
DRAFT STATUTORY INSTRUMENTS

2018 No.

**The Package Travel and Linked Travel
Arrangements Regulations 2018**

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⁽¹⁾ (which inserts Schedule 7A into the Government of Wales Act 2006⁽²⁾, which regulation 38(4) amends) comes into force.

Interpretation

2.—(1) In these Regulations—

“the Directive” means Directive (EU) 2015/2302 of the European Parliament and of the Council on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC⁽³⁾;

“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

⁽¹⁾ 2017 c. 4.

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

⁽³⁾ OJ L No 326, 11.12.2015, p. 1.

(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;

“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 Article 3(11) of [Directive 2007/46/EC](#) of the European Parliament and of the Council establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles⁽⁴⁾; or
 - (iii) motorcycles requiring a Category A driving licence in accordance with point (c) of Article 4(3) of [Directive 2006/126/EC](#) of the European Parliament and of the Council on driving licences⁽⁵⁾;
- (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

(4) OJ No L 263, 9.10.2007, p. 1. In Article 3(11), “motor vehicle” is defined as any power-driven vehicle which is moved by its own means, having at least four wheels, being complete, completed or incomplete, with a maximum design speed exceeding 25 kilometres per hour. There are amendments to this Directive but none are relevant to these Regulations.

(5) OJ No L 403, 30.12.2016, p. 18. Point (c) of Article 4(3) refers to motorcycles and “motor tricycles with a power exceeding 15 kW”. There are amendments to this Directive but none are relevant to these Regulations.

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

“Union 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 295/91(6);
- (b) Regulation (EC) No 1371/2007 of the European Parliament and of the Council on rail passengers’ rights and obligations(7);
- (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(8);
- (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 2006/2004(9); 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 2006/2004(10).

(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 point 5 of Article 4 of Directive 2006/123/EC of the European Parliament and of the Council on services in the international market(11).

(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.

(6) OJ No L 46, 17.2.2004, p. 1.

(7) OJ No L 315, 3.12.2007, p. 14.

(8) OJ No L 131, 28.5.2009, p. 24.

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

(10) OJ No L 55, 28.2.2011, p. 1.

(11) OJ No L 376, 27.12.2006, p. 36. Point 5 of Article 4 defines “establishment” as “the actual pursuit of an economic activity, as referred to in Article 43 of the Treaty by the provider for an indefinite period and through a stable infrastructure from where the business of providing services is actually carried out”. In that provision, “the Treaty” means the Treaty establishing the European Community.

(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.

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.

Information to be provided by the relevant person before concluding a contract

5.—(1) Subject to paragraph (3), before a package travel contract is concluded, the relevant person must provide the traveller with the information specified in Schedule 1, where applicable to the package.

(2) Subject to paragraph (3), before a package travel contract is concluded, the relevant person must also provide the traveller with—

- (a) where the use of hyperlinks is possible, the information in Schedule 2, using the form and wording set out in that Schedule;
- (b) where the use of hyperlinks is not possible, or the package travel contract is to be concluded by telephone, the information in Schedule 3, using the form and wording set out in that Schedule.

(3) Before a traveller is bound by a package of the kind described in regulation 2(5)(b)(v)—

- (a) the relevant person and the trader to whom the data are transmitted must ensure that each of them provides the information specified in Schedule 1, in so far as it is relevant for the respective travel services they offer; and
- (b) the relevant person must provide, at the same time, the information in Schedule 4, using the form and wording set out in that Schedule.

(4) Any information provided to the traveller under this regulation must be provided—

- (a) in a clear, comprehensible and prominent manner; and
- (b) where the information is provided in writing, in a legible form.

(5) Where the relevant person fails to provide information to the traveller in accordance with this regulation, the organiser or, where the package travel contract is sold through a retailer, both the organiser and the retailer, commit an offence and are liable—

- (a) on summary conviction, to a fine in England and Wales, or in Scotland and Northern Ireland to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine.

Binding character of information provided before the conclusion of the contract

6.—(1) Where the relevant person provides to the traveller the information specified in paragraphs 1 to 10, 12 to 14 and 16 of Schedule 1, that information—

- (a) forms an integral part of the package travel contract; and
- (b) must not be altered unless the traveller expressly agrees otherwise with the relevant person, as the case may be.

(2) The relevant person must communicate to the traveller any change to the information provided under regulation 5, in a clear, comprehensible and prominent manner before the conclusion of the package travel contract.

(3) Where, before the conclusion of the package travel contract, the relevant person does not provide the information which is required to be provided under paragraph (1) in respect of additional fees, charges or other costs referred to in paragraph 12 of Schedule 1 the traveller is not required to bear those fees, charges or other costs.

(4) It is an implied condition (or, as regards Scotland, an implied term) of the package travel contract that the relevant person complies with the provisions of this regulation.

(5) In Scotland, any breach of the condition implied by paragraph (4) is deemed to be a material breach justifying rescission of the contract.

Content of the package travel contract and other documents

7.—(1) The relevant person must ensure that—

- (a) the package travel contract is in plain and intelligible language; and
- (b) where the contract, or part of the contract, is in writing, the contract or the part of the contract, is in a legible form.

(2) The relevant person must ensure that the package travel contract sets out the full content of the package and includes—

- (a) the information specified in Schedule 1; and
- (b) the information specified in Schedule 5.

(3) Subject to paragraphs (4) and (5), when the package travel contract is concluded, or without undue delay after its conclusion, the relevant person must provide the traveller with a copy or confirmation of the contract on a durable medium.

(4) Where the contract is concluded in the simultaneous physical presence of the parties, the relevant person must provide to the traveller a paper copy of the package travel contract if the traveller so requests.

(5) Where an off-premises contract is concluded, the relevant person must provide a copy or confirmation of that contract to the traveller on paper or, if the traveller agrees, on another durable medium.

(6) Where a package of the kind described in regulation 2(5)(b)(v) is concluded—

- (a) the trader to whom the data are transmitted must inform the relevant person of the conclusion of the contract leading to the creation of a package; and
- (b) the trader must provide the relevant person with the information necessary to comply with their obligations as the relevant person.

(7) As soon as the organiser is informed, under paragraph (6), that a package has been created, the relevant person must provide the information in Schedule 5 to the traveller on a durable medium.

(8) The relevant person must provide the information referred to in paragraphs (2) and (7) in a clear, comprehensible and prominent manner.

(9) The relevant person must provide the traveller in good time, before the start of the package, with the necessary receipts, vouchers and tickets, information on the scheduled times of departure and, where applicable, the deadline for check-in, as well as the scheduled times for intermediate stops, transport connections and arrival.

(10) It is an implied condition (or, as regards Scotland, an implied term) of the contract that the relevant person complies with paragraphs (1), (3) to (6) and (9).

(11) In Scotland, any breach of the condition implied by paragraph (10) is deemed to be a material breach justifying rescission of the contract.

(12) Where the relevant person fails to comply with paragraph (2), (7) or (8), the organiser or, where the package travel contract is sold through a retailer, both the organiser and the retailer, commit an offence and are liable—

- (a) on summary conviction, to a fine in England and Wales, or in Scotland and Northern Ireland to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine.

