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Package Tours Act

Chapter 1

Scope and derogations

§ 1. (1) This Act shall apply to contracts on the purchase of package tours entered into by a customer via an operator or agent acting on behalf of an operator. §§ 2, 3 and 5 shall also apply to the sale of a package tour.

(2) Unless otherwise provided herein, this Act and any provisions laid down pursuant hereto may not be deviated from on the basis of any previously existing arrangements to the detriment of the customer or any person assuming the latter's claims.

Chapter 2

Definitions

Package tours

§ 2. (1) "Package tour" means a combination of at least two of the following elements where they are offered by the operator together or are offered from the outset and sold together, and that the overall service provided is of over 24 hours' duration or includes an overnight stay:

- 1) transport,
- 2) accommodation,
- 3) other tourist services which are not directly connected with transport or accommodation but which form an essential part of a package.

(2) Separate invoicing of the elements referred to in subpara. (1) shall not imply that combinations thereof fall outside the scope of this Act.

Operator and agent

§ 3. (1) "Operator" means any person who organises a package tour and offers or sells this directly or via an agent, unless this activity is only carried out on an occasional basis.

(2) "Agent" means any person who offers or sells a package tour on behalf of an operator.

Customer

§ 4. (1) "Customer" means any person who purchases a package tour or on whose behalf a package tour is purchased. If a customer transfers package tour arrangements to another person, then the latter shall also be regarded as a customer.

Chapter 3

Information etc.

§ 5. (1) The price of a package tour shall be indicated clearly and in a manner easy to understand in brochures, advertisements and other marketing material.

(2) Information contained in a brochure, advertisement or other marketing material shall be considered part of any contract on the purchase of a package tour, unless the customer is notified of any changes prior to such contract being entered into.

(3) The Minister of Justice shall, after consultation with the Consumers' Ombudsman (*Forbrugerombudsmanden*), lay down more detailed rules governing information provided in brochures.

§ 6. (1) Before any contract is concluded, the operator shall inform the customer of its terms and shall provide information on requirements as regards passports, visas, vaccinations or similar prerequisites which have to be met in order for the package tour to go ahead. The operator shall provide confirmation of the terms of contract in writing or in some other form convenient to the customer, including a copy of the contract if this has been entered into in writing.

(2) The provisions of subpara. (1) may be deviated from to the extent necessary if the contract is entered into shortly before the package tour is due to begin.

§ 7. (1) Before the package tour begins, the operator shall provide the customer with information in writing or in some other suitable form about the practical arrangements for the tour.

§ 8. (1) The Minister of Justice shall stipulate the rules concerning the terms which contracts must contain and the information which must be provided to the customer under §§ 6 and 7.

Chapter 4

Cancellation, transferrability, price changes and contractual provisos

Cancellation

§ 9. (1) The customer may cancel a package tour. If he/she does so, the operator may only claim an appropriate payment fixed in accordance with the time of cancellation and the nature of the tour.

(2) The right to cancel provided for in subpara. (1) may be restricted or deviated from under the contract if the operator's right of cancellation vis-à-vis third parties is restricted.

(3) The customer may also cancel a package tour if, within a period of 14 days prior to its commencement, hostilities, natural disasters, life-endangering contagious diseases or other similar circumstances arise at, or in the immediate vicinity of, the tour destination. In such an event, the customer shall be entitled to reimbursement of all amounts paid under the contract.

(4) Subpara. (3) shall not apply if, at the time the contract was concluded, the customer was aware of the circumstances in question or such circumstances were generally known.

§ 10. (1) The operator shall inform the customer of the terms governing cancellations before the contract is entered into. § 6 subpara. (2) shall apply *mutatis mutandis*.

(2) The Minister of Justice may lay down rules governing cancellation arrangements.

§ 11. (1) Before the contract is entered into, the operator shall inform the customer about the possibility of taking out insurance cover, and the terms governing such cover, for the event that the customer is unable to participate in the package tour owing to sickness or for similar reasons. § 6 subpara. (2) shall apply *mutatis mutandis*.

(2) The Minister of Justice may lay down rules on the minimum level of insurance cover.

Transferrability

§ 12. (1) The customer may transfer a package tour to any person meeting all requirements for taking part, provided that the operator or the agent are informed accordingly in good time prior to commencement of the tour.

