

Tour Operator Licences

Fact Sheet

July 2014

Tour Operator Licences – Offences & Penalties

Background

The *Crown Land Acts Amendment (Lease and Licence Terms) Act 2009* became effective in Victoria on 1 July 2011.

The Act amended the *National Parks Act 1975*, *Forests Act 1958*, *Crown Land (Reserves) Act 1978*, *Land Act 1958* and *Wildlife Act 1975*, establishing a consistent legislative framework for licensing commercial tourism and commercial recreation activity on public land in Victoria.

Public land includes land and waters managed by or on behalf of the Crown.

The legislation states:

- It is an offence to conduct a guided tour or recreational activity for profit on public land without a tour operator licence, or to breach conditions of a tour operator licence, and that penalties apply
- A public land manager may suspend or cancel a tour operator licences in certain circumstances, provided the processes set out in the legislation are followed.

Offences and penalties

As stated in the legislations, the following offences and penalties apply to tour operators:

- A person must not conduct an organised tour or recreational activity for profit on relevant public lands unless that person holds a tour operator licence (A licence may still be required where an organisation with 'not-for-profit' status seeks to access public lands for a commercial purpose)
- A holder of a tour operator licence must not contravene the conditions of the licence.

The penalties available to the Magistrates Court in relation to both offences are 20 penalty units for a natural person and 100 penalty units for a body corporate.

The *Conservation, Forests and Lands (Infringement Notice) Regulations 2013* provides public land managers with powers to issue on-the-spot fines (Penalty Infringement Notices) for offences relating to tour operator licences. The penalties available for on-the-spot fines in relation to both offences are 3 penalty units for a natural person and 10 penalty units for a body corporate.

The value of a penalty unit for a financial year is fixed by the Treasurer under section 5(3) of the *Monetary Units Act 2004*. The Treasurer has fixed the values for penalty units for the 2014-2015 financial year as \$147.61.

Compliance and enforcement action must be carried out by an authorised officer appointed by the Secretary of the Department of Sustainability and Environment under the *Conservation, Forests and Lands Act 1987*.

Public land managers who do not have authorised officers on staff should contact their local DEPI office for advice on taking enforcement action.

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Transition to the new statewide licensing provisions

Some public land managers, tour operators and commercial activity providers will be new to licensing. DEPI will work with public land managers and stakeholders to ensure licensing is phased in for previously unlicensed individuals and businesses, in a practical and consultative manner.

Suspension of a tour operator licence

The legislation states a public land manager may suspend a tour operator licence if they are satisfied that there are reasonable grounds to do so. The legislation specifies:

- A notice in writing must be given to the holder of the licence
- The time from which suspension takes effect
- The maximum period for a suspension is 90 days
- The information that must be provided to a licence holder in a notice of suspension
- A licence holder may make submissions regarding their suspension
- The land manager must review the decision to suspend the licence on receipt of any submission
- The land manager must notify the person whose licence has been suspended of the outcome of the review.

Cancellation of a tour operator licence

The legislation states a public land manager may cancel a tour operator licence if they are satisfied, on reasonable grounds, that the holder of the licence has been found guilty of an offence against the relevant Act or has breached a condition of the licence.

The legislation also specifies:

- Before cancelling a tour operator licence, the public land manager must notify the holder that they propose to cancel the licence and allow the licence-holder an opportunity to make either oral or written submissions.
- Submissions must be made within the period specified in the notice.
- In making a decision as to whether or not to cancel a tour operator licence, the public land manager must have regard to any submissions made within the period specified in the notice; and must notify the holder of his or her decision.

Note: The powers to suspend or cancel a tour operator licence have been summarised in this fact sheet. Please refer to the relevant provisions in the *Crown Land Acts Amendment (Lease and Licence Terms) Act 2009* for more information.

Reporting Offences

If you would like to report a suspected offence please call the DEPI Customer Service Centre on 136 186. Strict confidentiality will apply to the details of each report.

Further assistance

For more information on the tour operator licence reform project visit www.depi.vic.gov.au/forestry-and-land-use/visiting-parks-and-forests/tour-operators or call the DEPI Customer Service Centre on 136 186.

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