(13) In paragraph (5), “off-premises contract” has the meaning given in point 8 of Article 2 of [Directive 2011/83/EU](#) of the European Parliament and the Council on consumer rights, amending Council [Directive 93/13/EEC](#) and [Directive 1999/44/EC](#) of the European Parliament and of the Council and repealing Council [Directive 85/577/EEC](#) and [Directive 97/7/EC](#) of the European Parliament and of the Council(12).

Burden of proof

8.—(1) In case of dispute about the organiser or the retailer’s compliance with any provision of this Part, it is for the organiser or the retailer, as appropriate, to show that the provision was complied with.

- (2) Paragraph (1) does not apply to proceedings for an offence under—
- (a) regulation 5(5); or
 - (b) regulation 7(12).

PART 3

Changes to the package travel contract before the start of the package

Transfer of the package travel contract to another traveller

9.—(1) A traveller (“the transferor”) may transfer the package travel contract once it is concluded to a person (“the transferee”) who satisfies all the conditions applicable to that contract.

(2) The transferor must give the organiser, on a durable medium, reasonable notice of the transfer and, for those purposes, notice which is given 7 days or more before the day on which the package starts is always deemed to be reasonable.

(12) OJ No L 304, 22.11.2011, p. 64. An “off-premises contract” is defined in point 8 of Article 2 as a contract: “(a) concluded in the simultaneous physical presence of the trader and the consumer, in a place which is not the business premises of the trader; (b) for which an offer was made by the consumer in the same circumstances as referred to in point (a); (c) concluded on the business premises of the trader or through any means of distance communication immediately after the consumer was personally and individually addressed in a place which is not the business premises of the trader in the simultaneous physical presence of the trader and the consumer; or (d) concluded during an excursion organised by the trader with the aim or effect of promoting and selling goods or services to the consumer”.

(3) The organiser must inform the transferor about the additional fees, charges or other costs arising from the transfer of the package travel contract (“the transfer costs”) and must provide proof of those costs.

(4) The transfer costs—

- (a) must not be unreasonable; and
- (b) must not exceed the cost incurred by the organiser as a result of the transfer.

(5) The transferor and the transferee are jointly and severally liable for the transfer costs.

(6) The provisions of paragraphs (3) and (4) are implied as a term in every package travel contract.

Alteration of the price

10.—(1) The provisions of this regulation are implied as a term in every package travel contract.

(2) The prices specified in a package travel contract must not be increased once the contract is concluded unless the contract—

- (a) states expressly that such an increase may be made;
- (b) states that price increases are to be made solely to allow for increases which are a direct consequence of changes in—
 - (i) the price of the carriage of passengers resulting from the cost of fuel or other power sources;
 - (ii) the level of taxes or fees on the travel services included in the contract imposed by third parties not directly involved in the performance of the package, including tourist taxes, landing taxes or embarkation or disembarkation fees at ports and airports; and
 - (iii) the exchange rates relevant to the package;
- (c) provides that the traveller has the right to a price reduction corresponding to any decrease in the costs referred to in sub-paragraph (b) that occurs before the start of the package once the contract is concluded; and

(d) provides how the revisions referred to in sub-paragraphs (a) and (b) are to be calculated.

(3) Irrespective of its extent, a price increase may only be made if the organiser notifies the traveller clearly and comprehensibly of it with a justification for that increase and a calculation, on a durable medium, at the latest 20 days before the start of the package.

(4) Where a price increase exceeds 8% of the total price of the package, paragraphs (4) to (11) of regulation 11 apply.

(5) Where, under the terms of the package travel contract, the traveller has the right to a price reduction which corresponds to a decrease in the costs referred to in paragraph (2)(b), the organiser—

- (a) may deduct administrative expenses from any refund owed to the traveller as a result of the reduction in price; and
- (b) must, at the traveller’s request, provide proof of any expenses so deducted.

Alteration of other package travel contract terms

11.—(1) The provisions of this regulation are implied as a term in every package travel contract.

(2) The organiser must not unilaterally change the terms of a package travel contract before the start of the package, other than the price in accordance with regulation 10, unless—

- (a) the contract allows the organiser to make such changes;
- (b) the change is insignificant; and

- (c) the organiser informs the traveller of the change in a clear, comprehensible and prominent manner on a durable medium.
- (3) Paragraphs (4) to (11) apply where, before the start of the package, the organiser—
- (a) is constrained by circumstances beyond the control of the organiser to alter significantly any of the main characteristics of the travel services specified in paragraphs 1 to 10 of Schedule 1;
 - (b) cannot fulfil the special requirements specified in paragraph 1 of Schedule 5; or
 - (c) proposes to increase the price of the package by more than 8% in accordance with regulation 10(4).
- (4) The organiser must, without undue delay, inform the traveller in a clear, comprehensible and prominent manner on a durable medium, of—
- (a) the proposed changes referred to in paragraph (3) and, where appropriate, in accordance with paragraph (7), their impact on the price of the package;
 - (b) a reasonable period within which the traveller must inform the organiser of the decision pursuant to paragraph (5);
 - (c) the consequences of the traveller's failure to respond within the period referred to in sub-paragraph (b); and
 - (d) any substitute package, of an equivalent or higher quality, if possible, offered to the traveller and its price.
- (5) The traveller may, within a reasonable period specified by the organiser—
- (a) accept the proposed changes; or
 - (b) terminate the contract without paying a termination fee.
- (6) Where the traveller terminates the contract pursuant to paragraph (5)(b), the traveller may accept a substitute package, where this is offered by the organiser.
- (7) Where—
- (a) the changes to the package travel contract referred to in paragraph (3), or
 - (b) the substitute package referred to in paragraph (6),
- result in a package of lower quality or cost, the traveller is entitled to an appropriate price reduction.
- (8) Where—
- (a) the traveller terminates the contract pursuant to paragraph (5)(b), and
 - (b) the traveller does not accept a substitute package,
- the organiser must refund all payments made by or on behalf of the traveller without undue delay and in any event not later than 14 days after the contract is terminated.
- (9) Where paragraph (8) applies, regulation 16(2) to (10) applies.
- (10) Where the traveller does not confirm, within the period specified in paragraph (5), whether the traveller wishes to—
- (a) accept the proposed change, or
 - (b) terminate the contract,
- in accordance with that paragraph, the organiser must notify the traveller, a second time, of the matters in sub-paragraphs (a) to (d) of paragraph (4).
- (11) If, having been notified under paragraph (10), the traveller fails to respond, the organiser may terminate the contract and refund all payments made by or on behalf of the traveller without undue delay and in any event not later than 14 days after the contract is terminated.

Termination of the package travel contract by the traveller

12.—(1) The provisions of this regulation are implied as a term in every package travel contract.

(2) A traveller may terminate the package travel contract at any time before the start of the package.

(3) Where the traveller terminates the package travel contract under paragraph (2), the traveller may be required to pay an appropriate and justifiable termination fee to the organiser.

(4) The package travel contract may specify reasonable standard termination fees based on—

- (a) the time of the termination of the contract before the start of the package; and
- (b) the expected cost savings and income from alternative deployment of the travel services.

