

STATUTES OF FINLAND

Published in Helsinki on 20 December 2017

921/2017

Act on providers of combinations of travel services

By decision of Parliament, the following is laid down:

Chapter 1

General provisions

Section 1

Scope

This Act concerns the provision of package travel and linked travel arrangements falling within the scope of the Act on combinations of travel services (901/2017) (*provision of combinations of travel services*).

In this Act, 'provision of combinations of travel services' is considered equivalent to the provision of air transport to consumers if this transport is provided by a party other than an air carrier.

Provisions on the supervision and insolvency protection charge to be paid to the State for supervising the securities lodged by providers of combinations of travel services and in the event of the provider's insolvency are laid down in the Act on a supervision and insolvency protection charge for providers of combinations of travel services (922/2017).

Section 2

Definitions

For the purpose of this Act, the following definitions shall apply:

1) *trader* means any natural person or any legal person, irrespective of whether privately or publicly owned, who on the conclusion of a contract falling within the scope of the Act on combinations of travel services is acting for purposes relating to his trade, business, craft or profession, whether acting in the capacity of organiser, intermediary, or trader facilitating a linked travel arrangement or as a travel service provider;

2) *traveller* means any person who is seeking to conclude a contract with a trader, or is entitled to travel on the basis of, a contract concluded within the scope of the Act on combinations of travel services;

3) '*organiser*' means a trader who combines and sells or offers for sale packages falling within the scope of the Act on combinations of travel services, either directly or through another trader or together with another trader, or the trader who transmits the traveller's data to another trader through the linked online booking processes referred to in point 5 of paragraph 1 of Section 3 of the Act on combinations of travel services;

4) *trader facilitating a linked travel arrangement* means a trader that facilitates the linked travel arrangements referred to in Section 4 of the Act on combinations of travel services;

5) *travel intermediary* means any trader other than an organiser that sells or offers for sale packages combined by an organiser falling within the scope of the Act on combinations of travel services;

6) *provider of combinations of travel services* means an organiser or trader facilitating linked travel arrangements or a travel intermediary established in Finland operating on behalf of such an organiser established outside the European Union or outside the European Economic Area that has not itself lodged a security in another EU Member State (*EU country*) or European Economic Area State (*EEA country*) referred to in Directive (EU) 2015/2302 of the European Parliament and of the Council on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC (*the Package Travel Directive*);

7) *insolvency* means a situation where, as a consequence of the provider's liquidity problems, travel services are not being performed, will not be or will only partially be performed, or where service providers require travellers to pay for them;

8) *repatriation* means the carriage of the traveller to the place of departure or to another place agreed upon by the contracting parties.

Chapter 2

Insolvency protection and securities

Section 3

Security to be lodged

Organisers established in Finland shall provide security for the refund of all payments made by or on behalf of travellers insofar as the services as provided for in the contract are not performed as a consequence of the organiser's insolvency. If the carriage of travellers is included in the package travel contract, the security shall also cover the travellers' repatriation.

Traders established in Finland facilitating linked travel arrangements shall provide security for the refund of all payments they receive from travellers insofar as a travel service which is part of a linked travel arrangement is not performed as a consequence of their insolvency. If the trader is responsible for the carriage of travellers, the security shall also cover the travellers' repatriation.

A travel organiser established outside the European Union or European Economic Area that sells or offers for sale package travel in Finland or otherwise directs such activities to Finland, or an operator facilitating linked travel arrangements in Finland and that has not itself lodged a security in an EU or EEA country in accordance with the Package Travel Directive shall lodge the security in accordance with paragraphs 1 and 2.

A travel intermediary established in Finland acting on behalf of a travel organiser established outside the EU or EEA that has not itself lodged a security in accordance with Article 17 of the Package Travel Directive shall lodge a security both in the event of its own insolvency and the insolvency of the main party.

The security referred to in this section shall be lodged with the Finnish Competition and Consumer Authority.

Section 4

Eligible security

Securities shall be approved by the Finnish Competition and Consumer Authority. A security payment, other guarantee or assurance shall be approved as security where:

- 1) the issuing party is registered in an EU or EEA country;
- 2) the issuing party is considered by the Competition and Consumer Authority as capable of meeting its payment obligations; and
- 3) the Competition and Consumer Authority deems that its liability amount is enough to pay the charges referred to in Section 3.

The security shall be effective and cover reasonably foreseeable costs. The security shall be available free of charge.

Travellers shall be covered by insolvency protection by the security being lodged regardless of their place of residence, the place of departure or where the package or travel service included in a linked travel arrangement is sold and irrespective of the EU country or EEA country where the entity in charge of the

insolvency protection is located.

