



Guidance Notes for Travel Trade Licensing

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Commission for Aviation Regulation

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1. Introduction

- 1.1 These guidelines offer practical assistance to parties, including new licence applicants and those renewing their licences, with an interest in the licensing requirements governing the Irish travel trade industry. They do not purport to be a legal interpretation of the relevant legislation.
- 1.2 The Commission for Aviation Regulation (CAR) is responsible for licensing travel agents and tour operators in Ireland under legislation dating back to 1982.¹ A travel agent is a person other than a carrier who, as an agent, sells or offers to purchase on behalf of a person travel commencing in the Republic of Ireland to destinations outside of Ireland (either solely or together with accommodation and other services). A tour operator is a person other than a carrier who arranges for the purpose of selling or offering for sale travel commencing in the Republic to destinations outside Ireland (either solely or together with accommodation and other services).
- 1.3 Retailers and organisers established in other Member States of the European Union do not require a licence from us to provide travel agency or tour operator services in Ireland,² provided that they satisfy certain conditions (see paragraph 2.2).
- 1.4 The rest of this document provides more details on who needs to be licensed by CAR and how our licensing process works.

¹ Transport (Tour Operators and Travel Agents) Act 1982.

² The meaning of retailers and organisers is as set out in the Package Holidays and Travel Trade Act 1995

2. Licensing Overview

When is a Licence Required?

- 2.1 Undertakings wishing to arrange, sell or buy travel commencing with the Republic to destinations outside Ireland generally need a licence.
- 2.2 This requirement does not apply to certain entities established in another Member State and who wish to sell package holidays in Ireland.³ Such entities may be exempt from the need for a licence if they have sufficient evidence of security in respect of the packages they offer for sale or have sold, and they have notified us of their intention to trade in Ireland. The level of security required should be sufficient to refund all consumers who are not enabled to travel and to repatriate all consumers who may be abroad to their point of departure. The information should include:
- Security provider's name, address and contact details;
 - The full legal name, trading style and address of the security holder;
 - The value of the security (in Euros); and
 - A statement that in the event of financial failure the indemnity provider agrees to meet all obligations, including repatriating or refunding travellers, and that the CAR's role will be limited to notifying the indemnity provider of the entity's collapse.

This information, as well as the letter notifying us of an entity's intention to offer packages in Ireland, must be available in English.

What Type of Licence?

- 2.3 We issue separate licences for tour operators and travel agents. Entities wishing to act as both tour operators and travel agents will need to get both licences.
- 2.4 Examples of tour operator activities include:
- Chartered services, e.g. advanced booking charters by air;
 - Post-charter arrangements on scheduled services, where the transport capacity is acquired on a wholesale basis;
 - Block booking seats in advance for sale at a later date;
 - Block booking accommodation at hotels, such that the cost must be paid irrespective of whether the capacity is achieved.
- 2.5 Examples of a travel agent includes someone who:
- Carries out any activity, other than as a tour operator or a carrier, selling overseas travel on scheduled services as a standalone product;
 - Sells overseas travel in association with accommodation and other land arrangements and is acting as an agent in such arrangements;
 - Sells flights on scheduled airlines and arranges accommodation with bed bookers; or
 - Sells packages that a tour operator originally assembled.

³ See the State Airports (Shannon Group) Act 2014 for further information

Duration of Licences

- 2.6 Licences are normally valid for 12 months.
- 2.7 There are two licensing periods, commencing on 1 May and 1 November and ending on 30 April and 31 October respectively. If a licence expires and the entity has not renewed it, the entity must cease trading as a travel agent or tour operator – they should honour existing bookings but may not take any new ones.
- 2.8 Where applicants need to renew their licence, they should submit their application well in advance of the expiry of their current licence. The important dates in the renewal process are set out for each round of licensing on our website (www.aviationreg.ie) and email to current licence holders.

Cost of a Licence

- 2.9 There is an annual licence fee that must be paid when applying for a licence (or to renew the existing licence). These are summarised in the table below. For travel agents, the licence fee is €300. For tour operators, the amount varies according to the size of the tour operator. There is also an additional charge of €300 for new applicants. The licence fee is not refunded, even for applications that are abandoned or unsuccessful.

