



STATUTORY INSTRUMENTS.

S.I. No. 182 of 1993.



TOUR OPERATORS (LICENSING) REGULATIONS,
1993.

(Pn. 9959)

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TOUR OPERATORS (LICENSING) REGULATIONS,
1993.

I, BRIAN COWEN, Minister for Transport, Energy and Communications, in exercise of the powers conferred on me by sections 7, 12 and 25 of the Transport (Tour Operators and Travel Agents) Act, 1982 (No. 3 of 1982), and the Communications (Transfer of Departmental Administration and Ministerial Functions) (No. 2) Order, 1987 (S.I. No. 92 of 1987) (as adapted by the Tourism, Transport and Communications (Alteration of Name of Department and Title of Minister) Order, 1993 (S.I. No. 17 of 1993)), and, insofar as the Regulations relate to the specification of fees and charges, with the consent of the Minister for Finance, hereby make the following Regulations:

1. These Regulations may be cited as the Tour Operators (Licensing) Regulations, 1993.
2. These Regulations shall come into operation on the 1st day of July, 1993.
3. (a) These Regulations shall apply to overseas travel contracts other than any such contract in respect of which the applicant is acting as agent of a carrier or of another tour operator or of a member of the public;

(b) In any case where a person, whom the Minister has reason to believe is engaged in the business of a tour operator purports to be trading as an agent, the Minister may require such person to provide sufficient written evidence from his principals to establish the existence of such agency.

4. In these Regulations—

“the Act” means the Transport (Tour Operators and Travel Agents) Act, 1982 (No. 3 of 1982);

“licensable turnover” means the total of receipts by an applicant for a tour operator’s licence in respect of overseas travel

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 6th July, 1993.

contracts to which these Regulations apply during the period covered by the applicant's latest audited accounts;

“licensee” means the holder of a tour operator's licence;

“the Minister” means the Minister for Transport, Energy and Communications;

“projected licensable turnover” means the total of receipts estimated by an applicant for a tour operator's licence in respect of overseas travel contracts to which these Regulations apply during the period of time in the future for which a licence is being sought;

“projected total turnover” means the sum total of all receipts estimated by an applicant for a tour operator's licence during the period of time in the future for which a licence is being sought;

“total turnover” means the sum total of all receipts by an applicant for a tour operator's licence during the period covered by the applicant's latest audited accounts;

“tour operator's licence” means a licence granted under section 6 of the Act.

5. An application for a tour operator's licence shall be addressed to the Secretary, Department of Transport, Energy and Communications, Kildare Street, Dublin 2.

6. (a) An application for a tour operator's licence shall be in the Form and contain the information specified in the First Schedule to these Regulations.

(b) A tour operator's licence issued under these Regulations shall be in the Form specified in the Second Schedule to these Regulations.

7. (a) An application for a tour operator's licence shall be accompanied by the applicant's latest accounts, duly audited and certified, covering a 12 month accounting period ending on a date not earlier than 12 months before the date of application;

(b) Notwithstanding paragraph (a) of this Regulation

the Minister may require a licensee to furnish to the Minister the licensee's audited financial statements by a specified date following the end of the licensee's 12 month accounting period as stipulated by the Minister.

8. A person who applies for a tour operator's licence shall, if the Minister so requires, furnish information additional to that specified in the First Schedule to these Regulations to enable the Minister to satisfy himself as to any or all of the matters specified in section 6 (3) of the Act.

9. Without prejudice to the provisions of section 6 of the Act, the provisions of Regulation 7 of the European Communities (Transport Auxiliaries) Regulations, 1988 (S.I. No. 18 of 1988), shall apply to a person who is a national of a Member State (other than the State) of the European Communities who applies for a tour operator's licence.

10. (a) The amount of the fee payable on application for a tour operator's licence shall be the amount specified in column (3) of the Table to this paragraph at a particular reference number opposite the amount of licensable turnover specified in column (2) of that Table at that reference number.