(5) In the absence of standardised termination fees, the amount of the termination fee must correspond to the price of the package minus the cost savings and income from alternative deployment of the travel services.

(6) The organiser must provide a justification for the amount of the termination fee if the traveller so requests.

(7) Notwithstanding paragraphs (2) to (6), in the event of unavoidable and extraordinary circumstances occurring at the place of destination or its immediate vicinity and which significantly affect—

- (a) the performance of the package, or
- (b) the carriage of passengers to the destination,

the traveller may terminate the package travel contract before the start of the package without paying any termination fee.

(8) Where the package travel contract is terminated under paragraph (7), the traveller is entitled to a full refund of any payments made for the package but is not entitled to additional compensation.

Termination of the package travel contract by the organiser

13.—(1) The provisions of this regulation are implied as a term in every package travel contract.

(2) Paragraph (3) applies where—

- (a) the number of persons enrolled for the package is smaller than the minimum number stated in the contract and the organiser notifies the traveller of the termination of the contract within the period fixed in the contract but not later than—
 - (i) in the case of trips lasting more than 6 days, 20 days before the start of the package;
 - (ii) in the case of trips lasting between 2 and 6 days, 7 days before the start of the package;
 - (iii) in the case of trips lasting less than 2 days, 48 hours before the start of the package; or
- (b) the organiser is prevented from performing the contract because of unavoidable and extraordinary circumstances and notifies the traveller of the termination of the contract without undue delay before the start of the package.

(3) The organiser—

- (a) may terminate the package travel contract and provide the traveller with a full refund of any payments made for the package;
- (b) is not liable for additional compensation.

Refunds in the event of termination

14.—(1) The provisions of this regulation are implied as a term in every package travel contract.

(2) Following a termination under regulation 12(2), the organiser must reimburse any payments made by or on behalf of the traveller, having deducted any termination fee.

(3) Any—

(a) reimbursement required under paragraph (2), or

(b) refund required pursuant to—

(i) regulation 12(8), or

(ii) a termination under regulation 13(3),

must be made to the traveller without undue delay and in any event not later than 14 days after the package travel contract is terminated.

PART 4

Performance of the package

Responsibility for the performance of the package

15.—(1) The provisions of this regulation are implied as a term in every package travel contract.

(2) The organiser is liable to the traveller for the performance of the travel services included in the package travel contract, irrespective of whether those services are to be performed by the organiser or by other travel service providers.

(3) The traveller must inform the organiser without undue delay, taking into account the circumstances of the case, of any lack of conformity which the traveller perceives during the performance of a travel service included in the package travel contract.

(4) If any of the travel services are not performed in accordance with the package travel contract, the organiser must remedy the lack of conformity within a reasonable period set by the traveller unless that—

(a) is impossible; or

(b) entails disproportionate costs, taking into account the extent of the lack of conformity and the value of the travel services affected.

(5) Where the organiser does not remedy the lack of conformity within a reasonable period set by the traveller for a reason mentioned in sub-paragraph (a) or (b) of paragraph (4), regulation 16 applies.

(6) Where the organiser refuses to remedy the lack of conformity or where immediate remedy is required, the traveller—

(a) may remedy the lack of conformity; and

(b) is entitled to reimbursement of the necessary expenses.

(7) A traveller to whom paragraph (6)(a) applies is not required to—

(a) set a reasonable period pursuant to paragraph (4), and

(b) if such a period has been set, wait until the end of the period,

before the traveller remedies the lack of conformity.

(8) Where the organiser is unable to provide a significant proportion of the travel services as agreed in the package travel contract, the organiser must offer, at no extra cost to the traveller, suitable alternative arrangements of, where possible, equivalent or higher quality than those specified in the contract, for the continuation of the package, including where the traveller's return to the place of departure is agreed.

(9) Where the organiser offers proposed alternative arrangements which result in a package of lower quality than that specified in the package travel contract, the organiser must grant the traveller an appropriate price reduction.

(10) The traveller may reject the proposed alternative arrangements offered under paragraph (8) only if—

- (a) they are not comparable to the arrangements which were agreed in the package travel contract; or
- (b) the price reduction granted is inadequate.

(11) Where—

- (a) a lack of conformity substantially affects the performance of the package; and
- (b) the organiser fails to remedy the lack of conformity within the reasonable period,

the traveller may terminate the package travel contract without paying a termination fee and, where appropriate, is entitled to a price reduction, or compensation for damages, or both, in accordance with regulation 16.

(12) If—

- (a) the organiser is unable to make alternative arrangements, or
- (b) the traveller rejects the proposed alternative arrangements in accordance with paragraph (10),

the traveller is, where appropriate, entitled to a price reduction, or compensation for damages, or both, in accordance with regulation 16 without terminating the package travel contract.

(13) If the package includes the carriage of passengers, the organiser must, in the cases referred to in paragraphs (11) and (12), also provide repatriation of the traveller with equivalent transport without undue delay and at no extra cost to the traveller.

(14) Where the organiser is unable to ensure the traveller's return as agreed in the package travel contract because of unavoidable and extraordinary circumstances, the organiser must bear the cost of necessary accommodation, if possible of equivalent category—

- (a) for a period not exceeding 3 nights per traveller; or
- (b) where a different period is specified in the Union passenger rights legislation applicable to the relevant means of transport for the traveller's return, for the period specified in that legislation.

(15) The limitation of costs referred to in paragraph (14) does not apply to persons with reduced mobility as defined in point (a) of Article 2 of Regulation (EC) No 1107/2006 of the European Parliament and of the Council, concerning the rights of disabled persons and persons with reduced mobility when travelling by air⁽¹³⁾ and any person accompanying them, pregnant women and unaccompanied minors, as well as persons in need of specific medical assistance, provided that the organiser has been notified of their particular needs at least 48 hours before the start of the package.

(16) The organiser's liability under paragraph (14) may not be limited by reason of unavoidable and extraordinary circumstances if the relevant transport provider may not rely on such circumstances under the applicable Union passenger rights legislation.

Price reduction and compensation for damages

16.—(1) The provisions of this regulation are implied as a term in every package travel contract.

(13) OJ No L 2004, 26.7.2006, p. 1. Point (a) of Article 2 provides that 'person with reduced mobility' means "any person whose mobility when using transport is reduced due to any physical disability (sensory or locomotor, permanent or temporary), intellectual disability or impairment, or any other cause of disability, or age, and whose situation needs appropriate attention and the adaptation to his or her particular needs of the service made available to all passengers".

(2) The organiser must offer the traveller an appropriate price reduction for any period during which there is a lack of conformity, unless the organiser proves that the lack of conformity is attributable to the traveller.

(3) The organiser must offer the traveller, without undue delay, appropriate compensation for any damage which the traveller sustains as a result of any lack of conformity.

(4) The traveller is not entitled to compensation for damages under paragraph (3) if the organiser proves that the lack of conformity is—

- (a) attributable to the traveller;
- (b) attributable to a third party unconnected with the provision of the travel services included in the package travel contract and is unforeseeable or unavoidable; or
- (c) due to unavoidable and extraordinary circumstances.

