

Guide to Licensed Travel Industry Compliance Inspections



**CONSUMER
PROTECTION BC**

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Introduction

Consumer Protection BC and Compliance Inspections

Consumer Protection BC is responsible for the administration of the *Business Practices and Consumer Protection Act* (BPCP Act) and *Travel Industry Regulation* (TIR). Together this Act and regulation govern the conduct of persons who engage in the business or occupation of Travel agent/Travel Wholesaler and the licensing requirements for Travel businesses in British Columbia.

Consumer Protection BC Compliance Inspectors (“Inspectors”) are empowered under sections 149 and 150 of the Act to conduct inspections for the purpose of determining compliance with the Act, the Regulation, licensing conditions, and orders issued by Consumer Protection BC. Inspectors have the authority to enter businesses, make inquiries, examine/copy records and retain documents and other items for the purposes of examination and inspection process.

The material in this guide provides a reference point for licensed travel businesses on what to expect and how to prepare for inspections performed by Consumer Protection BC.

This guide is not intended to provide legal advice and is by no means an exhaustive review of all the provisions affecting licensed travel businesses in BC. We recommend that anyone regulated under the BPCP Act and TIR obtain copies and review them in detail. You can find them online or printed versions may be ordered from:

CROWN PUBLICATIONS INC.
563 Superior Street
Victoria BC CANADA V8V 1T7
TEL: (250) 387-6409
TOLL FREE 1 800 663-6105
FAX: (250) 387-1120

As a travel agent or travel wholesaler, it is your responsibility to operate your business so that it complies with the law and the terms and conditions of your license. These terms and conditions may be printed on the face of your license or contained in letters issued to you by Consumer Protection BC.

For more general information, please contact Consumer Protection BC at:

Consumer Protection BC
307-3450 Uptown Boulevard
Victoria BC V8Z 0B9
Phone: 604 320-1667
Fax: 250 920-7181
Toll free: 1 888 777-4393
www.consumerprotectionbc.ca

Compliance and other Inspections

Inspections of Travel Agencies are sometimes conducted unannounced, to make sure the business and its employees are following the Act, the Regulation, and any terms and conditions set on a licence. Inspectors may also carry out the following functions at an inspection:

- Explain the terms and conditions of your licence
- Inspect the physical layout of your establishment
- Inspect your legal, financial and business records
- Observe and record your business practices, identifying gaps or weaknesses that are likely to lead to non-compliance, and,
- Identify any contraventions of the Act, the Regulation, or the terms and conditions of your licence

An Inspector will show you their official identification if you request. You must give Inspectors access to all areas of your business and not obstruct, hinder or interfere with their entry or inspection. It is an offence to obstruct, hinder, or interfere with an inspection, and a serious contravention that may result in administrative penalties, other sanctions and/or cancellation of your licence.

What will be inspected?

Business name and location

The inspector will examine the physical place of business and review items such as:

1. If a licensee has a mailing address that is different from the physical business address, the mailing address should also be listed.
2. If a licensee decides to move to a new business location, the licensee must provide notice to the Director within 14 days of the move.
3. If a licensee has changed name, the licensee must provide notice to the Director within 14 days of the change.
4. The name used to carry on business must be exactly as it appears on the licence. Any variation or use of unregistered name is not allowed unless it is registered as a DBA (Doing Business As).
5. It is recommended but not required, a licensee keep a copy of the *Business Practices and Consumer Protection Act* and *Travel Industry Regulation* at the business location.

Licenses and location

- During inspection, the licensee will be required to produce a copy of their license and be clearly displayed at the licensed location.
- Ensure that all employees and agents of the business provide travel services to consumers from a licensed location.

Advertising

- A licensee must clearly state his or her license number in all directories, advertising and marketing materials and receipts.
- A licensee must only use the licensed business name or *DBA* in all advertising, contracts and operations.

