



STATUTORY INSTRUMENTS.

**S.I. No. 270 of 1995.**

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PACKAGE HOLIDAYS AND TRAVEL TRADE ACT,  
1995 (BONDS) REGULATIONS, 1995.

**(Pn. 1984)**

S.I. No. 270 of 1995.

PACKAGE HOLIDAYS AND TRAVEL TRADE ACT,  
1995 (BONDS) REGULATIONS, 1995.

I, MICHAEL LOWRY, Minister for Transport, Energy and Communications, in exercise of the powers conferred on me by sections 23 and 24 of the Package Holidays and Travel Trade Act, 1995 (No. 17 of 1995), hereby make the following Regulations:

1. These Regulations may be cited as the Package Holidays and Travel Trade Act, 1995 (Bonds) Regulations, 1995.

2. These Regulations shall come into operation on the 1st day of October, 1995.

3. In these Regulations—

“the Act” means the Package Holidays and Travel Trade Act, 1995,

“bond” means a bond under section 23 or 24 of the Act, as the context admits.

4. These Regulations apply to packages to which the Act relates, with the exception of—

(a) packages in respect of which the provider is required to hold a licence under the Transport (Tour Operators and Travel Agents) Act, 1982, and

(b) packages in respect of which the provider has complied with section 25 of the Act.

5. A bond shall—

(i) in the case of a person who is a member of an approved body which has a reserve fund or insurance cover, as specified in section 23 of the Act, be for a sum of 10% of the projected turnover in the period of the validity

*Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 24th October, 1995.*

of the bond in respect of packages to which these Regulations apply;

- (ii) in the case of a person who is a member of an approved body which does not have a reserve fund or insurance cover as specified in section 23 (2) of the Act, be for a sum of 15% of the projected turnover in the period of the validity of the bond in respect of packages to which these Regulations apply.

6. The maximum period for which a bond may be maintained is one year and the date of expiry or revocation shall be without prejudice to any liability which may be incurred under the bond in respect of any obligations to customers arising out of contracts in respect of packages to which these Regulations apply, entered into during the period of validity of the bond or of a previous bond which expired immediately prior to the period to which the current bond applies.

7. Any demand under a bond by an approved body shall be made in writing not later than six months after the date on which the bond ceases to have effect, but on being satisfied that the package provider has discharged all obligations to consumers under the contracts to which the bond relates the approved body may, at its discretion, release the provider of the bond and any guarantor thereof from their obligations under the bond and any guarantee relating thereto at any earlier date within the period of six months.

8. Where a new bond which comes into effect before or from the date on which the current bond ceases to have effect, is provided, or procured, by a package provider, the previous bond shall cease to be effective from the commencement of the new bond, and any losses or liabilities incurred by customers of the package provider as a result of the inability or failure of the package provider to meet financial or contractual obligations to such customers in respect of packages covered by these Regulations, shall fall to be discharged from moneys payable under the new bond.

9. A bond may comprise all or any one or more of the following—

- (a) a sum deposited in a bank or financial institution in the State in the sole name of the approved body of which the package provider is a member;

- (b) a guarantee secured with a bank or insurance company;
- (c) a guarantee of such other type as may be acceptable to the approved body of which the package provider is a member;
- (d) an arrangement or scheme entered into on a collective basis by package providers or any group of package providers for the protection of consumers, provided that in the event of the inability or failure of any member of such collective groups to meet obligations to consumers in relation to packages covered by these Regulations, the amount of money payable to the approved body from such collective arrangements would be at the same level as that specified in Regulation 5 in respect of a particular package provider.

10. In the case of a bond of the type specified in Regulation 9 (a), or where it has been necessary for an approved body to apply such a bond for the purposes specified in the Act, the amount of the bond or any residual balance thereof, as the case might be, shall be returned to the provider of the bond with such interest as may have accrued thereon, provided that all obligations to consumers of the package provider concerned who, during the period of validity of the bond or of a previous bond which expired immediately prior to the period to which the current bond relates, entered into contracts in respect of packages to which these Regulations apply with such package provider have been fully discharged.

11. A bond of the type specified in Regulations 9 (b)—

- (a) shall be secured only with—
  - (i) insurance companies authorised to carry out suretyship business (Class 15) in accordance with the European Communities (Non Life Insurance) Framework Regulations, 1994 (S.I. No. 395 of 1994), or
  - (ii) banks duly licensed under the Central Bank Act, 1971 (No. 24 of 1971).