(5) In so far as the international conventions limit the extent of, or the conditions under which, compensation is to be paid by a provider carrying out a travel service which is part of a package, the same limitations are to apply to the organiser.

(6) In other cases, the package travel contract may limit compensation to be paid by the organiser as long as that limitation—

- (a) does not apply to personal injury or damage caused intentionally or with negligence or does not limit any liability that cannot be limited by law; and
- (b) does not amount to less than 3 times the total price of the package.

(7) Any right to compensation or price reduction under these Regulations does not affect the rights of travellers under—

- (a) the Union passenger rights legislation; and
- (b) the international conventions.

(8) Travellers may present claims under—

- (a) these Regulations;
- (b) the Union passenger rights legislation; and
- (c) the international conventions.

(9) Where a traveller is granted compensation or a price reduction under—

- (a) these Regulations, and
- (b) the Union passenger rights legislation or the international conventions,

the organiser must deduct the compensation or price reductions referred to in sub-paragraph (b) from the compensation or price reduction referred to in sub-paragraph (a) to avoid overcompensation.

(10) In this regulation, the “international conventions” means—

- (a) the Carriage by Air Conventions, within the meaning given in section 1(5) of the Carriage by Air Act 1961⁽¹⁴⁾;
- (b) the Athens Convention of 1974 on the Carriage of Passengers and their Luggage by Sea⁽¹⁵⁾;
- (c) the Convention of 1980 concerning International Carriage by Rail (COTIF)⁽¹⁶⁾.

(14) 1961 c. 27. Section 1 was substituted by S.I. 2002/263.

(15) Council Decision 2012/22/EU of 12 December 2011 concerning the accession of the European Union to the Protocol of 2002 to the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974, with the exception of Articles 10 and 11 thereof (OJ L8, 12.1.2012, p. 1).

(16) Council Decision 2013/103/EU of 16 June 2011 on the signing and conclusion of the Agreement between the European Union and the Intergovernmental Organisation for International Carriage by Rail on the Accession of the European Union to the Convention concerning International Carriage by Rail (COTIF) of 9 May 1980, as amended by the Vilnius Protocol of 3 June 1999 (OJ L 51, 23.2.2013, p. 1).

Possibility of contacting the organiser via the retailer

- 17.—(1) The provisions of this regulation are implied as a term in every package travel contract.
- (2) The traveller may address messages, requests or complaints in relation to the performance of the package directly to the retailer through which it was purchased.
- (3) The retailer must forward those messages, requests or complaints to the organiser without undue delay.
- (4) For the purpose of compliance with time-limits or limitation periods, receipt of the messages, requests or complaints referred to in this regulation by the retailer are to be considered as receipt by the organiser.

Obligation to provide assistance

- 18.—(1) The provisions of this regulation are implied as a term in every package travel contract.
- (2) Where a traveller is in difficulty, the organiser must give appropriate assistance without undue delay, including in the circumstances referred to in regulation 15(14), in particular by—
- (a) providing appropriate information on health services, local authorities and consular assistance; and
 - (b) assisting the traveller to make distance communications and helping the traveller to find alternative travel arrangements.
- (3) The organiser may charge a fee for such assistance if the difficulty is caused intentionally by the traveller or through the traveller's negligence but that fee—
- (a) must be reasonable; and
 - (b) must not exceed the actual costs incurred by the organiser.

PART 5

Insolvency protection

Insolvency protection for packages

- 19.—(1) The organiser of a package who is established in the United Kingdom must provide effective security to cover, in the event of the organiser's insolvency, the reasonably foreseeable costs of—
- (a) refunding all payments made by or on behalf of travellers for any travel service not performed as a consequence of the insolvency, taking into account the length of the period between down payments and final payments and the completion of the packages; and
 - (b) if the carriage of passengers is included in the packages, and the performance of any package is affected by the insolvency, repatriating the traveller and, if necessary, financing the traveller's accommodation prior to the repatriation.
- (2) The organiser must provide the security under paragraph (1) to benefit travellers—
- (a) regardless of their place of residence, their place of departure or where the package is sold;
 - (b) irrespective of the member State where the entity in charge of the insolvency protection is located.
- (3) The organiser must provide the security—
- (a) under paragraph (1)(a), without undue delay after the traveller's request;
 - (b) under paragraph (1)(b), free of charge.

- (4) The organiser of a package who—
- (a) is not established in the United Kingdom or in any other member State, and
 - (b) sells or offers for sale a package in the United Kingdom, or by any means directs such activities to the United Kingdom,

must provide security in accordance with this Part.

(5) Without prejudice to paragraphs (1) to (4), and subject to paragraphs (6) to (8), the organiser must at least ensure that arrangements as described in—

- (a) regulation 20,
- (b) regulation 21,
- (c) regulation 22, or
- (d) regulations 23 and 24,

are in force.

(6) Paragraph (5) does not apply to a package to the extent that—

- (a) the package is covered by measures adopted or retained by the member State where the organiser is established for the purpose of Article 17 of the Directive; or
- (b) the package is one—
 - (i) in respect of which the organiser is required to hold a licence under the Civil Aviation (Air Travel Organisers' Licensing) Regulations 2012(17); or
 - (ii) that is covered by the arrangements the organiser has entered into for the purposes of those Regulations.

(7) For the purposes of regulations 20 to 24, a contract is to be treated as having been fully performed if the package or, as the case may be, the part of the package, has been completed.

(8) For the purposes of paragraph (7), a package is to be deemed to have been completed whether or not there has been a lack of conformity.

(9) An organiser who fails to comply with any provision of paragraphs (1) to (5) commits an offence and is liable—

- (a) on summary conviction, to a fine in England and Wales, or in Scotland and Northern Ireland to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine.

(10) In the event of the organiser's insolvency, travellers may agree to continue the package where—

- (a) it is possible to do so; and
- (b) a person, other than that organiser, agrees to carry out the responsibilities of the organiser under the package travel contract.

(11) The Civil Aviation Authority is designated as a central contact point for the purposes of Article 18(2) and (3) of the Directive and may perform the duties imposed on central contact points by that Article.

Bonding

20.—(1) Where an organiser, for the purpose of regulation 19(5), relies on the arrangements under this regulation, the organiser must ensure that a bond is entered into by an authorised institution

under which the institution, in the event of the insolvency of the organiser, binds itself to pay to an approved body of which that organiser is a member—

- (a) a sum calculated in accordance with paragraphs (3) and (4); or
- (b) a sum calculated in accordance with paragraph (5), if the carriage of passengers is included in the packages and the performance of the packages is affected by the insolvency.

(2) Any bond entered into pursuant to paragraph (1) must not be in force for a period exceeding 18 months.

(3) The sum referred to in paragraph (1)(a) must be such sum as may reasonably be expected to enable all monies paid by or on behalf of travellers under or in contemplation of package travel contracts which have not been fully performed to be repaid and must not in any event be a sum which is less than the minimum sum calculated in accordance with paragraph (4).

