

Case law**Case Details**

National ID: [2013] EWCA Civ 1371

Member State: United Kingdom

Common Name: N/A

Decision type: Court decision in appeal

Decision date: 07/11/2013

Court: Court of Appeal, Civil Division

Subject:

Plaintiff: Moira Japp

Defendant: Virgin Holidays Limited

Keywords: consumer, liability, package, package travel

Directive Articles

Package Travel Directive, [Article 5](#) Package Travel Directive, [Article 5, 1.](#) Package Travel Directive, [Article 5, 2.](#) Package Travel Directive, [Article 5, 2., -](#) Package Travel Directive, [Article 5, 2., -](#) Package Travel Directive, [Article 5, 2., -](#)

Headnote

In determining whether the duty of a tour operator has been discharged, the local law standards at the time of installation/construction must be looked at in deciding whether a structural feature of a building complied with local standards, unless the standards make specific provision for further action to be taken in relation to a structural feature of an existing building.

Facts

The plaintiff whilst on a package holiday in Barbados in September 2008 suffered lacerations to her body when she walked into the closed balcony door, shattering the glass.

The plaintiff brought a personal injury claim against the defendant under the Package Travel, Package Holiday and Package Tours Regulations 1992 (the "Regulations") arguing that the balcony doors failed to comply with the local safety standards. Judgment was given in her favour in the county court. The defendant appealed against that decision.

Legal issue

Whether the local law standards to be applied as at the date of installation or as at the date of the accident in determining whether the tour operator has discharged its duty.

Decision

The court held that the local law standards, in relation to structural features, to be applied in the first instance are those at the time of installation.

The court held that there was no duty to require updates and changes to installation each time local standards are amended, unless provisions are made for further specific action in relation to a structural feature of any existing building.

On the facts, the material provisions of the standards did not require changes to be made to the structure of existing buildings and the balcony door failed to satisfy the local law standards at the time of installation.

URL: <http://www.bailii.org/ew/cases/EWCA/Civ/2013/1371.html>

Full text: [Full text](#)

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Legal Literature

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Result

The defendant's appeal was dismissed.