Section 5

Conditions applying to securities

The conditions applying to securities shall include at least the following:

- 1) the Competition and Consumer Authority may require the payment obligations to be met immediately on the insolvency of the provider of combinations of travel services;
- 2) the security ceases to apply no earlier than three months from the date on which the Competition and Consumer Authority receives written notice of its cessation from the lodger of the security;
- 3) the Competition and Consumer Authority may cancel the security three months after having found that the lodger of the security cannot meet its payment obligations;
- 4) the security must cover traveller's claims under this Act that have arisen while the security is valid and the claims that arose before the security became valid; and
- 5) the payments made out of the security shall be paid free of charge into the bank accounts specified by the Competition and Consumer Authority.

Section 6

Mutual recognition of insolvency protection

Travel organisers who sell or offer for sale package travel in Finland or otherwise direct such activities to Finland, or traders facilitating linked travel arrangements in Finland and that are established in an EU or EEA country other than Finland shall not be obliged to lodge a security in Finland if they have lodged a security in accordance with the law of the country where they are established.

Section 7

Reduction of the security

At the request of a provider of combinations of travel services, the Competition and Consumer Authority shall reduce the security amount, provided the party making the request can show it meets the following conditions:

- 1) the own capital of the provider of combinations of travel services exceeds the value of the security set for it by the authority;
- 2) the value of the access to turnover and financing of the provider of combinations of travel services in the current and two previous accounting periods has been equal to at least the value of the short-term loan capital according to the accounts (*report on liquidity*); and
- 3) in the five most recent accounting periods, the provider of the combinations of travel services has not repeatedly or significantly neglected its obligations regarding taxes, pensions contributions, accident and unemployment insurance contributions and customs charges.

The security shall be reduced by the amount by which the provider's own capital exceeds the security set by the authority. However, the reduced security must be at least 50 % of the value of the approved security.

Section 8

Supervision of the reduced security

If a provider of combinations of travel services has had its security reduced, it must send a calculation of its own capital, certified by an auditor, a report on its liquidity and a reasoned declaration of its activities twice yearly to the Competition and Consumer Authority for the security to be assessed.

The Competition and Consumer Authority shall revoke the reduction of the security if the provider of combinations of travel services fails to send it the information described in the first paragraph, or if the provider no longer meets the conditions set in the first paragraph of Section 7.

Section 9

Declaration of insolvency and use of security

The Competition and Consumer Authority shall decide on the use of the security where it has declared that the provider of combinations of travel services is insolvent.

Section 10

Payment of claims to travellers and arrangements for repatriation

The security shall be used to pay travellers' claims guaranteed by the security and for the repatriation of travellers.

Travellers shall ask the Competition and Consumer Authority to use the security to pay their claim. They must request this within six months of the date on which the provider of combinations of travel services was declared insolvent. Advance payments shall be repaid without unnecessary delay once the traveller has requested this.

If necessary, the Competition and Consumer Authority shall arrange the repatriation of travellers. The Authority shall send information and instructions on repatriation to travellers personally and without delay after the provider of combinations of travel services has been declared insolvent. If the Authority does not have access to a traveller's contact details, it shall publish information on repatriation on its website or otherwise make it easily available to the public.

Travellers shall not have the right to compensation under this Act if claims guaranteed under the security referred to in Section 3 are paid to the traveller under another Act or under a contract. Nor shall travellers have the right to compensation for repatriation if they fail to comply with the instructions on repatriation given by the Competition and Consumer Authority without justified reason.

Section 11

Payment of repatriation and claims on public funds

The Competition and Consumer Authority may pay the costs of repatriation from public funds, within the state budget, if this is necessary for the quick repatriation of travellers. It may also, at the request of travellers, pay other travellers' claims from public funds, within the state budget, if the security lodged is not sufficient to pay all claims, or if paying the claims using the securities would entail unnecessary delay.

The state shall be compensated for the costs of repatriation and compensation to travellers out of the securities.

Section 12

Obligation to notify changes affecting securities

Providers of combinations of travel services shall notify the Competition and Consumer Authority without delay of any changes in the nature and scope of their activities that may affect their obligation to lodge a security, the amount of the security or its approval.

Chapter 3

Registration of providers obliged to provide securities

Section 13

Register of providers obliged to lodge securities and registration

To carry out its duties under this Act, the Competition and Consumer Authority shall keep a register of providers of combinations of travel services obliged to lodge securities pursuant to Section 3 (*register of providers obliged to lodge securities*).

