

# S.I. No. 102/1983 — Tour Operators and Travel Agents (Bonding) Regulations, 1983.

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## TOUR OPERATORS AND TRAVEL AGENTS (BONDING) REGULATIONS, 1983.

### TOUR OPERATORS AND TRAVEL AGENTS (BONDING) REGULATIONS, 1983.

I, JIM MITCHELL, Minister for Transport, in exercise of the powers conferred on me by [sections 14](#) and [25](#) of the [Transport \(Tour Operators and Travel Agents\) Act, 1982](#) (No. 3 of 1982), hereby make the following regulations:—

1. These Regulations may be cited as the Tour Operators and Travel Agents (Bonding) Regulations, 1983.
2. These Regulations shall come into operation on the 13th day of April, 1983.

3. In these Regulations:—

"the Act" means the [Transport \(Tour Operators and Travel Agents\) Act, 1982](#) (No. 3 of 1982);

"the Bond" has the meaning specified in section 13 of the Act.

4. These Regulations apply to overseas travel contracts to which the Tour Operators (Licensing) Regulations, 1983 ( [S.I. No. 100 of 1983](#) ), and the Travel Agents (Licensing) Regulations, 1983 ( [S.I. No. 101 of 1983](#) ), apply.

5. The Bond shall:—

(i) in the case of a tour operator, be for a sum of 10% of projected licensable turnover within the meaning of the Tour Operators (Licensing) Regulations, 1983.

(ii) in the case of a travel agent, be for a sum of 4% of projected licensable turnover within the meaning of the Travel Agents (Licensing) Regulations, 1983.

6. The Bond shall be maintained for the period of validity of a licence or, if such licence is revoked by the Minister for any reason prior to its date of expiry, up to the date of such revocation, 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 under overseas travel contracts to which these Regulations apply, entered into during the period of validity of the licence, or a previous licence which expired immediately prior to the commencement of the licence period to which the current Bond relates.

7. Any demand under the Bond by the Minister or his nominee shall be made in writing not later than six months after the date after which the Bond ceases to have effect, but on being satisfied that the licensee has discharged his obligations to his customers under overseas travel contracts to which the Bond relates, the Minister at his discretion, may 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. Notwithstanding the generality of Articles 6 and 10 of these Regulations, where a new bond which comes into effect before or from the date after which the current bond ceases to have effect, is provided, or procured, by a licensee, the existing bond shall cease to be effective from the date of commencement of such new bond, and any losses or liabilities incurred by customers of the licensee as a result of the inability or failure of such licensee to meet his financial or contractual obligations to customers in relation to an overseas travel contract, shall fall to be discharged from monies payable under the new bond.

9. The Bond may be comprised of all or any of the following:—

( *a* ) a cash sum deposited with the Minister;

( *b* ) a sum of money deposited in a bank or financial institution in the State in the sole name of the Minister;

( *c* ) a guarantee secured with a bank or insurance company;

( *d* ) a guarantee of such other type as may be acceptable to the Minister; or

( *e* ) any arrangement or scheme entered into on a collective basis by travel agents or any group of travel agents for the protection of their customers, provided that in the event of the inability or failure of any individual member of such collective groups to meet his obligations to his customers in relation to overseas travel, the amount of money payable to the Minister from such collective arrangements would be at the same level as that specified in Article 5 (ii) of these Regulations in respect of an individual travel agent.

10. In the case of a bond of the type specified in Article 9 (*a*) or 9 (*b*) of these Regulations, or where it has been necessary for the Minister 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 may be, shall be returned to the provider of the Bond with such interest as may have accrued thereon, but only after the Minister is satisfied that all obligations to customers of the tour operator or travel agent concerned who, during the period of validity of the licence, or a previous licence, which expired immediately prior to the commencement of the licence period to which the current Bond relates entered into overseas travel contracts to which these Regulations apply with such tour operator or travel agent, have been fully discharged.

11. A bond of the type specified in Article 9 (*c*) of these Regulations shall be:—

( a ) secured only with:—

(i) insurance companies authorised to carry on suretyship business (Class 15) in accordance with the European Communities (Non-Life Insurance) Regulations, 1976 ( [S.I. No. 115 of 1976](#) ); or

(ii) banks duly licensed under the [Central Bank Act, 1971](#) (No. 24 of 1971);

( b ) 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 Article or the Second Schedule thereto where the Bond is secured with a bank pursuant to paragraph (a) (ii) of this Article; and

( c ) lodged with the Minister.

