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No 1080

Package Tour Businesses Act

Helsinki, 28 November 1994

In accordance with the Resolution of Parliament it is hereby decreed:

**Chapter 1
General provisions**

§ 1

Right to run a package tour business

Package tour businesses may be run by natural or legal persons and foreign associations and institutions with a registered branch in Finland that are registered as package tour company operators in accordance with this Act.

§ 2

Definitions

For the purposes of this Act, the following shall have the meaning hereby assigned to them:

- 1) *running of a package tour business*: organisation, marketing or procurement of package tours coming under the scope of the Package Tours Act (1079/94);
- 2) *tour organiser*: a person running a package tour business who plans and runs package tours and markets them either himself or through the agency of another operator;
- 3) *travel agent*: a person running a package tour business who arranges package tour contracts on behalf of the tour organiser;
- 4) *traveller*: a person who has concluded a package tour contract with a person running a package tour business or who is entitled to take part in the tour on the basis of a contract which another person or an association has concluded with a package tour operator.

The provisions of this Act concerning tour organisers also apply to operators who for their own account market package tours arranged by someone else.

○ someone offers transport by charter flight directly to consumers, this is equated for the purposes of this Act with the organisation of package tours. The person marketing such travel is considered to be a tour organiser.

RP 32/94

EkUB 28/94

Annex XIX to EEA Agreement: Council Directive (90/314/EEC)

Chapter 2 Registration and its legal consequences

§ 3

Register of package tour businesses

The National Consumer Administration keeps a register of persons running a package tour business (*register of package tour businesses*). Information on the contents of the register is available to all. The information to be entered in the register of package tour businesses is laid down by decree.

§ 4

Application for registration and notification of changes

Anyone who intends to run a package tour business shall submit an application to the National Consumer Administration for entry in the register. The contents of the application is laid down by decree. Changes in the information entered in the register shall be notified without delay to the National Consumer Administration.

§ 5

Registration conditions

The National Consumer Administration shall register a person submitting an application in accordance with the first paragraph of § 4 as a package tour operator if

- 1) the person submitting the application is entitled to run a business in Finland, and
- 2) the person submitting the application has fulfilled the obligation to provide a security in accordance with this Act.

§ 6

Legal consequences of registration

Registration confers the right to run a package tour business as a tour organiser, travel agent or both in accordance with the conditions laid down when the decision on registration is taken.

Only a registered package tour operator may use the designation travel agency or package tour business for his firm or otherwise to state his activity.

§ 7

Removal from the register

The National Consumer Administration shall remove a package tour operator from the register if the registration conditions laid down in § 5 no longer obtain or if the registered person has ceased his activity. A package tour operator shall be given an opportunity to have his case heard before he is removed from the register.

Chapter 3 Security

§ 8

Provision of security

To cover his possible insolvency, a tour organiser shall furnish to the National Consumer Administration the approved security guaranteeing

- 1) return transport for travellers, if transport has been included in the contract,
- 2) accommodation of travellers at the destination up to the time of return transport, if accommodation has

been included in the contract, and

3) compensation to the consumer for charges paid in advance if the tour is cancelled or for the part of the price corresponding to the interrupted part of the tour if the tour is broken off.

A security must also be furnished by an agent acting for a foreign tour organiser who has not furnished a security himself in accordance with this Act. The agent shall in such cases furnish a security to cover the event of both his own and the principal's insolvency.

§ 9

Exemption from the obligation to furnish a security

Exemption from the obligation to furnish a security can be granted in accordance with provisions laid down by decree if, having regard to the nature and scale of the package tour business, it cannot be considered essential.

The National Consumer Administration takes the decision about such exemption. The civil service may revoke the exemption if there has been a significant change in the circumstances relating to the underlying reason.

§ 10

Acceptable security

An acceptable security is a guarantee, other surety or insurance

1) the amount of which can be deemed to cover the services mentioned in the first paragraph of § 8, and
2) which at the instance of the National Consumer Administration, once a package tour operator has been declared bankrupt or the National Consumer Administration has otherwise noted that a package tour operator is insolvent, can be used to fulfil an obligation to make a payment covered by the security.

Further requirements concerning the acceptability of the security are laid down by decree.

§ 11

Use of security

If the security is not sufficient for all the services mentioned in the first paragraph of § 8, claims are paid in the order laid down in that paragraph.

The decision about the use of the security is taken by the National Consumer Administration. The civil service decides one day in advance which traveller is to demand that the security be used to pay his claims.

§ 12

Obligation to notify changes which affect the security

A package tour operator shall notify the National Consumer Administration without delay of any change in the nature or scale of his activity that may affect his obligation to furnish a security or the acceptability of the security.

Chapter 4

Supervision and sanctions

§ 13

Supervision

The National Consumer Administration and, in accordance with civil service instructions, the county councils and the police authorities shall ensure that this Act and the provisions and regulations promulgated pursuant to it are implemented.

Any person running a package tour business shall on request give the supervisory authorities all documents, information and other particulars needed for supervision purposes.

§ 14

Sanctions

If somebody runs a package tour business without being registered as an operator or if somebody who runs a package tour business without having furnished a security engages in activity for which a security is required, the National Consumer Administration may forbid the operator to continue that activity.