(2) Customers shall be jointly and severally liable for the payment of any residual amounts or any costs arising as a result of the transfer.

Price changes

§ 13. (1) The operator may not alter the agreed price of a package tour except in the event of changes in

- 1) transport costs, including fuel costs,
- 2) taxes, charges or fees for services, such as airport tax, port charges, landing fees or take-off charges, or
- 3) exchange rates used to calculate the price of the package tour concerned.

(2) Price increases shall be permissible only if the operator notifies the customer thereof as quickly as possible and if the contract on the purchase of a package tour specifically provides for price increases and reductions and also indicates the precise calculation method used.

(3) The agreed price for a package tour may not be increased during the final 20 days prior to the agreed date of commencement thereof.

Contractual provisos

§ 14. (1) Provisions to the effect that the operator reserves the right to make changes and other general provisos contained in the contract may not be enforced vis-à-vis the customer.

Chapter 5

Breach of contract etc. by the operator prior to commencement of the package tour

§ 15. (1) If, prior to commencement of the package tour, it emerges that the operator is unable to fulfil his contractual obligations unless one or more contractual terms are modified, or if the tour is cancelled, then the operator shall notify the customer thereof as quickly as possible.

(2) At the same time as giving the notification as provided for in subpara. (1), the operator shall inform the customer of his entitlements, the legal consequences of failure to give notification in accordance with subpara. (3), and the customer's address to which notification may be submitted. If the operator fails to do this, he may not claim that the customer's notification provided for in subpara. (3) was too late or inadequate.

(3) If the customer wishes to assert a claim on the basis of the fact that the operator is unable to fulfil his contractual obligations or the tour is cancelled, he/she shall notify the operator or agent accordingly. This notification shall be given within a reasonable period following receipt of the notification referred to in subpara. (1). If the customer fails to do this, he/she shall forfeit the right to assert a claim (cf. subpara. (2), however).

§ 16. (1) If the operator cancels a package tour for reasons not connected with the customer's own circumstances, or if it can be established with certainty that the operator will substantially fail to fulfil his contractual obligations, the customer shall be entitled to

- 1) cancel the contract and be reimbursed all sums he/she has paid in connection with the contract, or
- 2) participate in another package tour of his/her choice, provided that the operator is able to offer such arrangements without any undue expense or financial loss being incurred.

(2) If the customer chooses to take part in a higher-priced package tour, he/she shall pay any difference in price where this is not reimbursable by the operator, cf. § 17. If the customer decides to participate in a lower-priced package tour, the operator shall reimburse the difference.

§ 17. (1) If the customer suffers any loss as a result of the operator being unable to fulfil the contractually agreed terms, or as a result of the package tour being cancelled, he/she shall be entitled to compensation from the operator unless

- 1) the tour is cancelled because the number of bookings falls short of the minimum number laid down in the contract and written notification thereof is given to the customer within the time-limit provided for in the contract,

- 2) the cancellation or non-fulfilment of the contract arises from the customer's own circumstances,
- 3) the cancellation or non-fulfilment of the contract is caused by an outside third party and could not, with all reasonable care, have been foreseen at the time the contract was entered into and could not have been avoided or remedied by the operator or anyone acting on his behalf, or
- 4) the cancellation or non-fulfilment of the contract is a result of circumstances which the operator or anyone acting on his behalf could not, with all reasonable care, have foreseen at the time the contract was entered into, or have avoided or remedied.

(2) The customer shall also be entitled to compensation if the non-fulfilment of the contract relates to aspects of the package tour which should be regarded as guaranteed.

(3) The Minister of Justice may lay down rules on the time-limits for cancellation in the instances referred to in subpara. (1) No 1.

Chapter 6

Breach of contract etc. by the operator after the start of the package tour

§ 18. (1) If there are any shortcomings in the package tour, the customer may demand that these be remedied by the operator, unless this would involve excessive expense or considerable inconvenience for the latter.

§ 19. (1) If a remedy cannot be requested, (cf. § 18) or the operator is unable to take remedial action at the customer's request in good time, then the customer shall be entitled to claim an appropriate reduction in the price of the package tour. The customer shall also be entitled to assert claims under § 20.

§ 20. (1) If a significant proportion of the agreed services cannot be provided, or if the package tour has other shortcomings which essentially defeat its purpose, the customer may cancel the contract.