Table

Ref. No. (1)	Licensable Turnover (2)	Fee (3)
1.	£500,000 or less	£ 221
2.	More than £500,000 but not exceeding £1,000,000	442
3.	More than £1,000,000 but not exceeding £3,000,000	1,113
4.	More than £3,000,000 but not exceeding £5,000,000	1,557
5.	More than £5,000,000 but not exceeding £10,000,000	2,226
6.	More than £10,000,000 but not exceeding £20,000,000	5,617
7.	For every £1,000,000 or part thereof in excess of £20,000,000 and additional fee of	221

- (b) In any case where the applicant for a tour operator's licence has not previously carried on business as a tour operator, the fee payable on the first application for a licence shall be calculated in relation to the applicant's projected licensable turnover and the fees payable on every subsequent application for a tour operator's licence shall be calculated in relation to the applicant's licensable turnover.
- (c) Applications for amendment of a tour operator's licence shall be subject to a fee of £111 in each case.
- (d) In the case of an applicant for a tour operator's licence who has not held a tour operator's or travel agent's licence within the two years immediately prior to application, an additional fee of £221 shall be payable.
- (e) Where an application for a tour operator's licence is received less than two months but more than one month prior to the date on which the licence is required to commence, an additional fee of £1,000 shall be payable.
- (f) Where an application for a tour operator's licence is received less than one month prior to the date on which the licence is required to commence, an additional fee of £2,000 shall be payable.
- (g) Where an applicant for a tour operator's licence has failed to submit audited financial statements as required by the Minister under Regulation 7 (b) of these Regulations, an additional fee of £1,000 shall be payable.
- (h) The Minister may, at his discretion, waive the additional fees payable under paragraphs (e) and (f) of this Regulation where he is satisfied that the delay in submission of an application was due solely to circumstances outside the control of the applicant, his agents or servants.
- (i) The Minister may, at his discretion, waive the additional fees payable under paragraph (g) of this Regulation where he is satisfied that the

delay in submission of audited financial statements was due solely to circumstances outside the control of the applicant, his agents or servants.

11. Fees payable under these Regulations shall be non-refundable.

12. Any expenses incurred by the Minister arising from the application of section 11 of the Act may be charged by the Minister to the licensee and shall be reimbursed by the licensee to the Minister.

13. The Minister shall not consider an application for a tour operator's licence which is incomplete or is not accompanied by the appropriate fee referred to in Regulation 10 of these Regulations.

14. (a) The Minister shall be advised immediately of the demise, removal or resignation of any director or partner of the licensee.

(b) Proposals for the appointment of additional directors or for changes in the directors of a company holding a tour operator's licence or proposals for changes in the distribution of shares, or in the effective ownership or control of such company or of any partnership, or unincorporated body holding a tour operator's licence shall be notified to the Minister, either before, or after, but not later than 7 days after, such changes become effective.

(c) Changes in the shareholding of a company holding a tour operator's licence shall be notified to the Minister either before, or after, but not later than 7 days after, such change has become effective.

15. (a) Copies of any tour operator's licence held by the licensee together with any conditions attached thereto shall be displayed for the information of the public in a prominent position on all premises owned or occupied by the licensee and in which he carries on business.

(b) The licensee shall publish in a prominent position in all brochures and publicity material issued in

connection with his business a statement that he is the holder of a tour operator's licence and shall also quote the licence number which appears on his tour operator's licence.

16. A licensee shall maintain the following books, accounts and records in his principal place of business or in such other place as may be approved of by the Minister:—

- (a) annual accounts duly audited and certified in accordance with Regulation 7 of these Regulations,
- (b) a record, which may be in ledger, computer or other form, of all daily receipts and expenditures, including all monies paid on deposit,
- (c) a full record of all bank lodgments and a regular and proper bank reconciliation, and
- (d) copies of all contracts entered by the licensee relevant to the business of the licensee and valid for the period of the licence,

and shall furnish copies or extracts on request by a person authorised by the Minister under section 11 of the Act.

17. The following Regulations are hereby revoked:—

- (a) Tour Operators (Licensing) Regulations, 1983 (S.I. No. 100 of 1983);
- (b) Tour Operators (Licensing) (Amendment) Regulations, 1985 (S.I. No. 165 of 1985);
- (c) Tour Operators (Licensing) (Amendment) Regulations, 1986 (S.I. No. 215 of 1986);
- (d) Tour Operators (Licensing) (Amendment) (No. 2) Regulations, 1986 (S.I. No. 435 of 1986);
- (e) Tour Operators (Licensing) (Amendment) Regulations, 1987 (S.I. No. 175 of 1987);
- (f) Tour Operators (Licensing) (Amendment) Regulations, 1988 (S.I. No. 133 of 1988);

(g) Tour Operators (Licensing) (Amendment) Regulations, 1989 (S.I. No. 160 of 1989);

(h) Tour Operators (Licensing) (Amendment) Regulations, 1992 (S.I. No. 176 of 1992).

