



# Swedish Code of Statutes

---

## The Travel Guarantee Act

**SFS 2018:1218**

Published on 28 June 2018

Issued on 20 June 2018

By decision of the Swedish Parliament (Riksdag)<sup>1</sup> the following is laid down<sup>2</sup>.

### Scope of the Act

**Section 1.** This Act contains provisions on travel guarantees for package travel and linked travel arrangements covered by the Package Travel Act (2018:1217).

**Section 2.** For the purposes of this Act, travel guarantee means protection against financial damage to the detriment of travellers caused by the insolvency of package tour operators or of traders who, by means of agencies or otherwise, have facilitated linked travel arrangements.

**Section 3.** The definitions of travel service, package, linked travel arrangement, traveller, trader, organiser and retailer set out in Chapter 1, Sections 2 to 5 of the Package Travel Act (2018:1217) shall have the same meaning in this Act.

### Obligation to arrange a travel guarantee

**Section 4.** The organiser of package travel shall be responsible for ensuring that the package is covered by a travel guarantee approved in accordance with this Act. The obligation shall be fulfilled before the package is offered for sale.

Where the package has been put together by an organiser established in a country outside the European Economic Area (EEA), the retailer established in an EEA country who offers the package for sale must ensure that the package is covered by a travel guarantee approved in accordance with this Act.

Packages which do not include passenger transport and for which payment is made only after the package has been performed do not have to be covered by a travel guarantee.

**Section 5.** The trader facilitating a linked travel arrangement by means of agencies or otherwise shall be responsible for ensuring that the travel arrangement is covered by a travel guarantee approved in accordance with this Act. The obligation shall be fulfilled before measures are taken by the trader to allow the booking of linked travel arrangements.

---

<sup>1</sup> Government Bill 2017/18:226, Report 2017/18:CU29, Riksdag Communication 2017/18:374.

<sup>2</sup> See Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 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, in its original wording.

If the trader is not responsible for any passenger transport as part of the linked travel arrangement and does not receive payment until after the travel arrangement has been performed, the travel arrangement does not need to be covered by a travel guarantee.

### **Coverage and terms of the travel guarantee**

**Section 6.** The travel guarantee relating to a package shall ensure that the payments made for the package are repaid to the traveller to the extent that the package travel contract is not performed as a result of the organiser's insolvency.

If passenger transport is included in the package, the travel guarantee shall also ensure repatriation, as well as accommodation, if necessary, pending repatriation, to the extent that the passenger transport is not performed as a result of the organiser's insolvency.

**Section 7.** The travel guarantee relating to a linked travel arrangement shall ensure that the payments made to the trader facilitating the linked travel arrangement by means of agencies of otherwise are repaid to the traveller to the extent that the travel services included in the travel arrangement are not performed as a result of the trader's insolvency.

If the trader is responsible for passenger transport that is included in the travel arrangement, the travel guarantee shall also ensure repatriation, as well as accommodation, if necessary, pending repatriation, to the extent that the passenger transport is not performed as a result of the trader's insolvency.

**Section 8.** The travel guarantee referred to in Sections 6 and 7 shall cover reasonably foreseeable costs.

**Section 9.** The travel guarantee shall entitle the traveller to compensation, which shall be paid without undue delay, when it is clear that a travel service included in the package or the linked travel arrangement will not be performed within a reasonable time and it appears likely that this is due to the insolvency of the organiser or the trader who, by means of agencies of otherwise, has facilitated the linked travel arrangement.

**Section 10.** The travel guarantee may include conditions under which:

1. the compensation may be paid to the party offering to continue the package or providing accommodation or repatriation to the traveller,
2. the compensation is reduced by the amount that the traveller has received in compensation by other means as a result of the travel service not being performed,
3. the compensation may be recovered if, on the basis of false statements, the traveller received compensation in excess of what would otherwise have been paid; and
4. the right to compensation from the travel guarantee ceases if the request for compensation has not been made within a specified period, which cannot be less than three months from the date on which it becomes apparent that the travel service covered by the request will not be performed.

### **Obligation to notify an activity**

**Section 11.** Traders shall notify their activity to the authority referred to in Section 12 if they intend to:

1. operate as an organiser,
2. facilitate linked travel arrangements by means of agencies or otherwise, or
3. operate as a retailer for an organiser established in a non-EEA country.

Traders shall provide such information on their activities as is necessary to enable the question of their obligation to arrange a travel guarantee to be examined. The information in the notification shall be provided on their honour.

### **Examination of the obligation to arrange a travel guarantee**

**Section 12.** The authority designated by the Government shall examine whether there is an obligation to arrange a travel guarantee under this Act. The authority shall also examine whether, on the basis of the requirements laid down in this Act and in regulations issued pursuant to this Act, conditions are in place to approve an arranged travel guarantee.

The following shall be taken into consideration as part of this examination:

1. total amounts paid by travellers for packages and linked travel arrangements, respectively;
2. the period of time between the part-payment and the payment of the balance and performance of the travel service; and
3. where applicable, the estimated cost of repatriation.

The authority may decide that a travel guarantee decision shall apply immediately.