Document review

During a routine inspection, an Inspector may request and make copies of any of the following:

1. A copy of all the forms used by the licensee – this includes current travel templates, copies of invoices, and any other form created by the licensee that is given to a consumer;
2. Credit card information, meaning, credit cards used by the licensee;
3. Any marketing materials such as brochures, business cards, websites, pamphlets or advertisements;
4. The Inspector may review in advance any other marketing tools used by the licensee including mass media, internet and other devices;

The above noted list is not exhaustive of what an inspector may review at inspection. An inspector may request further records, documents, statements, or reports that are deemed relevant to an inspection.

You must allow an Inspector to inspect documents and records associated with your business and, if necessary, remove documents and records for the purpose of making copies. If documents are removed from your business, the Inspector will provide you with a receipt of the items taken.

Inspection Process

Scheduling and preparation

1. Inspectors are responsible for routine and complaint based inspections;
2. A complaint based inspection may come from various sources, including our licensing and inquiry office;
3. Routine inspections are a potential requirement;
4. Each Inspector is responsible for conducting inspections throughout the Province.
5. Routine inspections may be pre-arranged, but unannounced inspections may also take place.
6. Inspectors will attend businesses at reasonable times.

Generally, an inspection will not take more than three hours. If it is anticipated that an inspection will take more than three hours, the business may be notified in advance.

Inspection

1. There will be two parts to a routine inspection: (i) a meet and greet between the Inspector and the licensee or person-in-charge; (ii) A review of material and discussion on matters that may arise;

2. Key aspects of inspection include the licence review, inspection of the businesses physical location and websites, and an examination of documents and records;
3. Routine documentation examination will include, but is not limited to, a review of templates and contracts, forms, records, brochures, and any marketing materials.

Conclusion of Inspection

1. Once the inspection is complete, the Inspector will review the results with the licensee or their designate, and discuss any non-compliance identified during the inspection;
2. A Certification of Inspection will be prepared by the Inspector and a digital copy of will be given to the licensee or their designate as indicated on their licensing file.

Post Inspection Report and Follow Up

1. After returning to the office, the Inspector will document the inspection, update the licensee's file and, if required, inform other departments within Consumer Protection BC of the inspection results;
2. If deficiencies are noted at the inspection, the Inspector will deliver a post inspection report to the licensee. The post inspection report will identify the alleged violations that the licensee must correct and/or the alleged violations that will be recommended for enforcement to the Director. For more information on the enforcement process please see the section below entitled "Enforcement.";
3. Consumer Protection BC may conduct a follow up inspection to ensure that deficiencies noted have been corrected.


Enforcement

If an Inspector detects violations that they believe should proceed to enforcement of an administrative penalty, they will notify the licensee of these alleged contraventions in a Post Inspection Report. The Inspector will also prepare for the Director of Enforcement a Notice of Enforcement Action Recommended Report (NEAR). A copy of the NEAR will be also be sent to the licensee. The NEAR report will identify the allegation(s) proceeding to enforcement and the Inspector's recommended penalty. The licensee will be given an opportunity to respond to the report. The Director of Enforcement will then decide whether the allegation took place, and the administrative penalty, if any, to be applied. Note: the decision to impose an administrative penalty is at the discretion of the Director of Enforcement or delegated decision maker; neither is bound to the recommended administrative penalty in the NEAR.

If you are dissatisfied with the decision, you may apply for a reconsideration of the decision.

Further information on the policies and procedures relating to the administrative penalty process can be found by visiting our website at www.consumerprotectionbc.ca