(4) The minimum sum for the purposes of paragraph (3) must be a sum which represents—

- (a) not less than 25% of all the payments which the organiser estimates that the organiser will receive under or in contemplation of package travel contracts in the 12-month period from the date of entry into force of the bond referred to in paragraph (1), or
- (b) the maximum amount of all the payments which the organiser expects to hold at any one time, in respect of contracts which have not been fully performed,

whichever sum is the smaller.

(5) The sum referred to in paragraph (1)(b) must be no less than—

- (a) the minimum sum calculated in accordance with paragraph (4); and
- (b) such additional sum as the organiser may reasonably expect to be required to cover the reasonably foreseeable costs of repatriating the travellers and, if necessary, financing the travellers' accommodation prior to the repatriation.

(6) Before a bond is entered into pursuant to paragraph (1)—

- (a) the organiser must inform the approved body of which the organiser is a member of the minimum sum which the organiser proposes for the purposes of paragraph (3) or, where relevant, paragraph (5);
- (b) the approved body must consider whether such sum is sufficient for those purposes; and
- (c) if the approved body does not consider that the sum is sufficient for those purposes, the approved body must—
 - (i) inform the organiser that this is the case, and
 - (ii) state the sum which, in the opinion of the approved body, is sufficient for those purposes.

(7) Where an approved body states a sum pursuant to paragraph (6)(c)(ii), the minimum sum for the purposes of paragraph (3) or, where relevant, paragraph (5), is to be that sum.

(8) In this regulation—

“approved body” means a body which is for the time being approved by the Secretary of State for the purposes of this regulation;

“authorised institution” means a person authorised under the law of the United Kingdom or of a member State, the Channel Islands or the Isle of Man to carry on the business of entering into bonds of the kind required by this regulation.

Bonding where approved body has reserve fund or insurance

21.—(1) Where an organiser, for the purpose of regulation 19(5), relies on the arrangements under this regulation, the organiser must ensure that a bond is entered into by an authorised institution,

under which the institution, in the event of the organiser's insolvency, agrees to pay to an approved body of which the organiser is a member a sum calculated in accordance with —

- (a) paragraphs (3) and (4);
 - (b) paragraph (5), if the carriage of passengers is included in the packages and the performance of the packages is affected by the insolvency.
- (2) Any bond entered into pursuant to paragraph (1) must not be in force for a period exceeding 18 months.
- (3) The sum referred to in paragraph (1)(a) must be such sum as may be specified by the approved body as representing the lesser of—
- (a) the maximum amount of all the payments which the organiser expects to hold at any one time in respect of contracts which have not been fully performed; or
 - (b) the minimum sum calculated in accordance with paragraph (4).
- (4) The minimum sum for the purposes of paragraph (3) must be a sum which represents not less than 10% of all the payments which the organiser estimates that the organiser will receive under or in contemplation of package travel contracts in the 12-month period from the date of entry into force of the bond referred to in paragraph (1).
- (5) The sum referred to in paragraph (1)(b) must be no less than—
- (a) the minimum sum calculated in accordance with paragraph (4); and
 - (b) such additional sum as may be specified by the approved body as representing the amount required to cover the costs of repatriating the travellers and, if necessary, financing the travellers' accommodation prior to the repatriation.
- (6) In this regulation, "approved body" means a body which is for the time being approved by the Secretary of State for the purposes of this regulation and no such approval is to be given unless the conditions mentioned in paragraph (7) are satisfied in relation to it.
- (7) A body may not be approved for the purposes of this regulation unless—
- (a) it has a reserve fund or insurance cover with an insurer authorised in respect of such business in the United Kingdom, a member State, the Channel Islands or the Isle of Man of an amount in each case which is designed to enable—
 - (i) in the event of the insolvency of the member, the refund of all payments made by or on behalf of travellers for any travel service not fully performed as a consequence of the insolvency; and
 - (ii) the costs of repatriating the travellers and, if necessary, financing the travellers' accommodation prior to the repatriation to be covered, where the carriage of passengers is included in the packages and the performance of the packages is affected by the insolvency; and
 - (b) where it has a reserve fund, it agrees that the fund will be held by persons and in a manner approved by the Secretary of State.
- (8) In this regulation, "authorised institution" has the meaning given in regulation 20(8).

Insurance

22.—(1) Where an organiser, for the purpose of regulation 19(5), relies on the arrangements under this regulation, the organiser must have insurance under one or more appropriate policies with an insurer authorised in respect of such business in the United Kingdom, a member State, the Channel Islands or the Isle of Man, under which the insurer agrees to indemnify travellers in the event of the insolvency of the organiser.

(2) The organiser must ensure that travellers are insured persons under the policy required under paragraph (1) in respect of the costs referred to in paragraph (4)(b).

(3) The organiser must ensure that it is a term of every package travel contract that the traveller acquires the benefit of a policy of a kind mentioned in paragraph (1) in the event of the organiser's insolvency.

(4) In this regulation, "appropriate policy" means one which—

(a) does not contain a condition which provides (in whatever terms) that no liability arises under the policy, or that any liability so arising ceases—

(i) in the event of some specified thing being done or omitted to be done after the happening of the event giving rise to a claim under the policy;

(ii) in the event of the policy holder not making payments under or in connection with other policies; or

(iii) unless the policy holder keeps specified records or makes available to, or provides the insurer with, information from those records; and

(b) covers the costs of—

(i) refunding all payments made by or on behalf of travellers for any travel service not fully performed as a consequence of the insolvency, taking into account the length of the period between down payments and final payments and the completion of the packages; and

(ii) if the carriage of passengers is included in the package, and the performance of the package is affected by the insolvency, repatriating the traveller and, if necessary, financing the traveller's accommodation prior to the repatriation.

Monies in trust

23.—(1) Where an organiser, for the purpose of regulation 19(5), relies on the arrangements under this regulation, the organiser must ensure that—

(a) all monies, or

(b) where regulation 24(3) applies, a lesser sum in accordance with that regulation,

paid by or on behalf of a traveller under or in contemplation of a package travel contract are held in the United Kingdom or a member State by a person as trustee for the traveller.

(2) The monies are to be held under paragraph (1) until—

(a) the contract has been fully performed; or

(b) any sum of money paid by or on behalf of the traveller in respect of the contract—

(i) has been repaid to the traveller; or

(ii) has been forfeited on cancellation by the traveller.

(3) The person appointed as trustee for the purposes of paragraph (1) must be independent of the organiser.

(4) The costs of administering the trust mentioned in paragraph (1) must be paid for by the organiser.

(5) Any interest which is earned on the monies held by the trustee pursuant to paragraph (1) must be held for the organiser and must be payable to the organiser on demand.

(6) Where there is produced to the trustee a statement signed by the organiser to the effect that—

(a) a package travel contract, the price of which is specified in that statement, has been fully performed,

- (b) the organiser has repaid to the traveller a sum of money specified in that statement which the traveller had paid in respect of a package travel contract, or
- (c) the traveller has on cancellation forfeited a sum of money specified in that statement which the traveller had paid in respect of a package travel contract,

the trustee must release to the organiser the sum specified in the statement.

