



## Guidelines for Special Interest Travel (Packages & Tours)

### Introduction

The Travel Industry Council of Ontario (TICO) is responsible for administering the provincial legislation governing the travel industry in Ontario, the *Travel Industry Act, 2002 (Act)* and Ontario Regulation 26/05 (Regulation). TICO's mandate is to ensure that anyone involved with selling travel services in Ontario is doing so in accordance with the *Act*.

TICO has seen an increase in Special Interest Travel being organized and sold by individuals or businesses who are not registered with TICO and whose primary purpose is not selling travel services. These individuals or businesses sometimes engage in activities that may fall under the *Act* and require registration.

These guidelines are designed to assist those engaging in Special Interest Travel to better understand when registration is required under the *Act*.

### Terms used in these Guidelines

The following definitions are found in the *Act*:

#### Section 1

**Travel Agent** is defined as a person who sells to consumers, travel services provided by another person.

**Travel Services** are defined as transportation or sleeping accommodation for the use of a traveler, tourist or sightseer or other services combined with that transportation or sleeping accommodation.

#### Section 4

No person shall act or hold himself, herself or itself out as being available to act as a travel agent unless the person is registered as a travel agent under this *Act*.

The following terms are often used in the industry and are provided for clarification and guidance purposes:

**Travel Retailer** – often used interchangeably with the term **Travel Agent**

**Travel Counsellor** – person employed by the travel agent, who is authorised to sell travel services on behalf of the travel agent and who has obtained TICO Certificate for being travel counsellor and/or travel supervisor/manager.

**Outside Sales Representative (OSR)** – same as a Travel Counsellor, except he/she can sell travel services outside of the main place of business of the travel agent, i.e. from any public place.

By planning and organizing packages and tours that include transportation and/or accommodation for their customers when arranging tours, workshops, retreats, seminars, or special interest gatherings, the actions of the individual or business may be captured under the *Act*.

## REGISTRATION REQUIRED

**An individual or business that organizes Special Interest Travel, which include travel services, must either register as a travel agent with TICO or be affiliated as a Travel Counsellor/ Outside Sales Representative with an TICO registered travel agent.**

This applies in any of the following circumstances:

- a. If the individual or business is counselling/advising customers about the tour or is asking customers to contact him or her to inquire about the package/tour
- b. If the individual or business is collecting payments or facilitating transactions on behalf of any customer with any supplier of travel services
- c. If the individual or business makes arrangements for transportation and/or accommodation on behalf of the customer.

### **Registration information:**

[www.tico.ca/travel-professionals/registration-information.html](http://www.tico.ca/travel-professionals/registration-information.html)

### **Outside Sales Representative Guidelines:**

[www.tico.ca/travel-professionals/resources-guidelines/outside-sales-home-based-agents.html](http://www.tico.ca/travel-professionals/resources-guidelines/outside-sales-home-based-agents.html)

## EXAMPLES

A golf instructor organizes a golf retreat in the US where participants can take part in a tournament. The golf instructor plans the trip, makes arrangements for transportation and accommodation, advertises on his or her website and takes payment from the customer.

- Under this scenario, the golf instructor must register under the *Act* or be affiliated with a TICO registered travel agent as a Travel Counsellor/Outside Sales Representative.

A photographer organizes a safari tour to teach photography students about photographing wildlife in Africa. The photographer plans the trip, makes arrangements for transportation and accommodation, advertises on his or her website and facilitates the transaction by advising the customer to make direct payments to an out of province travel supplier.

- Under this scenario, the photographer is counselling for the purpose of selling travel services. Therefore, he or she must register under the *Act* or be affiliated with a TICO registered travel agent as a Travel Counsellor/Outside Sales Representative.

## REGISTRATION NOT REQUIRED

**In some circumstances (see below #1 and #2), an individual or business organizing Special Interest Travel may not require registration as a travel agent under the *Act* if they meet the following conditions:**

1. Working in collaboration with an Ontario based TICO registered travel agent to fulfill the travel services, but not acting as a travel agent/travel counsellor.

The following guidelines must be adhered to:

- a. The individual or business would only be working in the capacity of a specialist in his or her field and therefore cannot act as a travel agent or travel counsellor/OSR, i.e. counselling/advising customers about travel services, collecting payments from consumers, facilitating any transactions such as direct payment from customers to travel suppliers, making bookings and/or making arrangements for accommodation or transportation. Instead, customers should be contacting the TICO registered travel agent directly.
- b. Any promotion or advertisement about the tour made by the individual or business must clearly instruct the customer to contact the TICO registered travel agent directly to inquire about and/or book the Special Interest Package/Travel. The advertisement has to include the TICO registered travel agent's business name, address, phone number and TICO registration number in order to comply with the legislation.
- c. The individual or business is providing a specialty service not related to travel (e.g. photography instruction, health & wellness coaching) and may charge a fee/payment for providing the specialty service. Any payments requested from consumers must be exclusively for the specialty service.

