
DRAFT STATUTORY INSTRUMENTS

2018 No.

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

PART 5

Insolvency protection

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.