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Articles

HolidayTravelWatch PTR Tip – The Due Diligence Defence

Regulation 24 of The Package Travel Regulations provides a Tour Organiser with a 'Due Diligence Defence'.

Where the Organiser commits an offence under Regulation 5 (Requirement as to Brochures), Regulation 7 (Information to be provided before the contract), Regulation 8 (Information to be provided in good time), Regulation 16 (Security in the event of Insolvency), Regulation 22 (Monies in Trust), then it is a defence for an Organiser to show that 'he took all reasonable steps exercised all due diligence to avoid committing the offence'.

This defence will usually involve an 'act or the default of another' or the act occurred because of 'reliance on information given by another'.

The Organiser cannot rely on the defence unless they receive the leave of the court or they have served a notice on the Claimant, seven clear days before a hearing. The notice shall give information identifying the person who committed the act or the default. Where the Organiser acted on information given by another, they will not be allowed to use the defence unless they can prove it was reasonable to do so, proving the steps they took to verify the information, or whether they had any reason to disbelieve the information.

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If you have been affected by any of the issues raised in this article, and would like to receive advices, then please contact HolidayTravelWatch without delay.