**Section 13.** A travel guarantee shall consist of:

1. a payment pledge that has been issued by a bank, a credit institution or an insurance company and that is honoured upon request,
2. insurance cover,
3. deposited funds, or
4. any other similar commitment.

When assessing whether a travel guarantee can be approved under Section 12, account shall be taken of which requirements (solvency, liquidity, risk management and supervision) apply to the party providing the travel guarantee

**Section 14.** A travel guarantee arranged by a trader in accordance with the rules applicable to insolvency protection in the EEA country where the trader is established shall be recognised as an approved travel guarantee under this Act.

**Section 15.** The Government or the authority designated by the Government may issue further regulations on the conditions under which a travel guarantee can be approved.

### **Obligation to notify changed circumstances**

**Section 16.** If there is a change in the circumstances on which approval of a travel guarantee was based under Section 12, the trader shall inform the authority that issued the decision without delay. The trader shall provide such information as is necessary for the matter to be reconsidered.

### **Compensation from a travel guarantee**

**Section 17.** Unless the conditions applicable to a travel guarantee specify otherwise, the authority designated by the Government shall examine the request for compensation from the travel guarantee.

**Section 18.** When a request for compensation from a travel guarantee is to be examined by an authority in accordance with Section 17, the travel guarantee shall be used in order to compensate the traveller to the extent laid down in Sections 6 to 9. Unless the conditions

applicable to the travel guarantee specify otherwise, the conditions referred to in Section 10 shall apply.

## **Supervision**

**Section 19.** The authority designated by the Government shall be responsible for supervising compliance with this Act and with the regulations issued pursuant thereto.

**Section 20.** The supervisory authority shall be entitled to inspect a trader's premises and to access any documentation required for the purposes of supervision. The trader must provide such information on its activities as is requested for the supervision.

If the trader fails to hand over the documents or provide the information, the supervisory authority may order the trader to fulfil his or her obligation.

Such orders may be accompanied by a fine.

**Section 21.** The information referred to in Sections 16 and 20 shall be submitted by the trader on his or her honour.

**Section 22.** If a trader who is required to ensure that a travel guarantee is arranged pursuant to this Act fails to do so, the supervisory authority may order the trader to fulfil his or her obligation.

Such orders may be accompanied by a fine.

**Section 23.** The supervisory authority may decide that the decisions referred to in Section 20 or 22 shall apply immediately.

## **Penalties**

**Section 24.** If a trader, in breach of Section 4 or 5, fails to ensure that a package or a linked travel arrangement is covered by a travel guarantee pursuant to this Act, a financial penalty shall be imposed.

A financial penalty shall also be imposed on a trader who has failed to notify the authority, pursuant to Section 16, that the circumstances on which approval of a travel guarantee was based have changed.

Financial penalties shall accrue to the Government.

**Section 25.** Financial penalties shall be set at a minimum of SEK 5 000 and a maximum of SEK 10 million.

Penalties may not exceed 10 % of the trader's turnover in the last financial year. If the infringement occurred during the trader's first year of business or if information concerning the turnover is otherwise unavailable or incomplete, the amount of the turnover may be estimated.

In determining the level of the penalty, account shall be taken of the seriousness of the infringement.

**Section 26.** Full or partial exemption from a financial penalty shall be granted if it would be unreasonable to charge the full amount. When carrying out this assessment, the following factors shall be taken into account:

1. whether the infringement was the result of illness which meant that the person responsible for paying the penalty had not been able to do what he or she had been required to do and had

likewise been unable to commission another party to do it,

2. whether the infringement was the result of a circumstance which the person responsible for paying the penalty had not foreseen and could not reasonably have foreseen or could not have influenced, or

3. what the person responsible for paying the penalty did to avoid committing the infringement.

**Section 27.** A financial penalty may not be imposed for an infringement that is covered by an order enforceable with a fine pursuant to this Act if the infringement forms the basis of an application for imposition of the fine.

**Section 28.** The supervisory authority shall examine issues of financial penalties.

A financial penalty may not be imposed more than five years after the date on which the infringement came to an end.

**Section 29.** Financial penalties shall be paid to the supervisory authority within 30 days of the date on which the decision became final or within a longer period as specified in the decision.

If the penalty is not paid within the period stipulated in the first paragraph, the supervisory authority shall submit the unpaid penalty for recovery. The provisions on recovery are laid down in the Act (1993:891) on recovery of State debts, etc.

The penalty shall no longer be due if enforcement has not taken place within five years of the date on which the decision became final.

## Appeals

**Section 30.** Decisions adopted pursuant to this Act may be appealed before the general administrative court.

Leave to appeal is required for appeals to the administrative court of appeal.

---

1. This Act shall enter into force on 1 August 2018.

2. This Act repeals the Travel Guarantee Act (1972:204).

3. However, the repealed Act shall continue to apply to trips where the travel contract was entered into prior to the entry into force of this Act. Cases concerning the lodging of a security in accordance with Section 9 and Section 15, fourth paragraph, of the Act shall, however, be examined by the Legal, Financial and Administrative Services Agency (Kammarkollegiet). The provisions of Section 15, third paragraph, of the Act regarding appeals in such cases shall also apply to decisions of the Kammarkollegiet.

On behalf of the Swedish Government

YLVA JOHANSSON

PER BOLUND  
(Ministry of Finance)