(7) Where the trustee considers it appropriate to do so, the trustee may require the organiser to provide further information or evidence of the matters mentioned in sub-paragraph (a), (b) or (c) of paragraph (6) before the trustee releases any sum to the organiser pursuant to that paragraph.

(8) In the event of the organiser's insolvency, the monies held in trust by the trustee pursuant to paragraph (1) of this regulation must be applied to meet the claims of travellers who are creditors of that organiser in respect of package travel contracts in respect of which the trust mentioned in paragraph (1) has been established and which have not been fully performed.

(9) If there is a surplus after those claims have been met, it is to form part of the estate of the organiser for the purposes of insolvency law.

Insurance where monies are held in trust

24.—(1) This regulation applies to any organiser who, for the purpose of regulation 19(5), makes arrangements under regulation 23.

(2) Where the organiser offers packages which include the carriage of passengers, the organiser must have insurance under one or more appropriate policies with an insurer authorised in respect of such business in accordance with regulation 22(1), under which, in the event of the insolvency of the organiser, the insurer agrees to cover the costs of—

- (a) repatriating the traveller who has purchased a relevant package; and
- (b) if necessary, financing the traveller's accommodation prior to the repatriation.

(3) Where paragraph (4) applies, an organiser—

- (a) is not required, under regulation 23(1)(a), to ensure that all monies paid by a traveller under or in contemplation of a package travel contract are held in accordance with regulation 23; and
- (b) may, instead, ensure that a part of those monies only (the "lesser sum") is held in accordance with regulation 23, as the case may be.

(4) This paragraph applies if the organiser has insurance under one or more appropriate policies with an insurer authorised in respect of such business in accordance with regulation 22(1), under which, in the event of the insolvency of the organiser, the insurer agrees to cover the relevant amount.

(5) Where paragraph (2) or (4) applies, the organiser must ensure that it is a term of the relevant package travel contract that the traveller acquires the benefit of a policy of a kind mentioned in paragraph (2) or (3) in the event of the organiser's insolvency.

(6) In this regulation, an "appropriate policy" means one which does not contain a condition which provides (in whatever terms) that no liability arises under the policy, or that any liability so arising ceases—

- (a) in the event of some specified thing being done or omitted to be done after the happening of the event giving rise to a claim under the policy;
- (b) in the event of the policy holder not making payments under or in connection with other policies; or
- (c) unless the policy holder keeps specified records or provides the insurer with, or makes available to, the insurer information from those records.

(7) In paragraph (4), “the relevant amount” means such amount in excess of the lesser sum, as may be required to cover the costs of refunding the traveller for any travel service not fully performed as a consequence of the insolvency, taking into account the length of the period between down payments and final payments and the completion of the package.

Offences arising from breach of regulation 23

25. If the organiser makes a false statement under regulation 23(6), the organiser commits an offence and is liable—

- (a) on summary conviction, to a fine in England and Wales, or in Scotland and Northern Ireland to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine.

Insolvency protection and information requirements for linked travel arrangements

26.—(1) Any trader who facilitates a linked travel arrangement and is established in the United Kingdom must provide effective security to cover, in the event of the trader’s insolvency, the reasonably foreseeable costs of—

- (a) refunding all payments the trader receives from travellers for any travel service which is part of the linked arrangement and is not performed as a consequence of the trader’s insolvency, taking into account the length of the period between down payments and final payments and the completion of the linked travel arrangements; and
 - (b) if the trader is the party responsible for the carriage of passengers, and the performance of the linked travel arrangement is affected by the insolvency, the traveller’s repatriation and, if necessary, financing the traveller’s accommodation prior to the repatriation.
- (2) The trader must provide the security under paragraph (1) to benefit travellers—
- (a) regardless of their place of residence, their place of departure or where the package is sold; and
 - (b) irrespective of the member State where the entity in charge of the insolvency protection is located.
- (3) The trader must provide the security—
- (a) under paragraph (1)(a), without undue delay; and
 - (b) under paragraph (1)(b), free of charge.
- (4) Any trader who—
- (a) is not established in the United Kingdom or in any other member State, and
 - (b) sells or offers for sale a linked travel arrangement in the United Kingdom, or by any means directs such activities to the United Kingdom,

must provide security in accordance with this regulation in respect of those arrangements.

(5) Without prejudice to paragraphs (1) to (4) and subject to paragraph (6), the trader must at least ensure that arrangements as described in—

- (a) regulation 20,
- (b) regulation 21,
- (c) regulation 22, or
- (d) regulations 23 and 24,

are in force and, for that purpose, a reference in those regulations to “organiser” is to be read as a reference to “trader”, a reference to “package” or “package travel contract” is to be read as a reference

to “linked travel arrangement” and a reference to regulation 19(5) is to be read as a reference to this paragraph.

(6) Paragraph (5) does not apply to a linked travel arrangement to the extent that the linked travel arrangement—

- (a) is one which is covered by measures adopted or retained by the member State where the trader is established for the purpose of Article 17 of the Directive; or
- (b) includes a travel service —
 - (i) in respect of which the trader is required to hold a licence under the Civil Aviation (Air Travel Organisers’ Licensing) Regulations 2012; or
 - (ii) which is covered by the arrangements the trader has entered into for the purposes of those Regulations.

(7) Before the traveller is bound by any contract leading to the creation of a linked travel arrangement, the trader facilitating linked travel arrangements, including where the trader is not established in a member State but, by any means directs such activities to a member State, must—

- (a) state in a clear, comprehensible and prominent manner that the traveller—
 - (i) will not benefit from any of the rights applying exclusively to packages under these Regulations and that each service provider will be solely responsible for the proper contractual performance of the service;
 - (ii) will benefit from insolvency protection in accordance with paragraphs (1) to (5); and
- (b) provide the traveller with a copy of these Regulations.

(8) In order to comply with paragraph (7), the trader facilitating a linked travel arrangement must provide the traveller with the information referred to in that paragraph—

- (a) using the form and wording set out in Schedule 6, where the trader facilitates an online linked travel arrangement within the meaning of regulation 2(3)(a) and the trader is a carrier selling a return ticket;
- (b) using the form and wording set out in Schedule 7, where the trader facilitates an online linked travel arrangement within the meaning of regulation 2(3)(a) and the trader is not a carrier selling a return ticket;
- (c) using the form and wording set out in Schedule 8, where the linked travel arrangement is an arrangement within the meaning of regulation 2(3)(a) and the contract is concluded in the simultaneous physical presence of the trader (other than a carrier selling a return ticket) and the traveller;
- (d) using the form and wording set out in Schedule 9, where the trader facilitates an online linked travel arrangement within the meaning of regulation 2(3)(b) and the trader is a carrier selling a return ticket; and
- (e) using the form and wording set out in Schedule 10, where the trader facilitates an online linked travel arrangement within the meaning of regulation 2(3)(b) and the trader not a carrier selling a return ticket.

(9) Where a linked travel arrangement is not an arrangement of the kind described in subparagraphs (a) to (e) of paragraph (8), the trader must provide the information referred to in paragraph (7)—

- (a) in any form set out in Schedule 6, 7, 8, 9 or 10 which the trader considers is most appropriate for the purposes of providing the information, taking into account the particular circumstances of the linked travel arrangement being facilitated; and
- (b) if necessary, making such amendments to that form as are reasonably required to provide the information clearly.

