

Package tours and holidays

This guidance explains the types of holiday and holiday businesses to which the Package Travel, Package Holidays and Package Tours Regulations 1992 (<http://www.legislation.gov.uk/ukxi/1992/3288/contents/made>) apply, with particular reference to financial security arrangements. The regulations cover package holidays and it is important to understand the definition of a package holiday in determining whether or not you are caught by the legislation.

The regulations also cover other aspects of the package holiday business such as advertising, brochures, contracts, surcharges and compensation.

What is a package holiday?

The regulations define a 'package' as follows:

- the holiday must cover a period of at least 24 hours or involve overnight accommodation
- the holiday must consist of a combination of at least two of the following components:
 - transport (e.g. flights, trains, coaches and ferries (free transfers from the airport to a hotel would not be included)
 - accommodation (this should be significant, i.e. it would include a berth on a cruise ship but not on a cross-channel ferry)
 - other tourist services that form a significant proportion of the package (e.g. car hire)
- the holiday must be sold at an inclusive price

This definition may include holidays that the average member of the public would not think of as a 'package'. For example, many people would think of a package holiday as involving a trip of a few days or more abroad but a British holiday could also count as long as the above conditions are fulfilled. A cruise would also come under the regulations.

Pre-arranged selected (e.g. typical packages from holiday brochures) and tailor-made packages are both covered by the regulations, provided the combination of components are organised prior to completion of the contract. This could mean you selecting the holiday for the consumer where there is no suitable holiday found in a brochure or the customer selecting the components, e.g. the method of travel and the hotel - both are covered by the regulations. Note: it may be possible to offer this service without it necessarily being a package, as long as the consumer is fully aware of this fact.

It is becoming more common to offer holidays that are not packages. They may seem to be the same, as they include flights and accommodation, but care must be taken in how they are described to consumers who will not have the benefit of the package travel law. A holiday will not necessarily be a package if it is made quite clear there are two separate contracts, one with the airline and one with the accommodation provider. If you describe this practice using phrases such as 'dynamic packaging', 'tailor-made holiday' or 'flight plus hotel deal' these holidays may not be packages.

What constitutes 'other tourist services'?

If the provision of services (e.g. car hire, entertainment or sports facilities) is restricted to those who have paid for them in advance in the cost of their holiday, or if these services are a feature of the holiday, they are classed as 'other tourist services'. However, if an additional charge is made for the use of the facilities during the holiday, so that their use is optional, it is unlikely that they could be considered 'other tourist services'. For example, if the use of the hotel swimming pool is available to all who stay there, it is not a feature unique to that holiday. However, if swimming tuition is included in the price of the holiday, it is a component of the package.

Who needs to arrange security?

The regulations state that, if you are 'the other party' to a contract with a customer, providing them with a holiday that is classed as a package, you must provide evidence of the arrangements you have made (to secure money to refund customers should you be unable to complete the contract). The 'other party' can be the organiser, the retailer or both. Bonding can be arranged via a specialised insurance policy or via trade associations such as ABTA (<http://www.abta.com/>), AITO (<http://www.aito.co.uk/>), etc.

What is our responsibility?

As the 'other party to the contract', you are liable for the proper performance of the whole package holiday. This means that you have a responsibility for all individual components when put together and sold as a package.

Who is an 'organiser'?

An organiser is defined as the person who 'otherwise than occasionally' organises package holidays and sells them, or offers them for sale, either through a retailer or themselves. The term 'occasionally' is not defined by the regulations, but if a package is arranged on a regular basis, even if not frequently (e.g. only once a year) the person making the arrangements is an organiser.

Who is a 'retailer'?

A retailer is the person who sells, or offers for sale, package holidays put together by the organiser (this may be the same person).

'Home Authority Principle':

A trading standards service acting as a 'home' or 'originating' authority, places special emphasis on the legality of goods and services originating within its area. It aims to prevent infringements by offering advice and guidance at source, in order to maintain high standards of public protection at minimum cost. Therefore, if you have any specific questions on the interpretation of the regulations, and your business has a head office outside the area in which you operate, you are encouraged to ask your head office to seek the advice of their local trading standards service in the first instance.

Finally:

The Package Travel, Package Holidays and Package Tours Regulations 1992 (<http://www.legislation.gov.uk/ukxi/1992/3288/contents/made>) is just one piece of legislation trading standards services enforce that affects your business.

The Consumer Protection from Unfair Trading Regulations 2008 (<http://www.legislation.gov.uk/uksi/2008/1277/contents/made>) creates offences regarding misleading actions and omissions which will include price indications, facilities and accommodation. Penalties for breaches of the legislation can include a £5,000 fine, or if taken to the crown court, a prison sentence of up to two years. Injunctive action under the Enterprise Act 2002 (<http://www.legislation.gov.uk/ukpga/2002/40/contents>) may also be taken by the trading standards authority. See our leaflet 'A guide to the Consumer Protection from Unfair Trading Regulations 2008' (http://www.derbyshire.gov.uk/images/ft23_tcm9-71886.pdf).

Other civil legislation also applies including the Supply of Goods and Services Act 1982 (as amended) (<http://www.legislation.gov.uk/ukpga/1982/29/contents>) and the Unfair Terms in Consumer Contracts Regulations 1999 (<http://www.legislation.gov.uk/uksi/1999/2083/contents/made>). Advice or literature to assist you in complying with such issues is available on this website and from your local trading standards service.

The Office of Fair Trading has also published specific guidance regarding package travel contracts and the Unfair Terms in Consumer Contracts Regulations 1999 which is available via the OFT website (<http://www.oft.gov.uk/>). It is also worth noting that if you are putting together packages for the London Olympics in 2012, specific restrictions exist upon the use of the Olympic logo and certain other marketing terms, which may imply official approval. Further advice on the London Olympics Bill is available on the Department for Media, Culture and Sport website (<http://www.culture.gov.uk/>).

Where can I get further help?

This leaflet is not an authoritative document on the law and is only intended for guidance. For further details or clarification contact Derbyshire Trading Standards at:

Chatsworth Hall
Chesterfield Road
Matlock
Derbyshire
DE4 3FW

Telephone:

Businesses:	Call Derbyshire	08 456 058 058
Consumers:	Citizens Advice consumer helpline	08454 040506

Fax: 01629 536197

Website: www.derbyshire.gov.uk/tradingstandards

We want everyone to be able to understand us. On request, we will arrange:

- Language interpreters, including for sign language
- Translation of written materials into other languages
- Materials in large print, on tape or in Braille.

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http://www.derbyshire.gov.uk/images/ft21_tcm9-8208.pdf

or telephone us on 01629 536166.

