STATUTORY INSTRUMENTS

2018 No. 634

CONSUMER PROTECTION

The Package Travel and Linked Travel Arrangements Regulations 2018

Made - - - -	*24th May 2018*
Coming into force - -	*1st July 2018*

The Secretary of State has been designated [F1] for the purposes of making Regulations under section 2(2) of the European Communities Act 1972 [F2] in relation to measures relating to consumer protection.

A draft of these Regulations has been approved by a resolution of each House of Parliament pursuant to section 2(2) of, and paragraph 2(2) of Schedule 2 to, the European Communities Act 1972.

In exercise of the powers conferred by section 2(2) of the European Communities Act 1972 [F3], the Secretary of State makes the following Regulations:

F1 S.I. 1993/2661.
F2 1972 c. 68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7).
F3 1972 c. 68.

PART 1

General

Citation and commencement

1.—(1) These Regulations may be cited as the Package Travel and Linked Travel Arrangements Regulations 2018.

(2) Except as set out in paragraph (3), these Regulations come into force on 1st July 2018.

(3) Regulation 38(4) comes into force on the later of the following—

(a) 1st July 2018;

(b) the day on which Schedule 1 to the Wales Act 2017 [F4] (which inserts Schedule 7A into the Government of Wales Act 2006 [F5], which regulation 38(4) amends) comes into force.

F4 2017 c. 4.
F5 2006 c. 32. Schedule 7A is substituted by section 3(2) of the Wales Act 2017 but that substitution is not yet in force.

Interpretation

2.—(1) In these Regulations—

F6...

"commencement date" means the date on which these Regulations come into force;

"durable medium" means any instrument which—

(a) enables the traveller or the trader to store information addressed personally to them in a way accessible for future reference for a period of time adequate for the purposes of the information; and

(b) allows the unchanged reproduction of the information stored;

"lack of conformity" means a failure to perform, or the improper performance of, the travel services included in a package;

"minor" means a person below the age of 18;

"organiser" means—

(a) a trader who combines and sells, or offers for sale, packages, either directly or through another trader or together with another trader; or

(b) the trader who transmits the traveller's data to another trader in accordance with paragraph (5)(b)(v);

"package travel contract" means a contract on a package as a whole or, if the package is provided under separate contracts, all contracts covering the travel services included in the package;

"F7... passenger rights legislation" means—

(a) Regulation (EC) No 261/2004 of the European Parliament and of the Council establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91F8;

(b) Regulation (EC) No 1371/2007 of the European Parliament and of the Council on rail passengers' rights and obligations F9;

(c) Regulation (EC) No 392/2009 of the European Parliament and of the Council on the liability of carriers of passengers by sea in the event of accidents F10;

(d) Regulation (EU) No 1177/2010 of the European Parliament and of the Council concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004F11; and

(e) Regulation (EU) No 181/2011 of the European Parliament and of the Council concerning the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004F12.

"point of sale" means—

(a) any retail premises, whether movable or immovable;

(b) a retail website or similar online sales facility, including where retail websites or online sales facilities are presented to travellers as a single facility; or

(c) a telephone service;

"repatriation" means the traveller's return to the place of departure or to another place the contracting parties agree upon;

"retailer" means a trader other than the organiser who sells or offers for sale packages combined by an organiser;

"start of the package" means the beginning of the performance of travel services included in the package;

"trader" means any person who is acting, including through any other person acting in their name or on their behalf, for purposes relating to their trade, business, craft or profession in relation to contracts covered by these Regulations, whether acting in the capacity of organiser, retailer, trader facilitating a linked travel arrangement or as a travel service provider;

"travel service" means—

(a) the carriage of passengers;

(b) the provision of accommodation which is not intrinsically part of the carriage of passengers and is not for residential purposes;

(c) the rental of—

(i) cars;

(ii) other motor vehicles within the meaning of **[**F13Article 3(16) of Regulation (EU) 2018/858 of the European Parliament and of the Council of 30 May 2018 on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles**]**; or

(iii) motorcycles requiring a Category A driving licence in accordance with **[**F14Part 1 of Schedule 2 (categories and sub-categories of vehicle for licensing purposes) to the Motor Vehicles (Driving Licences) Regulations 1999**]**;

(d) any other tourist service not intrinsically part of a travel service within the meaning of paragraph (a), (b) or (c);

"traveller" means any individual who is seeking to conclude a contract, or is entitled to travel on the basis of a contract concluded, within the scope of these Regulations;

"unavoidable and extraordinary circumstances" means a situation—

(a) beyond the control of the party who seeks to rely on such a situation for the purpose of regulation 12(7), 13(2)(b), 15(14) or (16), 16(4)(c) or 28(3)(b); and

(b) the consequences of which could not have been avoided even if all reasonable measures had been taken;

(2) In these Regulations, a reference to an organiser or a retailer being "established" is to be construed according to the meaning of "establishment" given by **[**F15regulation 4 of the Provision of Services Regulations 2009**]**.

(3) In these Regulations, subject to paragraph (4), a "linked travel arrangement" means at least two different types of travel service purchased for the purpose of the same trip or holiday, not constituting a package, resulting in the conclusion of separate contracts with the individual service providers, if a trader facilitates —

(a) on the occasion of a single visit to, or contact with, a trader's point of sale, the separate selection and separate payment of each travel service by travellers; or

(b) in a targeted manner, the procurement of at least one additional travel service from another trader where a contract with such other trader is concluded at the latest 24 hours after the confirmation of the booking of the first travel service.