FIRST SCHEDULE

APPLICATION FOR A TOUR OPERATOR'S LICENCE

Additional checklist for *new* Applicants only

- | | Yes or N/A |
|---|----------------------|
| 1. The Department's explanatory note on the Transport (Tour Operators and Travel Agents) Act, 1982 has been read and fully understood | <input type="text"/> |
| 2. Opening statement of affairs/balance sheet has been audited as required at (a) of the Schedule to the application form | <input type="text"/> |
| 3. All other financial requirements of the Schedule to the application form have been met | <input type="text"/> |
| 4. All significant assumptions underlying 3 above are included in the financial submissions | <input type="text"/> |
| 5. The applicant's auditor has reported as required at (d) of the Schedule to the application form | <input type="text"/> |
| 6. Certificates of registration of business or trading names have been supplied | <input type="text"/> |
| 7. C.V.'s for
— directors or
— partners or
— sole Trader | <input type="text"/> |
- have been supplied

Note: Numbers 1, 6 and 7 should have a "yes" answer

Signed

Company Secretary

.....

Sole Trader/Partner

Date

Note: An application without a completed checklist will not be regarded as a valid application and will be returned to the applicant for completion. This may result in a late application fee for the applicant.

APPLICATION FOR A TOUR OPERATOR'S LICENCE

Checklist for all Tour Operator Licence Applications

- | | Yes or N/A |
|--|--|
| 1. Application has been signed by
— all directors or
— all partners or
— sole trader | <input style="width: 100px; height: 20px;" type="text"/> |
| 2. All sections of the application have been answered | <input style="width: 100px; height: 20px;" type="text"/> |
| 3. The projected turnover required under section 8 of the application has been considered in the light of the most <i>recent</i> information available | <input style="width: 100px; height: 20px;" type="text"/> |
| 4. A full up to date list of employees is included | <input style="width: 100px; height: 20px;" type="text"/> |
| 5. All responses have been correctly updated, where applicable, since the last application | <input style="width: 100px; height: 20px;" type="text"/> |
| 6. The latest annual accounts have been submitted and cover a period ending on a date not earlier than 12 months before the date of application | <input style="width: 100px; height: 20px;" type="text"/> |
| 7. Additional information requested by the Department in correspondence during the year is included (e.g. management accounts) | <input style="width: 100px; height: 20px;" type="text"/> |

Signed
 Company Secretary

.....
 Sole Trader/Partner

Date

Note: An application without a completed checklist will not be regarded as a valid application and will be returned to the applicant for completion. This may result in a late application fee for the applicant.

TRANSPORT (TOUR OPERATORS AND TRAVEL AGENTS) ACT,
1982

APPLICATION FOR A TOUR OPERATOR'S LICENCE

Name of Applicant

Business or Trading Names¹

Registered Office

Business Address

Telephone No.

Fax. No.

hereby applies for a licence to carry on business as a tour operator as defined in section 2 of the Transport (Tour Operators and Travel Agents) Act, 1982, for the period

to

The amount of £ , being the fee payable in respect of this application, is enclosed.

I, the undersigned, declare that to the best of my knowledge and belief, the particulars herein given are true and complete and that there have been no changes in the financial resources, ownership and control of the business other than those notified in this form.

I also authorise the Minister, or any officer authorised by him, to apply to all or any of the persons or bodies specified in section 11 of this application form, and all such persons or bodies are hereby authorised to give such information as may be sought from them hereunder, for the purpose of substantiating the particulars furnished in this application.

Name Signature

Date Official Position

Name Signature

Date Official Position

Name Signature

Date Official Position

Name Signature

Date Official Position

¹Certificates of Registration of Business or Trading names must be supplied unless previously furnished.

This form must be signed as follows:

- (i) if the applicant is an individual, by that individual,
- (ii) if the applicant is a partnership, by each of the partners, or
- (iii) if the applicant is a body corporate, by each of the directors.

