Travel Counsellor Exam 6. Who is the Statutory Director appointed by? a. the Registrar b. the Minister c. the TICO Board of Directors d. the Premier 7. Before counselling or advising a client, a travel agent must a. inform the client of any counselling fee charged b. show a picture of the travel service being sold c. advise the client of the need for a passport or visa d. ask to make an imprint of the customer's credit card 8. In the Travel Industry Act, 2002, the term "representation" refers to a. print advertisements only b. print advertisements except for billboards c. presentations of any type, including oral, print, and electronic d. oral presentations only 9. According to the Travel Industry Act, 2002, a travel agent does NOT have to inform a client before booking a. that conditions at the destination may be different from those in Canada b. the total price of the travel services, including all taxes and service charges c. that a counselling fee is applied by the agent d. that some days can be cloudy, even in a sun destination 10. ABC Travel puts an advertisement in the newspaper that announces a package holiday "From $999 and up." TICO would not consider this acceptable because a. the price should have been shown as $999.00 to prevent any confusion b. registrants are required to include PST, GST and HST in the advertised price c. the Regulation states that consumers must know the exact cost of all the travel services provided d. the advertisement did not specifically state whether the price is in Canadian or U.S. dollars 114 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersAppendix 1: Sample Travel Counsellor Exam 11. A consumer selects a package tour from a travel wholesaler's brochure. The hotel included in the package is some distance from town, which appeals to the consumer who wants a quiet location for her holiday. When she arrives at the hotel, she is upset by the non-stop noise out- side her room as the hotel starts construction of a new swimming pool. Who is to blame for this consumer's dissatisfaction? a. the hotel, which should have cancelled all bookings during construction b. the travel wholesaler, which should have disclosed in its brochure information about construction or renovation of the property c. the woman, who should have more thoroughly researched the hotel before booking d. the construction company, which should have offered all the guests a set of ear plugs 12. ABC, a wholesaler, has been selling XYZ Resort since the resort opened in 1965. ABC still puts a photograph of the resort from 1965 in the brochure to show off the location's beauty. In fact, the resort has NOT been upgraded or renovated since 1965 and has become run-down and outdated. Has ABC done anything wrong in its brochure? a. no, as long as the company states in the brochure that the photograph was taken in 1965 b. yes, because the photograph does not accurately depict the current condition of the resort c. no, because the Regulation requires that a photograph be used in advertising, but leaves content to the discretion of the registrant d. yes, because photographs should not be used in representations 13. A couple gives their travel agent a deposit for a package tour. They obtain a receipt from her that says, "Balance of $500.00 due on September 27, 2011." The agent has also added the com- ment, "As discussed, some charges are non-refundable." TICO would view this receipt as a. adequate because the receipt includes the amount due, the date on which it is due, and the fact that some charges are non-refundable b. adequate because the travel agent has reminded the clients that the non-refundable charges were discussed during the sale of the package tour c. inadequate because, by law, the travel agent should have said, "As discussed on August 27, 2011, some charges are not refundable." d. inadequate because, by law, the travel agent must identify charges that are non-refundable TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 115Appendix 1: Sample Travel Counsellor Exam 14. Betsy, the travel agent, concludes the sale with the clients and tells them to go to the Canadian Foreign Affairs website to find out what documents they need. She thinks that Canadians may need a visa for the chosen destination, but she does not have the website on hand. Betsy's advice is a. sufficient because a travel agent need only advise clients where to find information on travel documentation b. insufficient because a travel agent must advise clients about the specific travel documents needed c. sufficient because the clients chose the destination, so it is up to them to research the details d. insufficient because the travel agent must provide the clients with a website address if she does not have specific information about travel documentation on hand 15. A client buys a vacation package from ABC Tours on May 1. The departure date is June 15. ABC Tours pays the travel wholesaler on May 8. On which date must the travel wholesaler produce the tickets, vouchers, itinerary, and other related documents for the travel agent? a. June 1 (14 days before departure) b. May 24 (21 days before departure) c. June 8 (7 days before departure) d. May 22 (14 days after payment is received) 16. Which one of the following circumstances would NOT result in the travel agent having to offer the client a full refund or comparable alternative travel services? a. where a contract permits a price increase, the cumulative increase is more than 7% of the total price (excluding increases caused by an increase in the PST, GST or HST) b. where the scheduled departure of any transportation is delayed or advanced by 12 hours or less c. where the contract does not permit a price increase and the total price of the travel services is increased, whatever the amount or reason d. where a different cruise ship has been substituted 17. When a client is offered the choice of a refund or comparable alternative travel services, the registrant is NOT required to a. write to the Travel Industry Compensation Fund stating that no claim is pending b. note the date on which the information was communicated to the client c. note the method of communication used d. note the choice the