Licence Fees (€)

Licensable Turnover	Travel Agent	Tour Operator
Less than €635,000	300	300
Between €635,001 and €1,270,000	300	600
Between €1,270,001 and €3,810,000	300	1,550
Between €3,810,001 and €6,350,000	300	2,150
Between €6,350,001 and €12,700,000	300	3,100
Between €12,700,001 and €25,400,000	300	7,800
For every €1,270,000 or part thereof in excess of €25,400,000		+300
Additional fee for new application	300	300
Amendment to licence	30	150

- 2.10 In addition to the licence fee, there are also certain levies that we collect that may affect licensed travel-trade entities. Currently these relate to levies for late submission of applications or late submission of financial statements. More details on these levies can be found on our website.

Possible Criminal Sanctions

- 2.11 An entity that does not have a licence (and is not exempt from the licensing requirements) commits a criminal offence if it carries on business as a tour operator or travel agent. It is also a criminal offence to furnish false or misleading information for the purposes of obtaining a licence, or

obstructing one of our authorised officers in the exercise of their duties.

- 2.12 The legislation provides for heavy penalties in respect of these offences: obstructing an authorised officer can result in a maximum of two years imprisonment and a fine not exceeding €63,486.90. In the case of illegal trading, the penalty on summary conviction is a class A fine and for conviction on indictment a fine not exceeding €250,000. For furnishing false information, the penalties are a class A fine on summary conviction or a fine not exceeding €50,000 for a conviction on indictment.

3. Applying for a Licence

- 3.1 All applications are required to be submitted online via the Licensing System. The system is compatible with most major browsers (Internet Explorer, Chrome, Safari and Firefox). You will need to enable pop-ups in your chosen browser.
- 3.2 We provide login details on request. This provides an applicant with a unique user name and password.

Information Required

- 3.3 The online form has four sections that all applicants must complete – general information, organisation and business resources, financial, and a declaration. There is an additional section for new applicants. The responses need to be sufficiently detailed to allow us to assess the application and make a decision.
- 3.4 Where a particular section of the application does not apply, the applicant should insert "not applicable" or "N/A". Fields left blank will show as incomplete, and the application cannot be finalised until all fields are complete. Do not insert "N/A" if the section is applicable. If you have any doubts that a section or sections apply to you, contact us first.

General information

- 3.5 Applicants will need to indicate what type of licence (travel agent or tour operator) they are seeking, their firm structure and contact details for the business. They will also be asked to provide contact details for key personnel and contractors, including the applicant's accountant, bank and legal representative.
- 3.6 Hosting arrangements for the website and any back-office systems that are hosted online will be required. For any data hosted offsite, the applicant will need to include a letter from each hosting company confirming that they will allow the CAR access to all records held in connection with the licence if and when necessary, at no cost to the CAR.
- 3.7 All licensees need to have an adequate bonding arrangement in place. Applicants will need to indicate which of the following arrangements they intend using
 - A guarantee secured with an insurance company (Insurance Bond);
 - A guarantee secured with a bank (Bank Bond); or
 - A sum of money deposited with the CAR (Cash Bond)

At this stage, applicants are not expected to have a final bond in place – the relevant forms to complete will only be sent to applicants once a decision in principle has been reached (see below). The size of the bond will be 4% of projected licensable turnover for travel agents and 10% of projected licensable turnover for tour operators.

- 3.8 A current tax clearance certificate number will be needed to complete this section.

Organisation and Business Resources

- 3.9 Applicants are asked to provide product details – destinations served and types of holidays offered, as well as copies of any supplier contracts they have in place. They are also asked to list all the premises where they operate.
- 3.10 On the staffing side, applicants should set out the relevant experience in the trade and list any business and accountancy qualifications of key personnel (including directors). They should also set out how the firm ensures regulatory compliance, both with CAR and with other statutory bodies it deals with.
- 3.11 Applicants will need to give details of booking systems, back office and accounts systems they operate (or intend to operate) and the level of integration between these. They will also need to describe the internal management system controls that are in place regarding transaction processing (this should include reference to receipting, lodgements and payments to suppliers), purchasing approvals, hiring decisions, etc.
- 3.12 For business continuity plans, applicants should set how they store and back-up key business data and what protections they have in place to make sure this information is secure.