### Examples

A scuba instructor (or business) wishes to organize a scuba tour to teach participants about diving in Belize. The scuba instructor plans the trip in collaboration with an Ontario based TICO registered travel agent in accordance with the guidelines listed above. The travel agent handles all of the customer inquiries and bookings. The fee for scuba lessons is packaged with the tour and the travel agent collects the full fee. After the booking is made the travel agent disburses payment to the scuba instructor for the scuba lessons.

- Under this scenario, the scuba instructor does not require registration under the Act because he or she is working with a TICO registered travel agent to plan the trip. The instructor is not acting as a travel agent/travel counsellor and is only providing specialty services (scuba lessons).

A yoga instructor (or studio) wishes to organize a yoga trip in Italy. The yoga instructor plans the trip in collaboration with an Ontario based TICO registered travel agent in accordance with the guidelines listed above. The travel agent handles all of the customer inquiries and bookings. The fee for yoga lessons is separate from the tour. The travel agent collects the fee relating to travel services and the yoga instructor collects the fee relating to yoga lessons.

- Under this scenario, the yoga instructor does not require registration under the Act because he or she is working with a TICO registered travel agent to plan the trip. The instructor is not acting as a travel agent/travel counsellor and is only providing specialty services (yoga lessons).

2. Working with an end-supplier who is not registered with TICO (i.e. a hotel, cruise line or an out of province tour operator). The end-supplier is offering a package/tour and has made arrangements to include an Ontario based individual or business in the capacity of a specialist relating to the tour.

The following guidelines must be adhered to:

- a. The package/tour must be organized and run entirely by the end-supplier (such as a hotel or a cruise line) or the out of province tour operator.

- b. The individual or business would only be working in the capacity of a specialist in his or her field and therefore cannot act as a travel agent/travel counsellor/OSR, i.e. counselling/advising consumers about travel services, collecting payments from customers, facilitating any transactions such as direct payment from customers to travel suppliers, making bookings and/or making arrangements for accommodation and/or transportation for customers.
- c. Any promotion or advertisement about the package/tour made by the individual or business must clearly instruct the consumer to contact the end-supplier directly or a TICO registered travel agency to inquire about travel arrangements.
- d. The individual or business is providing a specialty service not related to travel (e.g. photography instruction, health & wellness coaching) and may charge a fee/payment for providing the specialty service. Any payments requested from consumers must be exclusively for the specialty service.

## Examples

A hotel in Ontario is hosting a yoga and wellness weekend and has asked one or more popular yoga instructor(s) in Ontario to teach. The yoga instructor(s) will be paid for his or her time directly by the hotel.

- Under this scenario, the yoga instructor does not require registration under the Act because he or she is only working in the capacity of an instructor.

A tour operator in South America is hosting a specialized tour and has asked a popular photographer in Ontario to teach other photographers on the tour. The photographer will be paid for his or her time directly by the tour operator.

- Under this scenario, the photographer does not require registration under the Act because he or she is only working in the capacity of an instructor.

***The guidelines above provide some examples but are not exhaustive. If you have questions relating to disclosure and invoicing guidelines please contact TICO for more information.***

## DISCLAIMER

*These guidelines have been developed to assist registrants in complying with the requirements and prohibitions found in the Travel Industry Act, 2002 (the "Act") and Ontario Regulation 26/05 (the "Regulation"). The document contains information regarding TICO's interpretation of the legislative and regulatory provisions and suggested best practices. If you have any questions regarding the information in this document, you should contact TICO.*

*The information provided is for general informational and educational purposes only and is not intended to provide legal advice to any individual or entity. These guidelines are not exhaustive and cannot hope to address the complexities of every travel business in the province. Further, registrants are subject to other federal, provincial and municipal laws that impact their businesses. We urge you to consult with your own legal advisor regarding the specifics of your business and compliance with the Act and Regulation. You should not rely on information in this document as an alternative to legal advice.*

*The content in these guidelines is current as of the date of publication. While TICO strives to keep the information as timely and accurate as possible, it makes no claims, promises or guarantees about the accuracy, completeness or adequacy of the content. In the event of a conflict, the requirements in the Act and Regulation will prevail.*

*If you have any questions, please contact TICO's Compliance Department at 1-888-451-TICO (8426).*