- (b) shall be in the form and contain the terms and conditions set out in the First Schedule to these Regulations where the bond is secured with an insurance company pursuant to paragraph (a) (i) of this Regulation or the Second Schedule thereto where the bond is secured with a bank pursuant to paragraph (a) (ii) of this Regulation, and
- (c) shall be lodged with the approved body of which the package provider is a member.

FIRST SCHEDULE

PACKAGE HOLIDAY AND TRAVEL TRADE ACT, 1995

*Terms of Bond to be Secured by a Package Provider with  
an Insurance Company*

I/We (name of Insurance Company) \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

hereafter referred to as the Surety, having our registered  
office at \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

at the behest of ( \_\_\_\_\_

of \_\_\_\_\_

\_\_\_\_\_ ) \_\_\_\_\_

(being a package provider under the above Act) hereby  
undertake and acknowledge ourselves bound to pay to

\_\_\_\_\_

(an approved body for the purposes of the Act), such sum  
as that approved body may demand, but not exceeding

IR£ ( \_\_\_\_\_

\_\_\_\_\_ Irish pounds)

to be applied in accordance with the provisions of sections  
23 and 24 of the Act for the purposes of therein provided.

This bond shall come into effect on the \_\_\_\_ day  
of \_\_\_\_\_, 19\_\_, and shall cease to have effect after  
the \_\_\_\_ day of \_\_\_\_\_, 19\_\_, but without prejudice  
to any liability which may be incurred under this bond in  
respect of obligations to consumers arising under contracts  
for packages to which the Package Holidays and Travel  
Trade Act, 1995 (Bonds) Regulations, 1995 apply entered  
into during the period of validity of the bond, or a previous

bond which expired immediately prior to the commencement of the period to which this bond relates, PROVIDED THAT any demand on us hereunder by the approved body shall be made in writing not later than six months after the date after which this bond ceases to have effect.

Notwithstanding the generality of the foregoing, where a new bond which comes into effect before or from the date after which this bond ceases to have effect is provided or procured by the package provider, the liability of the Surety under this bond shall cease on the commencement of such new bond.

IT IS AGREED that this money shall become payable upon demand in writing from the approved body in one or more of the following events—

- (a) a petition is granted by a court for the compulsory winding up of the business of the package provider;
- (b) the package provider by reason of being unable to fulfil financial obligations seeks a voluntary winding up of the business or has convened a meeting of creditors for the purpose of considering a settlement of liabilities to such creditors;
- (c) a receiver is appointed over the assets of the package provider;
- (d) the package provider has failed to discharge debts or is unable to discharge debts or has ceased to carry on business by reason of an inability to discharge debts;
- (e) the package provider has committed an act of bankruptcy;
- (f) the approved body has reasonable grounds for believing that, having regard to all the circumstances, the package provider is unable to, or has failed to, carry out obligations to customers in relation to a contract for a package to which the Package Holidays and Travel Trade Act, 1995 (Bonds) Regulations, 1995 apply.

IT IS FURTHER AGREED that, in circumstances outlined at paragraph (f), the approved body will, before calling for payment under the bond, notify the package provider in writing by delivering the notice to the package provider's principal place of business, of its proposal to call the bond and the reasons for such proposal and shall afford the package provider all reasonable opportunity to make representations to the approved body.

IT IS A CONDITION of this bond that the approved body will repay to the Surety such part of the sum advanced as shall not be expended for the benefit of the customers of the package provider.

Monies payable under this bond shall be applied for all or any of the following purposes—

- (a) to enable all monies paid over by consumers under or in contemplation of contracts for packages which have not been fully performed to be repaid,
- (b) to enable customers to be repatriated, where appropriate, and
- (c) to defray any expenses necessarily incurred by the approved body.

Without prejudice to any existing right of a customer of the package provider to recover damages in relation to the standard of accommodation or service provided pursuant to a contract in respect of particular package, nothing in this instrument shall be construed as enabling such customer to recover any damages out of any sum of money made available under this bond.

Signed FOR AND ON BEHALF OF \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_.

SECOND SCHEDULE

PACKAGE HOLIDAY AND TRAVEL TRADE ACT, 1995

*Terms of Bond to be Provided by a Package Provider and  
Guaranteed by a Bank*

**Part I (to be completed by the package provider)**

I/We \_\_\_\_\_ of \_\_\_\_\_

\_\_\_\_\_  
(being a package provider under the above Act), hereby undertake and acknowledge myself/ourselves bound as a package provider to pay to \_\_\_\_\_

\_\_\_\_\_  
(an approved body for the purpose of the Act), such sum as it may demand, but not exceeding IR£

( \_\_\_\_\_ Irish pounds)  
to be applied in accordance with the provisions of section 23 and 24 of the above Act and for the purposes therein provided.