(10) A trader who fails to comply with any provision of paragraphs (1) to (9) commits an offence and is liable—

- (a) on summary conviction, to a fine in England and Wales, or in Scotland and Northern Ireland to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine.

(11) Where the trader facilitating a linked travel arrangement does not comply with the requirements set out in this regulation, the rights and obligations specified in regulations 9 and 12 to 14 and in Part 4 apply in relation to the travel services included in the linked travel arrangement.

(12) Where a linked travel arrangement is the result of the conclusion of a contract between a traveller and a trader who does not facilitate the linked travel arrangement, that trader must inform the trader facilitating the linked travel arrangement of the conclusion of the relevant contract.

PART 6

General provisions

Specific obligations of the retailer where the organiser is established outside the European Economic Area

27. Where—

- (a) an organiser is established outside the European Economic Area, and
- (b) a retailer established in the United Kingdom sells or offers for sale packages combined by that organiser,

the retailer is subject to the obligations for organisers set out in Parts 4 and 5, unless the retailer provides evidence that the organiser complies with those Parts.

Liability for booking errors

28.—(1) The provisions of this regulation are implied as a term in every package travel contract.

(2) A trader is liable—

- (a) for any errors due to technical defects in the booking system which are attributable to that trader; and
- (b) where the trader agrees to arrange the booking of a package or of travel services which are part of linked travel arrangements, for the errors made during the booking process.

(3) A trader is not liable for booking errors which—

- (a) are attributable to the traveller; or
- (b) are caused by unavoidable and extraordinary circumstances.

Right of redress

29. Where an organiser or, in a case under regulation 27, a retailer—

- (a) pays compensation,
- (b) grants a price reduction, or
- (c) meets the other obligations incumbent on the organiser or the retailer under these Regulations,

the organiser or retailer may seek redress from any third parties which contributed to the event triggering compensation, a price reduction or other obligations.

Rights and obligations under these Regulations

30.—(1) A declaration by an organiser of a package or a trader facilitating a linked travel arrangement that—

- (a) the organiser or trader is acting exclusively as a travel service provider, as an intermediary or in any other capacity, or
- (b) a package or a linked travel arrangement does not constitute a package or a linked travel arrangement,

does not absolve that organiser or trader from the obligations imposed upon them under these Regulations.

(2) A traveller may not waive any right granted to the traveller by these Regulations.

(3) Any contractual arrangement or any statement by the traveller which—

- (a) directly or indirectly waives or restricts the rights conferred on travellers pursuant to these Regulations, or
- (b) aims to circumvent the application of these Regulations,

is not binding on the traveller.

PART 7

Enforcement

Enforcement authority

31.—(1) Every local weights and measures authority in Great Britain is to be an enforcement authority for the purposes of regulations 5, 7, 19, 25 and 26 (“the relevant regulations”), and it is the duty of each such authority to enforce those provisions within their area.

(2) The Civil Aviation Authority is to be an enforcement authority for the purposes of the relevant regulations.

(3) The Department for the Economy in Northern Ireland is to be an enforcement authority for the purposes of the relevant regulations, and it is the duty of the Department to enforce those provisions within Northern Ireland.

Due diligence defence

32.—(1) Subject to the following provisions of this regulation, in proceedings against any person for an offence under regulation 5(5), 7(12), 19(9), 25 or 26(10), it is a defence for that person to show that the person took all reasonable steps and exercised all due diligence to avoid committing the offence.

(2) Where in any proceedings against any person for such an offence the defence provided by paragraph (1) involves an allegation that the commission of the offence was due to—

- (a) the act or default of another; or
- (b) reliance on information given by another,

that person is not, without the leave of the court, entitled to rely on the defence unless, at least 7 clear days before the hearing of the proceedings, or, in Scotland, the trial diet, the person has served a notice under paragraph (3) on the person bringing the proceedings.

(3) A notice under this paragraph must give such information identifying or assisting in the identification of the person who committed the act or default or gave the information as is in the possession of the person serving the notice at the time the person serves it.

(4) A person is not entitled to rely on the defence provided by paragraph (1) by reason of the person's reliance on information supplied by another, unless the person shows that it was reasonable in all the circumstances for the person to have relied on the information, having regard in particular to—

- (a) the steps which the person took, and those which might reasonably have been taken, for the purpose of verifying the information; and
- (b) whether the person had any reason to disbelieve the information.

Liability of persons other than the principal offender

33.—(1) Where the commission by any person of an offence under regulation 5(5), 7(12), 19(9), 25 or 26(10) is due to an act or default committed by some other person in the course of any business of that person, the other commits the offence and may be proceeded against and punished by virtue of this paragraph whether or not proceedings are taken against the first-mentioned person.

(2) Where a body corporate commits an offence under any of the provisions mentioned in paragraph (1) (including where it is so committed by virtue of that paragraph) in respect of any act or default which is shown to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, both that person and the body corporate commit that offence and are liable to be proceeded against and punished accordingly.

(3) Where the affairs of a body corporate are managed by its members, paragraph (2) applies in relation to the acts and defaults of a member in connection with that member's functions of management as if the member were a director of the body corporate.

(4) Where an offence under any of the provisions mentioned in paragraph (1) committed in Scotland by a Scottish partnership is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of, a partner, the partner (as well as the partnership) commits the offence and liable to be proceeded against and punished accordingly.

Prosecution time limit

34.—(1) No proceedings for an offence under regulation 5(5), 7(12), 19(9), 25 or 26(10) is to be commenced after—

- (a) the end of the period of 3 years beginning within the date of the commission of the offence, or
- (b) the end of the period of 1 year beginning with the date of the discovery of the offence by the prosecutor,

whichever is the earlier.

(2) For the purposes of this regulation, a certificate signed by or on behalf of the prosecutor and stating the date on which the offence was discovered by the prosecutor is conclusive evidence of that fact; and a certificate stating that matter and purporting to be so signed is to be treated as so signed unless the contrary is proved.

(3) In relation to proceedings in Scotland, subsection (3) of section 331 of the Criminal Procedure (Scotland) Act 1975(18) applies for the purposes of this regulation as it applies for the purposes of that section.

Saving for civil consequences

35. No contract is void or unenforceable, and no right of action in civil proceedings in respect of any loss arises, by reason only of the commission of an offence under regulations 5(5), 7(12), 19(9), 25 or 26(10).

Terms implied in contract

36. Where it is provided in these Regulations that a term or condition is implied in the contract it is so implied irrespective of the law which governs the contract.

PART 8

Revocation, savings and consequential provisions

Revocation and savings

37.—(1) Subject to paragraph (2), the following Regulations are revoked—

- (a) the Package Travel, Package Holidays and Package Tours Regulations 1992(**19**) (“the 1992 Regulations”);
- (b) the Package Travel, Package Holidays and Package Tours (Amendment) Regulations 1995(**20**);
- (c) the Package Travel, Package Holidays and Package Tours (Amendment) Regulations 1998(**21**).