Furnishing of False Information

The applicant's attention is drawn to the heavy penalty provisions relating to false or misleading statements for the purpose of obtaining a licence which are set out in section 20 (3) of the Transport (Tour Operators and Travel Agents) Act, 1982.

This form should be returned to:

The Secretary,
Department of Transport, Energy and Communications,
Travel Trade Licensing (Room 503),
Kildare Street,
Dublin 2.

Particulars to be furnished by the Applicant

SECTION 1 — *Ownership and Control of Business*

State whether the applicant is a sole owner, a partnership, an unincorporated body or a company incorporated under the Companies Acts, 1963 to 1990.

- (i) If the applicant is a sole owner, state name in full, private address and nationality;
- (ii) If the applicant is a partnership, state name in full, private address and nationality of each partner;
- (iii) If the applicant is an unincorporated body, state full name, private address and nationality of the principal officers (e.g. Chairman, Secretary and Treasurer) and trustees;
- (iv) If the applicant is a company incorporated under the Companies Acts, 1963 to 1990:
 - (a) state the full name, private address and nationality of every member of the board of directors, company secretary and senior management personnel, indicating working directors by (W),
 - (b) state who are the persons or entities in real or effective ownership or control of the company, i.e., the beneficial owners of the Company,
 - (c) state whether the Company has a shadow director within the meaning of Section 27 of the Companies Act, 1990¹. If so, state the full name and private address of the person concerned,

¹ A shadow director is defined in the Act as “a person in accordance with whose directions or instructions the directors of a company are accustomed to act”.

- (d) state whether the company is a subsidiary of another company within the meaning of section 155 of the Companies Act, 1963, and, if so, give full details,
- (e) state whether the company is a holding company of any other company or companies within the meaning of section 155 of the Companies Act, 1963, and, if so, state the name or names of any such company or companies,
- (f) furnish a copy of the applicant company's Memorandum and Articles of Association, certificates of incorporation and certificates of registration of any trading or business names unless previously furnished.
- (g) provide confirmation from the Company's auditor that the annual return has been forwarded to the Registrar of Companies in accordance with Section 127 of the Companies Act, 1963, as amended by Section 15 of the Companies Act, 1982¹.

Note: (A) If the answer to 1 (iv) (c) or 1 (iv) (d) is "yes", any particulars required to be furnished in relation to the applicant may also be required to be furnished in relation to any other company or companies concerned or in relation to the group of companies as a whole.

(B) *Applicants are advised to take special care to ensure that all the information in Section 1 is up to date.*

SECTION 2 — *Capitalisation*

Specify:

- (i) amount of authorised share capital,
- (ii) amount of fully paid-up share capital—
 - (a) issued for cash,
 - (b) issued otherwise than for cash,
- (iii) if any share capital is not fully paid up, give details,
- (iv) full name, private address and nationality of each shareholder and full details of shares held by each.

SECTION 3 — *Shareholding in Other Companies*

Give full details of any shareholding of more than 10 per cent by the applicant or any director, shareholder or partner in any other company, including shareholdings held in the same name of a spouse, nominee or agent.

SECTION 4 — *Borrowings, Credit Arrangements, etc.*

Specify:

- (i) (a) overdraft facilities available (if any) and name of bank or other financial institution involved,
- (b) security given for overdraft(s), (if any),
- (c) other borrowings and securities/collateral given in relation thereto,

¹ The return must be completed within 60 days after the annual general meeting for the year and the company must forthwith forward it to the Registrar.

- (ii) details of mortgages, liens, charges or other encumbrances, etc.
- (iii) (a) amount and nature of directors loans invested in the Company,
(b) name of director(s) to whom the Company is liable for loan capital.

SECTION 5 — *Assets*

Specify:

- (i) details of premises and whether owned, leased, rented or mortgaged,
- (ii) a list of all other assets of the applicant.

SECTION 6 — *Past Activities*

Specify:

- (i) details of companies, enterprises or business ventures with which the applicant or any director, shadow director, shareholder or partner was previously associated in a proprietorial role or as a director or shareholder,
- (ii) details of any company, enterprise or business venture involved in bankruptcy or winding-up proceedings with which the applicant or any director, shadow director, shareholder or partner was involved,
- (iii) details of any prosecutions against the applicant or any director, shadow director, shareholder or partner for fraud, embezzlement, larceny or other offences involving dishonesty, or under the Consumer Information Act, 1978, or the Sale of Goods and Supply of Services Act, 1980, and the outcome of such prosecution.