Financial

- 3.13 Basic financial information sought includes the applicant's financial year end; their turnover, cost of sales and profitability; and various values from the balance sheet detailing assets and liabilities.
- 3.14 There are a number of questions relating to projected turnover. The projections should relate to the period for which the licence is sought. The size of bond required will depend on the projected licensable turnover. Licensable turnover means the total monies received in respect of travel (or packages including travel) departing from the Republic of Ireland to a destination outside of Ireland. It represents the amount of monies received in a period (cash, cheques, credit or debit cards and electronic fund transfers), and does not depend on when the travel or other services are provided. It excludes turnover where the customers' credit card is used to purchase tickets or services directly (such customers would not be eligible for a refund or repatriation). Licensable turnover does not include a sale where no travel was involved or the sale of vouchers until those vouchers are exchanged in payment (or part payment) for packages including travel. The projections should be broken down by month, and applicants also should give a ticket-sales breakdown, and show how past turnover compares with projected turnover. For applicants who have non-licensable turnover, details on the nature of this turnover and its magnitude will need to be provided.
- 3.15 For borrowing and debt, applicants will need to provide details on all borrowing, liabilities and potential claims that there may be against the business. They will also be asked about assets, as well as the scope for additional capital injections and any debt facilities that are in place (including overdraft facilities). Applicants also need to describe any credit

card facilities that they provide to their customers, including what security is provided, the percentage of sales through this payment channel, and how long before payments are due if deferred settlement security is provided.

New Applicants

- 3.16 New applicants are asked to provide additional information. To do so, they need to download, complete and upload an Excel spreadsheet with a number of questions.
- 3.17 The questions seek some additional information about the applicant's business. This includes information on what market research the applicant has undertaken. There are additional questions concerning credit-card arrangements that the applicant proposes to have in place, such as which merchant provider they will use and payment arrangements. Would-be tour operators are asked about the aircraft operator(s) they intend chartering from.
- 3.18 The spreadsheet also lists a number of documents that the new applicant has to attach when making their application.

Attachments New Applicants Need to Include in Their Online Application

Attachment
Audited Balance Sheet or Audited Statement of Affairs
Most Recent Annual Accounts
Set of management accounts (if year end >4 months prior to date of application)
Bank statements for last three months (as well as one confirming opening balance sheet/statement of affairs)
Credit card statements for last three months
Projected monthly cash flow for the licence period
Projected profit and loss for the licence period
Projected balance sheet for the licence period
Confirmation from auditor that projections are properly compiled based on assumptions made and consistent with general accounting standards
Evidence of share capital
Market research
SWOT/Pestle analysis
Risk analysis report
Break-even analysis
Suppliers list and proposed method of payment
Copies of contracts with accommodation providers (tour operators only)
Legal advice confirming proposed terms and conditions satisfy 1995 Package Holidays Act and Travel Trade Act
Booking form
Confirmation from systems' provider that booking details can/cannot be deleted from the back office
Confirmation from hosting company and systems provider that access to books and records will be provided to the CAR at no additional cost of the CAR
Sample creditor and debtor report
Sample invoice
Sample receipts
Sample screenshot of lodgement records
Sample screenshot of payment to suppliers
Sample screenshot showing records of how information on vouchers is kept (if applicable)
Sample voucher (if applicable)
Screenshot showing how branch records are integrated or reconciled with head office records
Business continuity or disaster recovery plan

Declarations

- 3.19 All applicants need to make a declaration confirming that the information provided is correct. In doing so, they give the CAR authority to seek all such information it deems necessary to process the application from all persons listed in the application, such as the applicant's auditors. The applicant also has to state whether any of the senior managers have
- Previously held a travel agent or tour operator licence;
 - Been involved in a firm which has failed in the last five years;
 - Been convicted of a breach of the travel trade regulations; or
 - Been disqualified by Company Registration Office or a court.
- 3.20 The declaration needs to be printed, signed and dated and sent to the CAR.