(2) The revocations made by paragraph (1) do not have effect in relation to any contract which was concluded under the 1992 Regulations before the commencement date.

(3) For the purposes of paragraph (2), “contract” has the meaning given in regulation 2(1) of the 1992 Regulations.

Consequential amendments

38.—(1) Subject to paragraph (15), the following consequential amendments have effect.

(2) In the Scotland Act 1998(**22**), in Schedule 5, in Part 2, in Section C7, for “Package Travel, Package Holidays and Package Tours Regulations 1992”, substitute “Package Travel and Linked Travel Arrangements Regulations 2018”.

(3) In the Enterprise Act 2002(**23**), in Schedule 13, in Part 1, for paragraph 4, substitute—

“**4.** Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC.”.

(4) In the Government of Wales Act 2006, in Schedule 7A, in Part 2, in paragraph 74(c), for “package travel”, substitute “linked travel arrangements within the meaning of the Package Travel and Linked Travel Arrangements Regulations 2018 (S.I. 2018/XXX)”.

(19) S.I. 1992/3288, amended by S.I. 1995/1648, 1998/1208, 2003/1376, 2003/1400, 2011/1043 and 2015/1630.

(20) S.I. 1995/1648.

(21) S.I. 1998/1208.

(22) 1998 c. 46. There are amendments to Section C7 but none are relevant to these Regulations.

(23) 2002 c. 40. There are amendments to Part 1 but none are relevant to these Regulations.

- (5) In the Consumer Rights Act 2015(24), in Schedule 5—
- (a) in Part 1, in paragraph 3(1), before paragraph (gb), insert—
- “(gc) the Civil Aviation Authority, for the purposes of the Package Travel and Linked Travel Arrangements Regulations 2018 (S.I. 2018/XXX),”;
- (b) in Part 2, in paragraph 10, for the words from “paragraph 1 of Schedule 3” to “(SI 1992/3288)”, substitute “regulation 31 of the Package Travel and Linked Travel Arrangements Regulations 2018 (S.I. 2018/XXX)”.
- (6) In the Price Indications (Resale of Tickets) Regulations (Northern Ireland) 1995(25), in regulation 3(3)—
- (a) after “a package”, insert “travel contract”;
- (b) for “Package Travel, Package Holidays and Package Tours Regulations 1992”, substitute “Package Travel and Linked Travel Arrangements Regulations 2018”.
- (7) In the Enterprise Act 2002 (Part 8 Community Infringements Specified UK Laws) Order 2003(26), in the Schedule—
- (a) for “Council Directive 90/314/EEC of 13th June 1990 on package travel, package holidays and package tours”, substitute “Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC”;
- (b) for “Package Travel, Package Holidays and Package Tours Regulations 1992”, substitute “the Package Travel and Linked Travel Arrangements Regulations 2018”.
- (8) In the Enterprise Act 2002 (Part 8 Notice to OFT of Intended Prosecution Specified Enactments, Revocation and Transitional Provision) Order 2003(27), in the Schedule, for “Package Travel, Package Holidays and Package Tours Regulations 1992”, substitute “Package Travel and Linked Travel Arrangements Regulations 2018”.
- (9) In the Enterprise Act 2002 (Part 9 Restriction on Disclosure of Information)(Amendment and Specification) Order 2003(28), in Schedules 3 and 4, for “Package Travel, Package Holidays and Package Tours Regulations 1992”, substitute “Package Travel and Linked Travel Arrangements Regulations 2018”.
- (10) In the Civil Aviation (Provision of Information to Passengers) Regulations 2006(29), in regulation 2(1), in the definition of “tour operator”, for the words from “paragraph 2” to the end, substitute “paragraph (8) of Article 3 of Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC”.
- (11) In the Legislative and Regulatory Reform (Regulatory Functions) Order 2007(30), in the Schedule, in Part 3, for “Package Travel, Package Holidays and Package Tours Regulations 1992”, substitute “Package Travel and Linked Travel Arrangements Regulations 2018” ;
- (12) In the Co-ordination of Regulatory Enforcement (Regulatory Functions in Scotland and Northern Ireland) Order 2009(31), in Schedule 1, in Part 2, for “Package Travel, Package Holidays

(24) 2015 c. 15. There are amendments to Parts 1 and 2 but none are relevant to these Regulations.

(25) S.I. 1995/258.

(26) S.I. 2003/1374. There are amendments to this Order but none are relevant to these Regulations.

(27) S.I. 2003/1376, to which there are amendments not relevant to these Regulations.

(28) S.I. 2003/1400, to which there are amendments not relevant to these Regulations.

(29) S.I. 2006/3303.

(30) S.I. 2007/3544, to which there are amendments not relevant to these Regulations.

(31) S.I. 2009/669, to which there are amendments not relevant to these Regulations.

and Package Tours Regulations 1992”, substitute “Package Travel and Linked Travel Arrangements Regulations 2018”.

(13) In the Timeshare, Holiday Products, Resale and Exchange Contracts Regulations 2010⁽³²⁾, in regulation 37 and in the heading to that regulation, for “Package Travel, Package Holidays and Package Tours Regulations 1992”, substitute “Package Travel and Linked Travel Arrangements Regulations 2018”.

(14) In the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013⁽³³⁾, in regulation 6(1), for sub-paragraph (g), substitute—

“(g) a package travel contract, within the scope of Directive (EU) 2015/2302 of the European Parliament and of the Council on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC;”.

(15) The amendments made by this regulation do not have effect in relation to any contract which was concluded under the Package Travel, Package Holidays and Package Tours Regulations 1992 (“the 1992 Regulations”) before the commencement date.

(16) For the purposes of paragraph (15), “contract” has the meaning given in regulation 2(1) of the 1992 Regulations.

PART 9

Review provisions

Review

39.—(1) The Secretary of State must, from time to time—

- (a) carry out a review of the regulatory provision contained in these Regulations; and
- (b) publish a report setting out the conclusions of the review.

(2) The first report must be published before 1st July 2023.

(3) Subsequent reports must be published at intervals not exceeding 5 years.

(4) Section 30(3) of the Small Business, Enterprise and Employment Act 2015⁽³⁴⁾ requires that a review carried out under this regulation must, so far as is reasonable, have regard to how the Directive is implemented in other member States.

(5) Section 30(4) of the Small Business, Enterprise and Employment Act 2015 requires that a report published under this regulation must, in particular—

- (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a);
- (b) assess the extent to which those objectives are achieved;
- (c) assess whether those objectives remain appropriate; and
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(6) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).

⁽³²⁾ S.I. 2010/2960, to which there are amendments not relevant to these Regulations.

⁽³³⁾ S.I. 2013/3134, to which there are amendments not relevant to these Regulations.

⁽³⁴⁾ 2015 c. 26. Section 30(3) was amended by section 19 of the Enterprise Act 2016 (c. 12).

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK
Statutory Instrument: *The Package Travel and Linked Travel Arrangements Regulations 2018 No. 634*

Date

Name
Parliamentary Under Secretary of State
Department for Business, Energy and Industrial
Strategy