Traders intending to provide combinations of travel services who are obliged to lodge securities shall submit a notification to the Authority to be entered in the register. The notification shall contain the information referred to in points (1)-(6) of the first paragraph of Section 15. An extract from the trader register or other equivalent public register shall be enclosed, together with confirmation that the registration fee has been paid and a reasoned declaration of its activities for the security to be assessed.

Section 14

Conditions for registration

The Competition and Consumer Authority shall enter a trader in the register of those obliged to lodge securities provided that the trader:

- 1) has fulfilled the obligation to provide security;

- 2) has not gone bankrupt, and in the case of a natural person, has reached the age of majority and has full legal competency; and
- 3) in the previous three years, it has not repeatedly or significantly neglected its obligations regarding taxes, pensions contributions, accident and unemployment insurance contributions and customs charges.

Section 15

Information entered in the register and notification of changes

The following shall be entered in the register of persons obliged to provide securities:

- 1) for natural persons: full name and personal identification number, or if this is unavailable, date of birth, company, any auxiliary company, business and organisation number or other equivalent identification number, and contact details;
- 2) for legal persons: company, any auxiliary company, business and organisation number or other equivalent identification number, and contact details;
- 3) any name used in marketing by the natural or legal person;
- 4) information on whether the trader is a travel organiser, an intermediary acting on behalf of a travel organiser established outside the EU or EEA or a trader facilitating linked travel arrangements;
- 5) information on whether the trader provides air transport under the second paragraph of Section 1;
- 6) the person who issued the security and the liability amount;
- 7) the register entry and date of registration;
- 8) the reason and date of deletion from the register.

Information on any party banned under the first paragraph of Section 22 from providing combinations of travel services shall also be entered in the register. This information shall be deleted three years after the end of the year in which the ban was imposed.

The Competition and Consumer Authority shall be notified without delay of any change to the information entered in the register. If the change is that a party is ceasing the provision of combinations of travel services, the notification shall include a declaration, confirmed by an auditor, of the compensation claims and payment obligations that may be met out of the security.

Section 16

Release of data from the register

The provisions of the third paragraph of Section 16 of the Act on the Openness of Government Activities (621/1999) notwithstanding, personal data may be released in the form of a printout or made publicly available through an electronic data network or otherwise electronically. However, personal identification numbers may only be released under this Act if the information is given as a printout or technical recording and if the party receiving the information is entitled to handle personal identification numbers pursuant to Section 13 of the Personal Data Act (523/1999) or another act.

Section 17

Deletion from the register

The Competition and Consumer Authority shall delete a provider of combinations of travel services from the register if they no longer meet the registration conditions under Section 14 or have ceased operations.

Chapter 4

Supervision and coercive measures

Section 18

Supervision

Compliance with this Act shall be supervised by the Competition and Consumer Authority and the regional state administrative agencies.

Section 19

Supervisory authority's right to information

Regardless of the confidentiality provisions, providers of combinations of travel services shall on request submit to the Competition and Consumer Authority or regional state administrative agencies documents and information required for supervision.

Providers of combinations of travel services shall send the Competition and Consumer Authority their adopted accounts within one month of the adoption of the accounts. At times set by the Authority, they shall send a reasoned declaration of their activities for the security to be assessed. At the same time as the accounts, information shall also be sent on the nature and scope of the combinations of travel services provided during the concluded accounting period.

Section 20

Right to information from authorities

Regardless of the duty of confidentiality and other restrictions on the right to access data, the Competition and Consumer Authority and regional state administrative agencies have the right to receive free of charge information from other authorities and parties carrying out public duties necessary for supervision and to check requirements for entry or deletion from the register. Information may be sent to the Authority and regional state administrative agencies using a technical link or otherwise electronically.

Section 21

Release of confidential information

Regardless of the confidentiality provisions, the Competition and Consumer Authority and regional state administrative agencies may release information on providers of combinations of travel services obtained through supervision to other authorities or parties carrying out public duties if this is necessary for the conduct of these duties, and to the prosecutor for prosecution and to authorities conducting preliminary investigations to prevent or investigate crime.

Section 22

Coercive measures

If a provider of combinations of travel services obliged to lodge a security has not done so, or the security can no longer be approved, the Competition and Consumer Authority shall ban the provider from conducting the business activities referred to in this Act.

If a provider of combinations of travel services neglects an obligation under Section 12, the second paragraph of Section 13, Section 19 or Section 25, the Authority may order the provider to comply within a set time.

A ban or order made by the Authority under this section may carry a conditional fine. Provisions on fines are laid down in the Act on Conditional Fines (1113/1990).

