

## TRAVEL GUARANTEES ACT (1972:204)

**1 §** Anyone who arranges or sells package tours as laid down in the Act on Package Tours (1992:1672) shall, prior to marketing a package tour or transport in conjunction with a package tour, lodge security with the Swedish Legal, Financial and Administrative Services Agency. The obligation to lodge security also applies to those who, other than on a temporary basis, sell or market

1. travel arrangements consisting of separate transport and accommodation services that together bear a substantial resemblance to a package tour,
2. travel that consists of transport and an educational visit involving accommodation with a host-family, even if this accommodation is free of charge. Enactment (2002:601).

**1 a §** For travel other than those package tours laid down in the Act on Package Tours (1992:1672) the provisions of this act shall only apply if the travel is intended mainly to be acquired for private purposes. Enactment (2002:601).

**2 §** The Swedish Legal, Financial and Administrative Services Agency is to determine whether the obligation to lodge security has arisen in accordance with this act. Enactment (1996:354).

**3 §** Unless otherwise provided by the Swedish Legal, Financial and Administrative Services Agency, the security is to consist of an undertaking to pay issued by a bank, creditmarket company or insurance company which can be redeemed on presentation. Enactment (1994:405).

**4 §** The amount to be secured shall be determined by the Swedish Legal, Financial and Administrative Services Agency in view of the nature and extent of the travel arrangements. If special reasons apply, the Agency may waive the requirement of security. Enactment (2002:601).

**4 a §** If anyone obliged to lodge security in accordance with this act fails to do so, the Swedish Legal, Financial and Administrative Services Agency may enjoin fulfilment of this obligation subject to a monetary penalty. Enactment (2002:601).

**5 §** The Swedish Legal, Financial and Administrative Services Agency may, if there are good grounds for assuming that the obligation to lodge security exists, require those marketing travel to provide the particulars about their operations needed to determine whether security is required. If such information is not supplied, the Swedish Legal, Financial and Administrative Services Agency may enjoin its submission subject to a monetary penalty. Enactment (1996:354).

**6 §** The amount secured may be used in order to refund money paid for travel that is subject to the guarantee provided by this act and which is cancelled or for some other reason fails to take place. If there are exceptional reasons, this can also apply to travellers who have cancelled such travel shortly before its commencement. Where a package tour has started but not been completed, the amount secured may be used to defray the costs of travellers' accommodation during the tour, their return and reasonable compensation for the value of the benefits of which they have been deprived by the curtailment of the tour.

Payment may be made to those who provide travellers with accommodation or a return journey.

If the undertaking that has lodged the security is declared bankrupt or must be assumed to be insolvent, the amount secured may also be used to pay the necessary costs for counsel for the participants in the tour that has been curtailed, and also inquiry into the invocation of the security.

Money that has been paid may be reclaimed from a traveller only if some unwarranted action on his part has given rise to the cost defrayed from the amount secured. Enactment (2002:601).

**7 §** Security that has been lodged by a retailer may not be utilized if the organiser has lodged security to which recourse can be made in accordance with this act. Enactment (1992:1673).

**8 §** Application for the use of the amount secured must be made within three months of the date of cancellation of the tour, or publication of the information that it will not take place, or its interruption, or, in cases referred to in section 6 above, the date on which the cost was incurred. Failure to comply with this provision leads to forfeiture of the right to payment from the amount secured. Enactment (1996:354).

**9 §** Cases concerning the invocation of security are to be heard by a special board, The Travel Guarantee Board.

**10 §** This board consists of a chairperson and four other members, two nominees who can be considered to represent the interests of consumers and two who represent commercial interests. Each member shall have an adequate number of deputies. The chairperson and deputy chairperson are to hold or have held the office of judge.

The chairperson, other members of the board and their deputies are to be appointed by the government. Enactment (1988:208).

**11 §** The board forms a quorum when the chairperson and two other members are in attendance. An equal number of representatives of consumer interests and commercial interests are to participate in making decisions.

If the board is divided on an issue, the provisions of Chapter 16 of the Code of Judicial Procedure concerning voting in civil cases are to apply.

Only the chairperson may individually initiate preparatory measures on behalf of the board or adjudicate on cases of minor importance. The chairperson may delegate tasks of this nature to executive officers at the Swedish Legal, Financial and Administrative Services Agency who provide administrative services for the Travel Guarantee Board. Enactment (1996:354).

**12 §** The Swedish Legal, Financial and Administrative Services Agency makes the disbursements decided on by the board. Enactment (1994:405).

**13 §** The Swedish Legal, Financial and Administrative Services Agency shall return security which no longer serves any purpose. Enactment (1994:405).

**14 §** Anyone who intentionally sells or markets travel without having lodged security as laid down in this act shall be sentenced to a fine or imprisonment for not more than one year.

A fine shall be imposed on anyone who intentionally or through negligence

1. provides erroneous information when supplying particulars required in accordance with section 5, or
2. fails to supply such particulars.

No criminal charges shall be brought for an action referred to in the above paragraph, insofar as the action is already subject to a monetary penalty as laid down in section 4a. No penalty will be imposed for an action of the kind laid down in sub-section 1 of the above paragraph if the action is subject to a penalty in the Penal Code. Nor shall any charges be brought for an action of the kind laid down in sub-section 2 insofar as this action is subject to a monetary penalty as provided for in Section 5.

Criminal charges for offences against this act may only be brought with the consent of the Swedish Legal, Financial and Administrative Services Agency. Enactment (2002:601).

**15 §** No appeal may be made against a decision made by the Swedish Legal, Financial and Administrative Services Agency pursuant to sections 4a or 5. Appeal may be made against other decisions by the Agency to an administrative court. A review permit is required before appeal can be made to an administrative court of appeal.

The Swedish Legal, Financial and Administrative Services Agency is empowered to decide that a decision concerning security is to take immediate effect.

No appeal may be made against the decisions of the Travel Guarantee Board.

If an amount secured has been used to make payments that should have been made from some other secured amount, the Travel Guarantee Board may review its decision. Enactment (2002:601).

**16 §** Has been rescinded by enactment (1985:859).

### **Transitional regulations**

1996:354

1. This act comes into force on 1<sup>st</sup>. June 1996.
2. The earlier provisions in section 8 still apply, however, in cases when an event is considered to have occurred before 2002:601 came into force

2002:601

1. This act comes into force on 1<sup>st</sup>. January 2003.
2. Earlier provisions still apply in appeals against decisions issued before the act comes into force.