

The Thursday Morning Webinar

Accident Claims under the Package Travel and Linked Travel Arrangements Regulations 2018

The webinar will start shortly

Next week: Paul Stagg and Susanna Bennett will
be speaking on limitation

The cause of action

Regulation 15(2) of the Package Travel and Linked Travel Arrangements Regulations 2018:

The organiser is liable to the traveller for the performance of the travel services included in the package travel contract, irrespective of whether those services are to be performed by the organiser or by other travel service providers.

The cause of action

Points to note:

- The cause of action arises under English law. Therefore the limitation period is that applicable under English law.
- Beware claims involving ships and aircraft; the Athens or Montreal Convention respectively may apply, with their shortened limitation periods.

The cause of action

Points to note:

“traveller” means any individual who is seeking to conclude a contract, or is entitled to travel on the basis of a contract concluded, within the scope of the Regulations.

The cause of action

Points to note:

“organiser” means—

(a) a trader who combines and sells, or offers for sale, packages, either directly or through another trader or together with another trader; or

(b) the trader who transmits the traveller’s data to another trader in linked online booking processes.

The lay evidence

Potential witnesses:

- The Claimant.
- Holiday companions.
- Other guests.
- Supplier staff.
- Reps in resort.

Hearsay evidence:

- TripAdvisor reviews.
- CSQs.
- Parameter reports: but what are the parameters?

The expert evidence

Local standards evidence: is it necessary in all cases?

- The second limb of *Wilson v Best Travel* [1993] 1 All ER 353.
- Uniform international standards: FSI, FTO, HACCP.
- Reckless and dangerous driving.

The expert evidence

Selecting the right expert:

- Lawyers.
- Engineers.
- Specialists.
- Hot tubbing experts.

The expert evidence

Instructing the expert:

- What to ask the expert: local regulatory standards and custom and practice.
- What not to ask the expert: local law.
- What not to ask the expert: what the local courts would do.

The expert report

Contents of the report:

- As with all expert reports, it must be CPR compliant;
- It must answer the question on local standards;
- It must not relate to local law;
- *Except* it is worth bearing in mind that sometimes caselaw can be instructive.

Part 35 Questions

Remember the Golden Rule: only ask questions if it is really necessary to do so.

Evidence at trial

Pre trial considerations:

- Do you really need or want the experts to give oral evidence?
- Consider videolink.
- Videolink witnesses should be equipped with bundles and the relevant Holy Book, if any.
- Consider *realistic* time estimates (ask trial counsel).

After that...

You've done all you can.
Sit back and leave the rest to us.



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