(4) Where—

(a) not more than one travel service of the kind listed in paragraph (a), (b) or (c) of the definition of "travel service", and

(b) one or more tourist services of the kind listed in paragraph (d) of that definition,

are purchased, those services do not constitute a linked travel arrangement if the tourist services referred to in sub-paragraph (b) do not account for a significant proportion of the combined value of the services and are not advertised as, and do not otherwise represent, an essential feature of the trip or holiday.

(5) In these Regulations, subject to paragraph (6), a "package" means a combination of at least two different types of travel services for the purpose of the same trip or holiday, if—

(a) those services are combined by one trader, including at the request of, or in accordance with, the selection of the traveller, before a single contract on all services is concluded; or

(b) those services are—

(i) purchased from a single point of sale and selected before the traveller agrees to pay,

(ii) offered, sold or charged at an inclusive or total price,

(iii) advertised or sold under the term "package" or under a similar term,

(iv) combined after the conclusion of a contract by which a trader entitles the traveller to choose among a selection of different types of travel services, or

(v) purchased from separate traders through linked online booking processes where—

(aa) the traveller's name, payment details and e-mail address are transmitted from the trader with whom the first contract is concluded to another trader or traders, and

(bb) a contract with the latter trader or traders is concluded at the latest 24 hours after the confirmation of the booking of the first travel service,

irrespective of whether the traveller concludes separate contracts with one or more travel service providers in respect of the services.

(6) A combination of travel services where not more than one type of travel service of the kind listed in paragraph (a), (b) or (c) of the definition of "travel service" is combined with one or more tourist services of the kind listed in paragraph (d) of that definition is not a package if the latter services—

(a) do not account for a significant proportion of the value of the combination and are not advertised as, and do not otherwise represent, an essential feature of the combination; or

(b) are selected and purchased after the performance of a travel service of the kind listed in paragraph (a), (b) or (c) of the definition of "travel service" has started.

F6 Words in reg. 2(1) omitted (31.12.2020) by virtue of The Package Travel and Linked Travel Arrangements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1367), regs. 1(1), **3(a)(i)** (with reg. 1(2)(3)); 2020 c. 1, Sch. 5 para. 1(1)

F7 Word in reg. 2(1) omitted and definition repositioned (31.12.2020) by virtue of The Package Travel and Linked Travel Arrangements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1367), regs. 1(1), **3(a)(iii)** (with reg. 1(2)(3)); 2020 c. 1, **Sch. 5 para. 1(1)**

F8 OJ No L 46, 17.2.2004, p. 1.

F9 OJ No L 315, 3.12.2007, p. 14.

F10 OJ No L 131, 28.5.2009, p. 24.

F11 OJ No L 334, 17.12.2010, p. 1. There are amendments to this Directive but none are relevant to these Regulations.

F12 OJ No L 55, 28.2.2011, p. 1.

F13 Words in reg. 2(1) substituted (1.9.2020) by The Road Vehicles (Approval) Regulations 2020 (S.I. 2020/818), reg. 1(b), **Sch. 6 para. 34(2)** (with Sch. 4 paras. 16, 17)

F14 Words in reg. 2(1) substituted (31.12.2020) by The Package Travel and Linked Travel Arrangements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1367), regs. 1(1), **3(a)(ii)** (with reg. 1(2)(3)) (as substituted by S.I. 2020/818, reg. 1(b), Sch. 6 para. 35(2) (with Sch. 4 paras. 16, **17**)); 2020 c. 1, **Sch. 5 para. 1(1)**

F15 Words in reg. 2(2) substituted (31.12.2020) by The Package Travel and Linked Travel Arrangements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1367), regs. 1(1), **3(b)** (with reg. 1(2)(3)); 2020 c. 1, Sch. 5 para. 1(1)

Application

3.—(1) These Regulations apply to—

(a) packages offered for sale or sold by traders to travellers, and

(b) linked travel arrangements,

which are concluded on or after the commencement date.

(2) These Regulations do not apply to—

(a) packages and linked travel arrangements covering a period of less than 24 hours, unless overnight accommodation is included;

(b) packages offered, and linked travel arrangements facilitated, occasionally on a not-for-profit basis for a limited group of travellers;

(c) packages and linked travel arrangements purchased on the basis of a general agreement.

(3) In paragraph (2)(c), a "general agreement" means an agreement which is concluded between a trader and another person acting for a trade, business, craft or profession, for the purpose of booking travel arrangements in connection with that trade, business, craft or profession.

PART 2

Information duties and content of the package travel contract

Information duties and "the relevant person"

4.—(1) Where a package travel contract is sold through a retailer—

(a) the organiser and the retailer must ensure that the duties imposed by regulations 5, 6 and 7 ("the information duties") are performed;

(b) the organiser and the retailer may agree whether the information duties are to be performed by the organiser or the retailer; and

(c) either the organiser or the retailer must perform the information duties.

(2) Where a package travel contract is not sold through a retailer, the organiser must perform the information duties imposed by regulations 5, 6 and 7.

(3) In this Part, the person who, in accordance with this regulation, performs, or it is agreed is to perform, a duty imposed by a provision of regulation 5, 6 or 7, is "the relevant person" for the purposes of the provision of regulation 5, 6 or 7 under which the duty is performed or it is agreed is to be performed.