Appendix

		CONSUMER PROTECTION BC 200 – 4946 Canada Way, Burnaby BC V5G 4H7 P 604.320.1667 F 604.320.1663 TF 1.888.564.9963 E info@consumerprotectionbc.ca W www.consumerprotectionbc.ca			License #: _____ Date of inspection: _____	
Question	Travel Industry Inspection Report	Y	N	N/A		
BUSINESS MODEL						
1	Travel Agent?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
2	Travel Wholesaler?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
3	Office space adequate to accommodate number of employees?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
4	IATA appointed or TIDS #? _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
5	IATA / TIDS Number? : _____					
6	Fiscal year end date: _____					
7	Does licensee accept cash or cheques as payment for services? If yes, what % of their business does this represent _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
8	Percentage of business in cash or cheques? : _____					
LICENCE						
9	TIR 5(1) All locations where business conducted licensed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
10	TIR 8 License prominently displayed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
PROHIBITED AND REGULATED ACTS OR PRACTICES						
9	TIR 9(1)(a) Does not carry on business from non-permanent place unless authorized?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
10	TIR 9(1)(c) Does not carry on business in a name other than registered?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		

11	TIR 9(1)(d) Does not carry on business in a name that indicates sponsorship, approval, status, affiliation or connection that the licensee does not have?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Question	PROHIBITED AND REGULATED ACTS OR PRACTICES CONTINUED	Y	N	N/A
12	TIR 9(1)(e) Does not knowingly carry on business in BC with an agent or wholesaler who is not licensed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13	TIR 9(2) Does not use personal credit card to pay for travel services on behalf of a customer?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14	TIR 9(3) Includes license number in visual advertisements respecting the business?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
REPORTING TO DIRECTOR				
15	TIR 10(1)(a) Licensee reported any change of business address within 14 days of change?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16	TIR 10(1)(b)(i)(ii) Has reported a change in senior officers or a material change in the beneficial ownership of shares. (If Corporation)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17	TIR 10(1)(c) Has reported a change of partners within 14 days? (If partnership)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18	TIR 10(1)(d) Has reported a change of name of company within 14 days?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19	TIR 10(2) Has the licensee ceased activity with another licensee because of a failure to fulfill a financial commitment. If yes, reported to the Director	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
RECORDS				
20	TIR 11(1) Does licensee maintain proper records of account that set out all financial, commercial and, corporate transactions?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21	TIR 11(2) If Licensee's head office not in BC, are they able to provide copies of all record listed in TIR 11(1)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
RECEIPTS				
22	TIR 12.1(a) Do receipts issued for payments or refunds include the date payment or refund is received?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
23	TIR 12(1)(b) Do receipts issued for payments or refunds include the name and address of the person making payment or receiving refund?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
24	TIR 12.1(c) Do receipts issued for payments or refunds include the amount received or refunded and any outstanding balance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

25	TIR 12.1(d) Do receipts issued for payments or refunds include a description of the services to be supplied including the dates on which travel services are to be supplied??	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
26	TIR 12.1(e) Do receipts issued for payments or refunds include an itemized purchase price for the travel services to be supplied?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Question	RECEIPTS CONTINUED	Y	N	N/A
27	TIR 12.1(f) Do receipts issued for payments or refunds include the conditions for reimbursement of any money received?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
28	TIR 12.1(g) Do receipts issued for payments or refunds include the licensee's name, address telephone number and license number?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
29	TIR 12.1(h) If a travel wholesaler, do receipts issued for payments or refunds indicate that the licensee will deposit the payment into a trust account?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
TRUST ACCOUNTS				
30	TIR 13(1) Does the licensee maintain a trust account with a savings institution in BC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
31	TIR 13(2) Licensee's trust account designated as "travel trust account" in statements or, written agreement with savings institution?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
32	TIR 13(3) Does licensee deposit all money received in the course of business for travel services into the trust account?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
33	TIR 13(5) Does licensee only disburse funds from trust account for services to be rendered to customer, expenditures on behalf of customer, refunds, reimbursement or, commissions earned?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
34	TIR 13(6) Does licensee keep current records of deposits, disbursements, and balances for each customer whose funds were deposited into the trust account?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SECURITY				
35	TIR 14(2)(b) Has licensee provided security within 90 days of the end of the fiscal period if sales volumes require change to amount held?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
36	Did licensee have active "my Account" and did inspector review/update active status at the time of inspection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