SECTION 7 — *State whether the Applicant:—*

- (i) is a member of any trade association (e.g. I.T.A.A., A.B.T.A., etc.),
- (ii) is an agent for airlines which are members of the International Air Transport Association, or
- (iii) operates or has operated as a tour operator or travel agent in any other Member State of the European Community; if so, specify the Member State involved and indicate whether the applicant holds or has held a licence, certificate, approval or authorisation from the competent national authorities of such Member State.

SECTION 8 — *Level of Operation and Turnover*

Specify:

- (i) total turnover last year (see Note A),
- (ii) turnover licensable last year (see Note B),
- (iii) nature of non licensable activity last year,
- (iv) projected total turnover for the period of the licence now sought,
- (v) projected licensable turnover for the period of the licence now sought,
- (vi) nature of proposed non licensable activity, if any.
- (vii) number of seats, by destination, already contracted for or planned in respect of your current licence and average fill rate,
- (viii) number of seats by destination, which it is proposed to contract for

in respect of the period of the licence now sought and anticipated average fill rate,

- (ix) average inclusive selling price to customers per seat in respect of (vii) and (viii) above.

Notes: (A) Where turnover is not shown in the audited accounts a separate audited certificate of turnover should be submitted.

- (B) The term "last year" as used in (i), (ii) and (iii) above means the period covered by the audited accounts required to be submitted by the applicant.

SECTION 9 — *Nature of Business*

Applicants should enclose a copy of each current brochure, booking form and conditions in draft or as published. If the applicant does not produce a brochure he should state:

- (a) principal destinations,
- (b) type of travel, e.g. inclusive tour summer, inclusive tour winter, schools travel, etc.,
- (c) surface accommodation offered, e.g. hotels, self-catering, minimum accommodation, etc.,
- (d) details of price guarantees,
- (e) carriers used or to be used.

Where a brochure is not produced the applicant should furnish a copy of a clear statement of the conditions under which bookings are accepted.

Note: New applicants in particular should note that it is a condition of a tour operator's licence that the licensee shall publish in a prominent position in the brochures and publicity material issued in connection with his business a statement that he is licensed by the Minister and shall also quote the licence number which appears on his licence.

SECTION 10 — *Premises and Staffing*

Specify:

- (i) length of time in business,
- (ii) number of branch offices, outlets or premises with addresses and number of staff employed in each,
- (iii) how, or to what extent, premises are publicly identified and specify normal hours of opening,
- (iv) whether premises are used solely for the sale of travel and, if not, specify what other activity is carried on,
- (v) in the case of managerial staff, names and brief career history and an indication of experience, competence or qualifications (e.g. financial, economic, business administration, accountancy or approved recognised third level managerial qualifications),
- (vi) for other staff (clerks, sales staff, etc.) names and length of time employed by applicant and indicate the extent to which they have experience of, or familiarity with, normal practice in the travel industry including:—
 - (a) tour operator booking procedures,
 - (b) airline booking procedures,
 - (c) surface carrier booking procedures,
 - (d) consumer legislation,

(e) basic insurance terms.

SECTION 11 — *Other Information*

Specify:

- (i) name and address of applicant's legal representative,
- (ii) name and address of applicant's banker(s),
- (iii) name and address of applicant's auditor/accountant,
- (iv) address of applicant's principal place of business.

SECTION 12 — *Bonding*

Specify the type of bond which you propose to lodge with the Minister, if he approves of this application.

SECTION 13 — *Emergency Contact*

State name, address and telephone number of persons to be contacted outside normal office hours or in an emergency.