(2) If the customer cancels the contract, the operator shall return all amounts paid thereunder. However, the operator shall be entitled to a payment corresponding to the value which the package tour may be considered to have had for the customer.

(3) If the customer cancels the contract, he/she shall be returned, free of charge, to his/her point of departure or to another location specified in the contract using a means of transport corresponding to that specified in the contract.

§ 21. (1) If the operator offers to remedy a shortcoming, the customer may not demand an appropriate price reduction or cancel the contract provided that remedial action is taken within a reasonable period and at no cost or significant inconvenience to the customer.

§ 22. (1) If the customer suffers any loss as a result of shortcomings in the package tour, he/she shall be entitled to compensation from the operator, unless such shortcomings are due to circumstances referred to in § 17 subpara. (1) Nos 3 and 4. The customer shall also be entitled to compensation if the shortcomings relate to aspects of the package tour which should be regarded as guaranteed.

(2) If any shortcoming causes significant inconvenience to the customer, he/she shall also be entitled to a compensatory payment.

§ 23. (1) If the customer suffers personal injury or material damage as a result of any shortcoming in the package tour, § 22 shall apply *mutatis mutandis*.

(2) If the customer suffers any personal injury, the operator shall endeavour to provide rapid assistance.

§ 24. In accordance with provisions of international conventions applying to the portion of the package tour that is unsatisfactory, the compensatory payments referred to in §§ 22 and 23 may be limited in the contract on the purchase of the tour.

§ 25. (1) If the customer makes a complaint during the package tour, the operator and the provider of services concerned shall endeavour to take appropriate remedial action.

§ 26. (1) If the customer wishes to complain of a shortcoming in the package tour, he/she shall notify the operator or his agent within a reasonable period following the discovery thereof. The customer shall otherwise forfeit the right to complain of this shortcoming (cf. subpara. (2) and § 27, however).

(2) If the customer's obligations as referred to in subpara. (1) are not set out in the contract, the operator may not claim that the customer's notification was too late or inadequate.

§ 27. (1) § 26 shall not apply if the operator or his agent has acted dishonestly or with gross negligence.

(2) § 26 shall also not apply to claims by the customer in connection with any personal injury suffered (cf. § 23).

Chapter 7

Liability towards the customer

§ 28. (1) The agent shall be directly liable towards the customer for any claims of a financial nature that may arise against the operator on the basis of this Act.

(2) The agent shall assume claims of the customer against the operator. The agent's claims may lapse or be reduced if the customer's claims arise as a result of a fault on the part of the agent.

Chapter 8

Obligations of the customer

§ 29. (1) The customer shall obtain the passport, visa and vaccinations necessary for the tour.

(2) The customer shall comply with the applicable statutory provisions and the instructions of the tour manager, carrier or any other party involved in the organisation of the package tour.

Chapter 9

Penalties

§ 30. (1) Any infringement of § 5 subpara. (1) shall be punishable by a fine, unless a more severe penalty is provided for under other legislation. The same shall apply with respect to serious or persistent infringements of § 6 subpara. (1), § 10 subpara. (1), § 11 subpara. (1) or § 15 subpara. (1).

(2) A fine may be imposed for any infringement of provisions laid down on the basis of § 5 subpara. (3), § 8, § 10 subpara. (2), § 11 subpara. (2) or § 17 subpara. (3).

(3) If an infringement is committed by a company, organisation, fund etc., the legal entity as such may be liable to pay a fine.

Chapter 10

Entry into force

§ 31. (1) This Act shall enter into force on 1 October 1993 (cf. subpara. (3), however) and shall apply to contracts on the purchase of a package tour under which the tour provided for is due to begin after that date.

(2) However, the provisions of §§ 6 and 7, § 9 subparas. (1) and (2), §§ 10-13, § 17 subpara. (1) No 1 and § 24 shall only apply to contracts on the purchase of a package tour entered into after the date of entry into force of this Act.

(3) § 5 shall enter into force on 1 January 1994.

§ 32. (1) This Act shall not extend to the Faeroe Islands or Greenland but may by Royal Order be extended to these parts of the country subject to such modifications as may be required in view of the special conditions prevailing there.

Done at Christianborg Palace on 30 June 1993

Under Our Royal Hand and Seal

MARGRETHE R.

/ Erling Olsen