Section 23

Coercive measures in certain cross-border cases

The Competition and Consumer Authority may also take the measures referred to in Section 22 at the request of a foreign authority or organisation referred to in Section 2 of the Cross-Border Injunction Procedures Act (1189/2000) if activities originating in Finland clash with the provisions of Chapters V, VI and Article 20 of Chapter VII of the Package Travel Directive as implemented nationally in the applicable law.

Section 24

Injunctions abroad

The Cross-Border Injunction Procedures Act lays down provisions concerning the right of the

Competition and Consumer Authority to launch injunction proceedings in another EU or EEA country.

Chapter 5

Specific provisions

Section 25

Auditor and accounting

A provider of combinations of travel services obliged to have an auditor under the Auditing Act (1141/2015) shall include an auditor's opinion confirming that the reported information is correct when sending the reports to the Competition and Consumer Authority pursuant to Sections 8 and 9 of this Act. Instead of an opinion, other providers may send a document signed by the board of directors and managing director confirming that the information is correct. This shall include an opinion equivalent to the one above, drawn up and signed by the party responsible for the financial management of the party responsible for accounting.

Providers of combinations of travel services shall ensure that their accounts show all fees paid for combinations of travel services and connected services before the start of the journey in real time. In other respects accounting shall comply with the Accounting Act (1336/1997).

Section 26

Penal provisions

Provisions concerning penalties for criminal offences relating to business travel are laid down in Chapter 30 Section 3a of the Penal Code (39/1889), while provisions on administrative offences relating to business travel are laid down in Chapter 30 Section 3b.

Any party acting in violation of a ban or failing to comply with an order issued pursuant to this Act and carrying a conditional fine cannot be penalised for the same offence if there has been a final legal decision that the fine must be paid.

Section 27

Appeal

Decisions referred to in Sections 17, 22 and 23 may be appealed against to the Administrative Court in the manner described in the Administrative Judicial Procedure Act (586/1996).

For other decisions by the Competition and Consumer Authority, a review may be requested in the manner described in the Administrative Procedure Act (434/2003). Decisions issued following a request for review may be appealed against to the Administrative Court in the manner described in the Administrative Judicial Procedure Act.

Appeals against decisions by the Administrative Court may only be made if the Supreme Administrative Court grants permission.

Decisions made by the Competition and Consumer Authority pursuant to Sections 4, 9 and 17 shall be complied with regardless of any appeal unless otherwise decided by the authority where the appeal has been lodged.

Section 28

Central contact point

The Competition and Consumer Authority is the central contact point referred to in Article 18 of the Package Travel Directive. The task of the central contact point is to facilitate the administrative cooperation between EU and EEA countries and the supervision of providers of combinations of travel services operating in these countries by complying with the obligation to provide information referred to in the Article.

If the Competition and Consumer Authority has any doubts concerning the insolvency protection for a provider of combinations of travel services, it shall request a report from the EU or EEA country where the provider is established. The Authority shall respond to enquiries from other Member States as soon as possible, and no later than the fifteenth working day following receipt of the enquiry in the case of first enquiries.

Section 29

Delegation

A delegation for combinations of travel services may be attached to the Competition and Consumer Authority appointed by the Minister for Employment and the Economy for a three-year period.

The task of the delegation is to monitor developments in tourism and the application and supervision of this Act, to issue opinions and proposals and take initiatives to develop legislation and supervision.

The delegation shall consist of a chairperson and at least five other members, of which one shall be vice-chair. The vice-chair and other members shall have personal alternate members. The delegation members shall be very familiar with issues relating to combinations of travel services.

The delegation shall be quorate when the chairperson or vice-chair and at least three other members are present.

Chapter 6

Entry into force and transitional provisions

Section 30

Entry into force

This Act shall enter into force on 1 July 2018.

This Act repeals the Act on package travel firms (939/2008).

Section 31

Transitional provisions

Notifications that a security has been lodged and notifications to the register referred to in the second paragraph of Section 13 may be processed before the entry into force of this Act. The security may be approved and the applicant entered in the register of those obliged to lodge security after the entry into force of this Act.

Information on a package travel trader entered in the register of package travel firms under the Act on package travel firms at the time this Act enters into force that is obliged to lodge a security under this Act and which has lodged one that can be approved shall be transferred to the register referred to in this Act.

An operator providing combinations of travel services which require a security and entry in the register under this Act at the time this Act enters into force may continue its operations until the decision has been made to approve the security and enter it in the register, provided the security is lodged and the notification referred to in Section 13 is made within two months of entry into force.

Helsinki, 14 December 2017

President of the Republic

Sauli Niinistö

Minister for Employment Jari Lindström