SCHEDULE TO TOUR OPERATOR'S APPLICATION FORM

Financial Data to be Supplied by New Entrants to the Travel Trade

New Entrants to the travel trade, who would not have the required audited accounts available (i.e. Accounts covering a 12 month period ending on a date not earlier than 12 months before the date of application) should furnish:

- (a) An audited Opening Balance Sheet;
- (b) Projected monthly Cash Flow Statement, Trading and Profit and Loss Account for the first year of trading;
- (c) Projected Balance Sheet at the end of the first year of trading;
- (d) A breakdown of projected turnover under the following headings and the rate of commission expected under each heading:—
 - (i) I.A.T.A. scheduled airline tickets,
 - (ii) other scheduled airline tickets,
 - (iii) packaged holidays,
 - (iv) boat and rail tickets,
 - (v) other (specify).
- (e) Confirmation from the applicant's Auditor that he is satisfied that the projections and calculations made in (b), (c) and (d) above, so far as the accounting policies and calculations are concerned, are properly compiled on foot of the accompanying assumptions made by the Applicant and are presented on a basis consistent with the accounting policies normally adopted by the Applicant.

Note: In the case of a sole trader or a partnership a statement of affairs of all the applicant's assets and liabilities audited by the applicant's Auditors will be required for (a) above and a projected statement of affairs for (c).".

SECOND SCHEDULE

TRANSPORT (TOUR OPERATORS AND TRAVEL AGENTS) ACT,
1982

Tour Operator's Licence No. T.O.

Name

Address

hereinafter referred to as the licensee is hereby licensed by the Minister for Transport, Energy and Communications to carry on business as a tour operator subject to the conditions set forth herein.

GENERAL CONDITIONS

1. This licence shall come into effect on
and shall continue in force up to and including
2. This licence is non-transferrable.
3. (a) The Minister shall be advised immediately of the demise, removal or resignation of any director or partner of the licensee;
- (b) Proposals for the appointment of additional directors or for changes in the directors of a company holding a licence or proposals for changes in the distribution of shares, or in the effective ownership or control of such company or of any partnership, or incorporated body holding a licence shall be notified to the Minister either before, or after, but not later than 7 days after, such changes become effective;
- (c) Changes in the shareholders of a company shall be notified to the Minister either before, or after, but not later than seven days after, such changes have become effective.
4. The licensee shall notify the Minister of any new mortgages, liens, charges or other encumbrances made on the licensee during the period of validity of the licence.
5. The licensee shall comply with the provisions of the Transport (Tour Operators and Travel Agents) Act, 1982 (No. 3 of 1982), and of all orders and regulations made thereunder relating to tour operators.
6. The licensee shall ensure that contributions to the Travellers' Protection Fund are lodged with the Minister not later than the date provided for in Regulations made under the said Act.
7. The licensee shall not dispose of any capacity on a sub-contract basis except to another licensed tour operator.
8. Copies of this licence and the conditions attaching thereto shall be displayed for the information of the public in a prominent position on all premises owned or occupied by the licensee and in which he carries on business.

9. The licensee shall publish in a prominent position in all brochures and publicity material issued in connection with his business a statement that he is licensed by the Minister and shall also quote the licence number which appears on his licence.
10. The licensee shall maintain the following books, accounts and records in his principal place of business and shall make available copies or extracts on request to, and shall facilitate the entry and inspection of all such records and documentation by authorised officers of the Minister pursuant to section 11 of the Act:—
 - (a) accounts, duly audited and certified, covering a twelve month accounting period ending on a date not earlier than 12 months before the date of application;
 - (b) a record, which may be in ledger, computer, or other form, of all daily receipts and expenditures, including all monies placed on deposit;
 - (c) a full record of all bank lodgments and a regular and proper bank reconciliation;
 - (d) copies of all contracts entered into by the licensee relevant to the business of the licensee and valid for the period of the licence.
11. A breach of any of the conditions set out herein may result in the revocation of this licence.

SPECIAL CONDITIONS

Dated this day of
For the Minister for Transport, Energy and Communications

An officer authorised in this behalf by the said Minister.



GIVEN under my Official Seal, this 30th day of
June, 1993.

BRIAN COWEN,
Minister for Transport, Energy and
Communications.

The Minister for Finance consents to the making of the
foregoing Regulations in so far as they relate to the specifi-
cation of fees and charges.



GIVEN under the Official Seal of the Minister
for Finance, this 1st day of July, 1993.

PHILIP FURLONG,
A person authorised to authenticate
the Seal of the said Minister.

EXPLANATORY NOTE.

*(This note is not part of the Instrument and does not pur-
port to be a legal interpretation).*

The effect of these Regulations is to consolidate previous
regulations governing the requirements for the grant of tour
operator licences. The Regulations also revise the level of
fees payable in respect of applications for a tour operator's
licence.

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