FIRST SCHEDULE

TRANSPORT (TOUR OPERATORS AND TRAVEL AGENTS) ACT,

1982

TERMS OF BOND TO BE SECURED BY A TOUR OPERATOR OR

TRAVEL AGENT WITH AN INSURANCE COMPANY

I/We (name of Insurance Company .....  
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hereafter referred to as the Surety, having our registered office  
at .....

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at the behest of (.....

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of .....

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(being an applicant for a Tour Operator's/Travel Agent's Licence under the above Act) in consideration of the aforementioned licence being granted, hereby undertake and acknowledge ourselves bound to pay to the Minister, or to a person nominated or approved by him, such sum as he or such other person may demand, but not exceeding IR£

(.....  
..... punts)

to be applied in accordance with the provisions of section 13 of the Act 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 , or, if the licence granted to the tour operator/travel agent under the Act is revoked on an earlier date, after such earlier date from which the licence is so revoked, but without prejudice to any liability which may be incurred under this Bond in respect of obligations to customers arising under overseas travel contracts entered into during the period of validity of the licence, or a previous licence which expired immediately prior to the commencement of the licence period to which this Bond relates, PROVIDED THAT any demand on us hereunder by the Minister or his nominee 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 licensee, the liability of the Surety under this Bond shall cease from the date of commencement of such new bond.

IT IS AGREED that this money shall become payable upon demand in writing from the Minister or his nominee 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 licensee;
- (b) the licensee by reason of being unable to fulfil his financial obligations seeks a voluntary winding up of his business or has convened a meeting of his creditors for the purpose of considering a settlement of his liabilities to such creditors;
- (c) a receiver is appointed over the assets of the licensee;
- (d) the licensee has failed to discharge his debts or is unable to discharge his debts or has ceased to carry on business by reason of his inability to discharge his debts;
- (e) the licensee has committed an act of bankruptcy;

(f) the Minister has reasonable grounds for believing that, having regard to all the circumstances, the licensee is unable to, or has failed to, carry out his obligations to his customers in relation to an overseas travel contract.

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

IT IS A CONDITION of this Bond that the Minister or his nominee will repay to the Surety such part of the sum advanced as shall not be expended for the benefit of the customers of the licensee.

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

(a) to provide travel facilities for any customer of the licensee concerned who is outside Ireland and who is unable to make the return journey provided for in the overseas travel contract by reason of the inability or failure of the licensee concerned to fulfil his financial or contractual obligations in relation to such overseas travel contract;

(b) to reimburse a customer of the licensee for any reasonable expenses necessarily incurred by such customer by reason of the inability or failure of the licensee to meet his financial or contractual obligations in relation to an overseas travel contract;

(c) to refund, as far as possible, to a customer of the licensee any payments made by him to the licensee in respect of an overseas travel contract which could not be completed by reason of the inability or failure of the licensee to meet his financial or contractual obligations in relation to such overseas travel contract;

(d) to defray any reasonable expenses incurred by the Minister, or provide for any payments by the Minister, on behalf of a customer of the licensee in respect of an overseas travel contract which could not be completed by reason of the inability or failure of the licensee to meet his financial or contractual obligations in relation to such overseas travel contract.

Without prejudice to any existing right of a customer of the tour operator/travel agent to recover damages in relation to the standard of accommodation or service provided pursuant to an overseas travel contract, 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 .....  
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this ..... day .....  
19.....

(to be signed under hand and not under Seal)

SECOND SCHEDULE

TRANSPORT (TOUR OPERATORS AND TRAVEL AGENTS) ACT,

1982

TERMS OF BOND TO BE PROVIDED BY A TOUR OPERATOR OR

TRAVEL AGENT AND GUARANTEED BY A BANK

PART I (to be completed by the applicant)

I/We ..... of .....