This bond shall come into effect on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_, and shall cease to have effect after the \_\_\_\_ day of \_\_\_\_\_, 19\_\_, but without prejudice to any liability which may be incurred under this bond in respect of obligations to consumers arising under contracts for packages to which the Package Holidays and Travel Trade Act, 1995 (Bonds) Regulations, 1995 apply entered into during the period of validity of the bond, or a previous bond which expired immediately prior to the commencement of the period to which this bond relates PROVIDED THAT any demand on us hereunder by the approved body shall be made in writing not later than six months after the date which this bond ceases to have effect.

Notwithstanding the foregoing, where a new bond which comes into effect before or from the date on which this bond ceases to have effect is provided, or procured, by me/us, my/our liability under this bond shall cease on the commencement of such new bond.

IT IS AGREED that this money shall become payable upon demand in writing from the approved body in one or more of the following events—

- (a) a petition is granted by a court for the compulsory winding up of the business of the package provider;
- (b) the package provider by reason of being unable to fulfil financial obligations seeks a voluntary winding up of the business or has convened a meeting of creditors for the purposes of considering a settlement of liabilities to such creditors;
- (c) a receiver is appointed over the assets of the package provider;
- (d) the package provider has failed to discharge debts or is unable to discharge debts or has ceased to carry on business by reason of an inability to discharge debts;
- (e) the package provider has committed an act of bankruptcy;
- (f) the approved body has reasonable grounds for believing that, having regard to all the circumstances, the package provider is unable to, or has failed to, carry out obligations to customers in relation to a contract for a package to which the Package Holidays and Travel Trade Act, 1995 (Bonds) Regulations, 1995 apply.

Moneys payable under this bond shall be applied for all or any of the following purposes:—

- (a) to enable all moneys paid over by a consumer under or in contemplation of contracts for packages which have not been fully performed to be repaid,
- (b) to enable customers to be repatriated, where appropriate, and
- (c) to defray any expenses necessarily incurred by the approved body.

Without prejudice to any existing right of a customer of a package provider to recover damages in relation to the standard of accommodation or service provided pursuant to a contract in respect of a particular package, nothing in this instrument shall be construed as enabling such customer to recover any damages out of any sum of money made available under this bond.

Signed FOR AND ON BEHALF OF \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_.

**Part II Guaranteed by Bank**

We \_\_\_\_\_ (name of Bank),

having our registered office at \_\_\_\_\_

hereafter referred to as "the Guarantor", hereby guarantee the due payment of the sum specified in Part I above i.e.

IR£ ( \_\_\_\_\_

\_\_\_\_\_ Irish pounds) upon demand in writing from

\_\_\_\_\_  
(an approved body for the purpose of the Act).

IT IS A CONDITION of this Guarantee that the approved body will repay to us as the Guarantor such part of the sum paid by us to the approved body and shall not be expended in accordance with Part I above.

IT IS AGREED THAT in circumstances outlined in paragraph (f) of Part I above, the approved body will, before calling on the Guarantor for payment under the bond, notify the package provider in writing by delivering the notice to the package provider's principal place of business, of its proposal to call the bond and the reasons for such proposal and shall afford the package provider all reasonable opportunity to make representations to the approved body.

This Guarantee shall come into effect on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_, and shall cease to have effect after the \_\_\_\_ day of \_\_\_\_\_, 19\_\_, but without prejudice to any liability incurred in respect of any obligations of the package provider to the approved body arising out of contracts for packages to which the Package Holiday and Travel Trade Act, 1995 (Bonds) Regulations, 1995 apply and which are entered into during the period of validity of the Guarantee, or a previous guarantee which expired immediately prior to the commencement of the period to which this Guarantee relates PROVIDED THAT any demand on us hereunder by the approved body shall be made in writing not later than six months after the date on which this Guarantee ceases to have effect.

Notwithstanding the foregoing, where a new bond which comes into effect before or from the date after which this Guarantee ceases to have effect, is provided, or procured, by the package provider, our liability under this Guarantee shall cease from the date of commencement of such new bond.

Signed FOR AND ON BEHALF OF \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_.



GIVEN under my Official Seal, this 29th day of September, 1995.

MICHAEL LOWRY,  
Minister for Transport, Energy and  
Communications.

EXPLANATORY NOTE.

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

The effect of these Regulations is to introduce a system of bonding for members of approved bodies as provided for in Part III of the Package Holidays and Travel Trade Act, 1995 (No. 17 of 1995).