client made 116 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersAppendix 1: Sample Travel Counsellor Exam 18. Which of the following is NOT part of the Travel Industry Compensation Fund? a. contributions from registrants b. contributions from consumers c. recoveries of money paid from the Compensation Fund d. income earned on the money in the Compensation Fund 19. Which of the following could a client claim from the Travel Industry Compensation Fund? a. counselling fees paid to a travel agent b. taxes paid on the travel services c. insurance premiums d. travel services that were to be received as a prize 20. A consumer makes a claim against the Travel Industry Compensation Fund and the TICO Board accepts the claim. What is the maximum amount payable? a. $5,000 per person b. $5,000 per claim c. depends on the cost, value, or quality of the travel services purchased d. a calculation of $5 million evenly divided by the number of claims 21. Joe and Sally are originally from Sudbury, but now live in Windsor. They depart from Toronto for a round-trip vacation package to Europe. When the supplier declares bankruptcy, Joe and Sally are stranded overseas. Under the trip completion provision in Ontario Regulation 26/05, where can Joe and Sally be returned, assuming that costs for each destination are approximately the same? a. Toronto b. Toronto or Windsor c. Windsor d. Sudbury 22. Joe Smith is a travel agent with ABC Travel. He went out of his way to ensure that all the travel arrangements for Dorothy and David Black were "perfect." The couple paid ABC Travel and then ABC Travel forwarded the funds to the travel wholesaler. When the travel wholesaler declared bankruptcy and the Blacks' trip was ruined, Joe Smith made a claim on the Travel Industry Compensation Fund for the $75.00 service fee he charged as a destination specialist. What will TICO do? a. accept the claim because Joe dealt with the suppliers in good faith and the service fee was part of the travel service package b. refuse the claim because the Compensation Fund does not cover service fees c. accept the claim because the Compensation Fund covers service fees d. refuse the claim because it was illegal for Joe to charge a service fee in the first place TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 117Appendix 1: Sample Travel Counsellor Exam 23. Sally Smith belongs to a travel program. She saves up her points for two years until she has enough for a vacation package at a sun destination. The travel wholesaler noted in the brochure that the trip was valued at $2,500.00. After Sally transfers the points to the travel wholesaler, the wholesaler declares bankruptcy. Sally files a claim on the Travel Industry Compensation Fund for $2,500.00. Would her claim be eligible for reimbursement? a. yes, because it is based on the stated value of the trip b. no, because Sally did not actually pay money for the trip c. yes, because air points are commonly used and have a monetary value d. no, because travel wholesalers are not covered by the Compensation Fund 24. Read the invoice below and explain how it needs to be corrected to comply with representation requirements in the legislation. INVO ICE ABC T RAV EL 123 ANY STREE T ANYW HER E, ON TAR IO X0X 0X0 Telephon e: (555) 555- 5555 Fax : (5 55) 555 -555 7 E-mail: book ing s@ abctrav el.ca DATE: August 12, 2011 A123 INVOICE #: 1 of 1 PAGE #: A11111111 Boo ka Tri p BOOKING #: AGENT: CUSTOMER: Iwanna Travel Telephone: (555) 555 -0005 DES CR IPT IO N QTY PRICE TAXE S GST PST TOTAL VACATION PACKAGE TO 1 $1 ,89 1.95 $2 47.00 $1 .05 - $2 ,14 0.00 ACAPULCO , M EXICO Deposit of $1,000.00 paid in cash on August 12, 2011. BALANCE OF $1,140.00 DUE ON SEPTEMBER 17, 2011. Documentation Requirements: Canadian citizens are required to present a valid passport in order to enter and exit Mexico. Canadians without a valid passport will be refused entry and returned to Canada. Mexican tourist cards will be provided by ABC Tour Operator at airport check-in. Please note that entry to another country may be refused even if the required information and travel documents are complete. Living standards and practices at the destination and standards and conditions there with respect to the provision of utilities, services and accommodation may differ from those found in Canada. 118 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersSample Supervisor/Manager Exam Appendix 2 1. John is a student who has decided to create his own company to provide walking tours in his hometown of Thunder Bay. Some tourists book a tour, but because John has the flu, he does not show up. The tourists complain to TICO that their afternoon was ruined. Why is TICO unable to assist these consumers? a. a tour guide is considered to be an end supplier and is therefore exempt from registering with TICO b. John should have registered with TICO because he is providing a type of travel service c. having the flu is considered to be a force majeure, so the tourists have no grounds for complaint d. anyone selling guide services or sightseeing services in Ontario is exempt from having to register with TICO 2. Ontario Regulation 26/05 states that a person who has not registered with TICO in the previous 12 months must provide a a. refundable security deposit of $10,000.00 b. non-refundable security deposit of $10,000.00 c. promissory note, authorized by a lawyer, in the amount of $10,000.00 d. refundable security deposit of $25,000.00 3. A man has violated the Travel Industry Act, 2002 by providing services as a travel agent without actually being registered. As a result of his conviction, the penalty could be a. a fine of not more than $50,000 b. imprisonment for a term of not more than two years less a day c. a fine of not more than $250,000 d. both a fine of not more than $50,000 and imprisonment for a term of not more than two years less a day 4. The time limit for prosecuting offences under the Travel Industry Act, 2002 is no more than _____ after the Director first becomes aware of the facts on which the proceeding is based. Fill in the blank with the correct answer from the following: a. six months b. one year c. two years d. five years TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 119Appendix 2: Sample Supervisor/Manager Exam 5. The landlord of the building where ABC Travel is located is planning a major renovation. ABC Travel is forced to find another location until the renovation is completed. What is ABC Travel's duty as far as TICO is concerned? a. the agency must inform TICO at least five days before the move b. the agency need not inform TICO, because the move is only a temporary one c. the agency need not inform TICO as long as the agency changes its phone message and puts a note on the door of its main premises to alert customers of the temporary relocation d. the agency must inform TICO within a reasonable time of the move, even though it is only a temporary relocation 6. As defined in Ontario Regulation 26/05, a financial statement does NOT need to include a. a statement of sales in Ontario made during a specific period b. a balance sheet or income statement c. the individual invoices sent to customers during a specific period d. a reconciliation of the trust account with customer deposits 7. A trust account may NOT be used to a. borrow funds to keep the travel agency profitable if a customer is late in paying for a package tour b. pay a wholesaler for the package tour for which the travel agency has received money c. issue refunds to customers d. transfer a registrant's commission to the general account after the travel wholesaler has been paid 8. The amount of working capital required by a travel agency is based on which of the following? a. the length of time the agency has been in business b. the number of employees the agency has c. the agency's sales in Ontario during the previous fiscal year d. the number of bookings the agency made during the previous fiscal year 9. All agencies are required to maintain business records. Which of the following does NOT fall under the category of business records? a. accounting and banking files b. brochures that identify destinations and accommodations c. payment records d. files containing client options regarding refund or alternative travel services 120 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersAppendix 2: Sample Supervisor/Manager Exam 10. ABC Travel Agency has been in business for two years. The owner informs TICO that he plans to stop maintaining a trust account. Under Ontario Regulation 26/05, can he do this? a. no, he must operate a trust account b. yes, as long as the general account contains the equivalent of sales from the past 12 months he can close the business' trust account c. no, he must be in business for three fiscal years before he can choose not to operate a trust account d. yes, if he provides security in lieu of trust accounting 11. When a consumer makes a complaint about a registrant to TICO, what will the Registrar do? a. attempt to mediate or resolve the complaint b. call the police to investigate c. close the agency until the matter is resolved d. seize the registrant's documents and records 12. The manager of ABC Travel is on holiday. At 10:00 a.m., a TICO inspector arrives to inspect the financial records. While the agency's staff know where the records are kept, they refuse to open the files, telling the inspector that the manager will be back in two weeks and the inspector will have to wait. According to Ontario Regulation 26/05, this is a. a reasonable request and the inspector will have to return in two weeks b. an unreasonable request because the staff are required to assist the inspector c. a reasonable request because the inspector is supposed to provide 30 days notice of his intent to inspect the agency records d. an unreasonable request because an inspector can only enter the agency between 11:00 a.m. and 3:00 p.m. 13. A TICO investigator arrives at ABC Travel Agency and sees someone inside taking files from the cabinets and burning them in a pail. The investigator enters the agency and searches the prem- ises, without a search warrant. Is the investigator allowed to do this? a. yes, as long as it is between 6:00 a.m. and 9:00 p.m. b. no, the investigator cannot enter the premises without the warrant c. yes, exigent circumstances permit the investigator to enter and search the premises d. no, the investigator can enter only if accompanied by the police 14. If a person has defaulted on paying a fine for an offence, TICO can do which of the following? a. impose an additional fine of $25,000 and a sentence of up to two years in jail b. place a lien on real estate or personal property of the person in default c. borrow the money from the Travel Industry Compensation Fund until the person pays d. ban the person from ever working in a travel agency again TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers 121122 TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersA WALK THROUGH THE TICO WEBSITE 123 www.tico.ca About TICO Who We Are Organizational Chart Board of Directors Committees Contact Us Consumer Info Search for a TICO Travel Agency Consumer Checklist Consumer Travel Tips Complaints Compensation Fund Industry Info Registration Information Education Standards / TICO Exam Financial Requirements: – Filing Financial Statements – Trust Accounting – Working Capital – Compensation Fund Contributions Disclosure & Invoicing Requirements Advertising Requirements Outside Sales Representatives Financial Inspections Information for Accountants Registrant Code of Ethics TICO Logo/Consumer Awareness Tool Kit Legislation & Regulation Travel Industry Act, 2002 Ontario Regulation 26/05 By-Laws Privacy Policy Publications & Resources Registration Forms Industry Guidelines – Disclosure Guidelines – Advertising Guidelines – Outside Sales Representatives- Annual Reports Business Plans Education Study Manual Education Standards Proctors Guide TICO Talk Newsletter Links and other resources TICO Education Standards for Ontario Travel Counsellors and Supervisor/ManagersNews Press Releases Advisories & Bulletins Closure List Revocation List Suspension List Charges & Convictions New Registrant Listing TICO Talk Newsletter Trade Shows & Events Media Room Contact TICO Contact information Location & Hours 124 TICO Education Standards for Ontario Travel Counsellors and Supervisor/Managers