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(being an applicant for a Tour Operator's/Travel Agent's Licence under the above Act), in consideration of the aforementioned licence being granted to me/us hereby undertake and acknowledge myself/ourselves bound as a licensee to pay to the Minister or to a person nominated or approved by him, as trustee, such sum as he or such other person may demand, but not exceeding IR£ ( ..... punts) to be applied in accordance with the provisions of section 13 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 , or, if the licence granted to me/us as a tour operator/travel agent under the Act is revoked on an earlier date, after such earlier date from which the licence is so revoked, but without prejudice to any liability which may be incurred under this Bond in respect of obligations to customers arising under overseas travel contracts entered into during the period of validity of the licence, or a previous licence which expired immediately prior to the commencement of the licence period to which this Bond relates PROVIDED THAT any demand on us hereunder by the Minister or his nominee shall be made in writing not later than six months after the date after which this Bond ceases to have effect.

Notwithstanding 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 me/us, my/our liability under this Bond shall cease from the date of commencement of such new bond.

IT IS AGREED that this money shall become payable upon demand in writing from the Minister or his nominee 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 licensee;
- (b) the licensee by reason of being unable to fulfil his financial obligations seeks a voluntary winding up of his business or has convened a meeting of his creditors for the purpose of considering a settlement of his liabilities to such creditors;
- (c) a receiver is appointed over the assets of the licensee;
- (d) the licensee has failed to discharge his debts or is unable to discharge his debts or has ceased to carry on business by reason of his inability to discharge his debts;
- (e) the licensee has committed an act of bankruptcy;
- (f) the Minister has reasonable grounds for believing that, having regard to all the circumstances, the licensee is unable to, or has failed to, carry out his obligations to his customers in relation to an overseas travel contract.

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

- (a) to provide travel facilities for any customer of the licensee who is outside Ireland and who is unable to make the return journey provided for in the overseas travel contract by reason of the inability or failure of the licensee to fulfil his financial or contractual obligations in relation to such overseas travel contract;
- (b) to reimburse a customer of the licensee for any reasonable expenses necessarily incurred by such customer by reason of the inability or failure of the licensee to meet his financial or contractual obligations in relation to an overseas travel contract;
- (c) to refund, as far as possible, to a customer of the licensee any payments made by him to the licensee in respect of an overseas travel contract which could not be completed by reason of the inability or failure of the licensee to meet his financial or contractual obligations in relation to such overseas travel contract;
- (d) to defray any reasonable expenses incurred by the Minister, or provide for any payments by the Minister, on behalf of a customer of the licensee in respect of an overseas travel contract which could not be completed by reason of the inability or failure of the licensee to meet his financial or contractual obligations in relation

to such overseas travel contract.

Without prejudice to any existing right of a customer of a tour operator or travel agent to recover damages in relation to the standard of accommodation or service provided pursuant to an overseas travel contract, 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 .....

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this ..... day  
of ..... 19.....

**PART II GUARANTEE BY BANK**

We .....  
..... (name of Bank),

having our registered office at .....  
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hereafter referred to as "the Guarantor", hereby guarantee the due payment of the sum specified in Part I above i.e. IR£ (..... punts) upon demand in writing from the Minister or his nominee.

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

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

This Guarantee shall come into effect on the day of , 19 , and shall cease to have effect after the day of , 19 , or, if the licence granted to the tour operator/travel agent is revoked on an earlier date, after such earlier date from which the licence is so revoked, but without prejudice to any liability incurred in respect of any obligations of the licensee to the Minister or his nominee under Part I above arising out of overseas travel contracts which are entered into during the period of validity of the licence, or a previous licence which expired immediately prior to the commencement of the licence period to which this Guarantee relates



PROVIDED THAT any demand on us hereunder by the Minister or his nominee shall be made in writing not later than six months after the date after 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 licensee, our liability under this Guarantee shall cease from the date of commencement of such new bond.

Signed FOR AND ON BEHALF OF.....  
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this ..... day  
of ..... 19.....

(To be signed under hand and not under Seal)

GIVEN under my Official Seal, this 13th day of April, 1983.

JIM MITCHELL,

Minister for Transport.

EXPLANATORY NOTE.

The effect of these Regulations is to introduce a system of bonding for tour operators and travel agents as provided for in Part III of the [Transport \(Tour Operators and Travel Agents\) Act, 1982](#) (No. 3 of 1982).

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