Completing the Application

- 3.21 You can complete the application in one sitting or in as many sittings as you need. You can start the process at any point and see how the application is progressing using the counter in the left-hand column. When you have reached 100% and affixed all of your attachments, you can proceed to make the payment of your choice. You should then print off the declaration page, sign and date it where indicated and send it to the CAR.
- 3.22 Invalid applications will be set to "Clarification" and sent back to the applicant to enable them to review the application and enter the correct information and/or attach the attachments as required. Invalid applications may lead to lengthy delays and may incur an additional levy if the required documentation is not fully completed and returned by the required deadline.
- 3.23 Any application that remains In Progress (i.e. stage before being submitted) for more than 60 days from date registration was approved will be rejected. CAR will issue the applicant a reminder 7 days before rejecting the application.
- 3.24 Any application which is submitted and not advanced by the applicant upon a request by CAR for additional information or clarification of queries will be regarded as abandoned after 90 days from the dispatch of such an information request. CAR will issue the applicant a reminder 7 days before regarding the application as being abandoned.
- 3.25 All fees and levies are non-refundable.

Assessing the Application

- 3.26 We shall grant a licence to carry on business as a tour operator or as a travel agent to a person if we are satisfied that such person complies with the requirements of the 1982 Act. This includes making a valid application, providing the required information and putting a bond in place.
- 3.27 We must refuse a licence if we are not satisfied that the applicant
- Has adequate financial, business and organisational resources to discharge his actual and potential obligations in respect of the activities (if any) in which he proposes to engage if the licence is granted; or
 - Is a fit and proper person.
- 3.28 If we refuse a licence, we will explain our reasons. Following a refusal an applicant may, within seven days, appeal to the High Court against the decision.

Bonding Arrangements

- 3.29 When we are satisfied with the application a Decision in Principle (DiP) letter is issued inviting the applicant to submit the bond. This letter will specify the bond amount required and any outstanding information or documents that is required before the licence can be issued.
- 3.30 The applicant must have an adequate bonding arrangement in place. The

Bond may currently be provided in any of the following forms, or a combination of two or more of these.

- A guarantee secured with an insurance company (Insurance Bond)
- A guarantee secured with a bank (Bank Bond)
- A sum of money deposited with the CAR (Cash Bond)

3.31 The legislation also provides for a collective scheme underwritten by an insurance provider or any other scheme acceptable to us. At the moment, there are no approved collective bonding schemes in Ireland.

3.32 Legislation prescribes the format for both insurance bonds and bank bonds. We will attach the appropriate document with the Decision in Principle letter. The text should not be altered, except where it is indicated that text is needed to complete the document. Incomplete or altered bond documents will not be accepted, and will delay the licensing process.

3.33 Parties opting for a cash bond will be asked to complete a document acknowledging that they assume the risks should there be a bank failure. Unless otherwise instructed, we will place the funds for cash bonds in EBS. Any interest payments will accrue to the applicant. Entities preferring to place the funds in another financial institution will need to ensure that the account:

- is with a financial institution that is regulated by the Central Bank of Ireland;
- has no penalties for instant withdrawal;
- is set up by the CAR in accordance with its mandate which may include a sub account in the name of the applicant and
- pays any interest directly to the licensee.

3.34 CAR will provide the necessary details to allow parties to set up such an account, but the onus will be on the applicant to arrange that funds are in place in sufficient time before the licence is due.

Issuing the Licence

3.35 Once the bond is received and in order and all other outstanding information is supplied the licence will be issued, subject to the applicant observing general and special conditions for the duration of the licence.

4. Revoking a Licence

4.1 We will revoke a licence if the licensee

- has failed to meet or is unable to meet its financial or contractual obligations and
- where it is necessary for payment to be made pursuant to the bond or from the Travellers' Protection Fund to a customer.

4.2 For example, where a Travel Agent fails to pay over a customer's money as required and the customer is thereby prevented from travelling we must revoke the Travel Agent's licence.

4.3 We may revoke a licence or vary any term of a licence in cases where:

- the licensee is in breach of, or fails, neglects or refuses to comply with, any term or condition of the licence;
- the licensee is unable to satisfy us that it continues to have the financial, business or organisational resources to discharge its actual and potential obligations under the licence; or
- having regard to the past activities of the licensee, its directors and shareholders or of any person employed by the licensee we are not satisfied that he or she is a fit and proper person to hold a licence.

4.4 We will notify the holder of the licence if we propose to revoke or vary a licence and our reasons for this action. We will consider any representations made by the licensee in writing to the CAR within seven days of our notice to revoke or vary the licence.