

Tour Operator and Activity Provider Licensing Compliance, offences and penalties

Fact Sheet
May 2020

What is the purpose of a licence?

The tour operator licensing system provides a consistent legislative framework for licensing commercial tourism and commercial recreation activity on public land and waters in Victoria.

Licensing provides land managers and government with assurances that tour operators and activity providers are:

- implementing risk management measures associated with a tour or activity
- meeting relevant safety standards
- complying with environment protection conditions.

Offences and penalties

As stated in the legislation, 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 holder of a tour operator licence must not contravene the conditions of the licence
- a public land manager may suspend or cancel a tour operator licence if a condition of licence is breached, provided the processes set out in the legislation are followed.

The penalties for these 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 (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 Victorian Government has a policy of automatically indexing certain fees and fines each year for inflation, so that the value of those fees and fines is maintained. 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 value of a penalty unit for 1 July 2020 to 30 June 2021 is \$165.20.

Compliance and enforcement action must be carried out by an authorised officer appointed by the Secretary of the Department of Environment, Land, Water and Planning (DELWP) under the *Conservation, Forests and Lands Act 1987*.

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

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.

If a licence is to be suspended, the following legislative requirements apply:

- a notice in writing must be given to the holder of the licence and specify the time from which suspension takes effect. The maximum period for a suspension is 90 days
- a notice of suspension to a licence holder must include information that a licence holder may make a written submission asking for their suspension to be reviewed
- submissions must be made within the period specified in the notice
- 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.

Tour Operator and Activity Provider Licensing Compliance, offences and penalties

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 licence-holder 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 land manager must notify the licence-holder that they propose to cancel the licence and allow the licence-holder an opportunity to make either an oral or written submission
- submissions must be made within the period specified in the notice
- in deciding whether to cancel a tour operator licence, the land manager must have regard to any submissions made and must notify the holder of his or her decision.

Reporting offences

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

Further assistance

Public land managers should provide industry (and the community) with appropriate, timely advice and assistance to help them understand and help meet their compliance obligations. Land managers may seek advice on compliance and enforcement from DELWP.

© The State of Victoria Department of Environment, Land, Water and Planning 2020



This work is licensed under a Creative Commons Attribution 4.0 International licence. You are free to re-use the work under that licence, on the condition that you credit the State of Victoria as author. The licence does not apply to any images, photographs or branding, including the Victorian Coat of Arms, the Victorian Government logo and the Department of Environment, Land, Water and Planning (DELWP) logo. To view a copy of this licence, visit <http://creativecommons.org/licenses/by/4.0/>

ISBN 978-1-76105-146-3 (pdf/online/MS word)

Disclaimer

This publication may be of assistance to you but the State of Victoria and its employees do not guarantee that the publication is without flaw of any kind or is wholly appropriate for your particular purposes and therefore disclaims all liability for any error, loss or other consequence which may arise from you relying on any information in this publication.

Accessibility

If you would like to receive this publication in an alternative format, please telephone the DELWP Customer Service Centre on 136186, email customer.service@delwp.vic.gov.au, or via the National Relay Service on 133 677 www.relayservice.com.au. This document is also available on the internet at www.delwp.vic.gov.au.