If the security furnished by a package tour operator is no longer acceptable, the National Consumer Administration may request the operator to furnish a new security within a given period of time. If a new security is not furnished within that time, the National Consumer Administration may forbid the operator to continue the activity for which the security is required.

If a package tour operator fails to fulfil an obligation as laid down in § 12, § 13, second paragraph, or § 16, the National Consumer Administration may request the operator to fulfil such obligation within a given period of time.

The National Consumer Administration may prescribe fines to reinforce a prohibition or a request referred to in this section.

§ 15

Disclosure of confidential information

Notwithstanding any special provisions on business or professional confidentiality, the supervisory authority has the right to pass on confidential information to another authority for purposes of supervision or to the public prosecutor's office and investigatory authorities for the purposes of instituting legal proceedings or investigating a crime.

Chapter 5 Special provisions

§ 16

Accountant and book-keeping

A package tour operator who is obliged to furnish a security and who organises or markets package tours to other countries shall have an accountant or firm of auditors approved by the Central Chamber of Commerce or a chamber of commerce.

The information given to the National Consumer Administration shall on request be accompanied by a report from an accountant as referred to in the first paragraph.

A package tour business as referred to in the first paragraph shall organise its accounts in such a way that the information required for assessing the amount of the security can be obtained from them. Further provisions on book-keeping are promulgated by decree.

§ 17

Penalty provisions

Anyone who intentionally or through gross negligence

1) without being registered as a package tour operator runs a package tour business for which no security is required or uses the designation travel agency or package tour business, or

2) without furnishing a security runs a package tour business for which a security is required or gives the National Consumer Administration incorrect information about a circumstance which affects the need for a security or the acceptability of a security or omits to disclose such a circumstance and thereby weakens the traveller's economic guarantee,

shall, if a more severe penalty for the action is not laid down in another Act, be liable to a fine for a *package tour business misdemeanour*.

If, having regard to the economic benefit sought or to other circumstances, the action referred to in point 2) of the first paragraph, taken as a whole, must be considered serious, the perpetrator shall, if a more severe penalty for the action is not laid down in another Act, be liable to a fine or a maximum of six months' imprisonment for a *package tour business crime*.

For a misdemeanour as referred to in the first paragraph, a summons does not need to be issued if the misdemeanour was a minor one or the matter has been put right without delay.

A person who infringes a prohibition order or omits to comply with a request notified pursuant to this Act and reinforced with a fine cannot be penalised for the same action.

§ 18

Application for amendment

In a decision which the National Consumer Administration has communicated pursuant to § 14 and which concerns prescription of fines, a change may not be sought by means of an appeal.

A decision which the National Consumer Administration has communicated pursuant to §§ 7 and 9-11 shall be complied with even if it is appealed against, unless the appeal body decides otherwise.

§ 19

Delegation

Attached to the National Consumer Administration is a Delegation for Package Tour Questions, which is an advisory body on questions concerning the activity of package tour businesses. More detailed provisions regarding the Delegation's composition, competence to take decisions and tasks are laid down by decree.

Chapter 6
Entry into force and transitional provisions

§ 20
Entry into force

This Act enters into force on 1 July 1995.

It repeals the Decree of 9 July 1968 on travel agencies (442/68) and subsequent amendments. In the case of an operator who has been granted a licence pursuant to the repealed Decree on travel agencies and who at the time this Act enters into force is engaged in an activity covered thereby, §§ 1, 2 and 5a, 10, third paragraph, 13-18, 20-23 and 25 of the Decree on travel agencies apply until the operator has been entered in the register of package tour businesses, but for a maximum of one year from the time this Act enters into force.

The application for registration may be processed before the Act enters into force and the person making the application may be registered as a package tour operator when this Act enters into force.

§ 21
Transitional provisions

A person who has been granted a licence pursuant to the repealed Decree on travel agencies and who at the time this Act enters into force is engaged in an activity covered thereby shall, under threat of otherwise losing the licence, make an application for registration in accordance with § 4 of this Act within three months of its entry into force.

Notwithstanding the provisions of the first paragraph, an operator who at the time this Act enters into force is engaged in an activity covered thereby and who has made an application for registration in accordance with § 4 of this Act within six months of its entry into force may continue with such activity until the decision about inclusion in the register has been taken.

A person who at the time this Act enters into force is using the designation travel agency may, notwithstanding the second paragraph of § 6, continue with his activity under his previous style.

Helsinki, 28 November 1994

President of the Republic

Martti Ahtisaari

Minister Anneli Jäätteenmäki

2) *Act amending § 3 of the Act governing the right to run a business*

By Resolution of Parliament

§ 3.24 of the Act of 27 September 1919 governing the right to run a business is amended by Act No 483/87 of 8 May 1987 as follows:

§ 3

the following operations are governed by separate law or decree:

24) the running of package tour businesses.

3) *Act amending § 3 of the Act governing charter travel taxation*

By Resolution of Parliament

§ 3 of Act No 976/92 of 6 November 1992 on charter travel taxation is amended as follows:

§ 3

Tax liability

Travel agency or package tour operators and travel service operators or their agents are liable to tax.