

## Independent Arbitration Service for Customers Service Rules: Package Holidays

**These rules apply to application forms received by CEDR on or after 1<sup>st</sup> April 2018.**

### Introduction

- 1) The Independent Arbitration Service for Customers (“the Service”) provides a legally binding way to resolve disputes between subscribing holiday companies and their customers when other attempts to resolve a dispute have reached deadlock.
- 2) The Service is operated by the Centre for Effective Dispute Resolution (CEDR), an independent dispute resolution body that provides this service under certification by the Competent Authority, the Trading Standards Institute (TSi).
- 3) The Service has been designed to resolve disputes between a holiday company (“the company”) and their customers. A full list of subscribing companies is available at [www.cedr.com/consumer](http://www.cedr.com/consumer).
- 4) A customer can apply to use the Service if they have been unable to resolve their dispute in line with the company’s complaints process and the company has referred the customer to arbitration.
- 5) Use of the Service is voluntary and both company and customer must agree to participate in good faith by signing a declaration of intent which shall be provided by CEDR.
- 6) The customer must submit an application to CEDR within 12 months of receiving the company’s final response to the complaint.
- 7) All arbitrations under the Service will be governed by the [provisions of the](#) Arbitration Act 1996 or any statutory modification or re-enactment thereof for the time being in force (“the Act”) and these Service Rules. All arbitrations will be deemed to take place in London, U.K.



- 8) The Service cannot be used for:
  - a) any claim for compensation exceeding a total of £25,000.00; or
  - b) any claim for compensation for personal injury, illness, shock or their consequences.
- 9) The Service cannot be used where:
  - a) the same customer has brought a claim against the same company regarding the same subject matter before a court or tribunal or equivalent body, which has jurisdiction over the claim and the parties and which has jurisdiction to issue, or has already issued, a legally binding and final determination regarding the claim.
  - b) the same dispute is actively being investigated by another dispute resolution body.
  - c) in the opinion of CEDR or the Arbitrator, the dispute referred to the Service is frivolous or vexatious.
- 10) A customer may appoint a representative to make an application on their behalf. If the customer wishes to do so, they must provide CEDR with their written permission for this representative to act on their behalf.

### **Applying for arbitration**

- 11) In order to use the Service, the customer must send a completed application form to CEDR with the appropriate supporting materials, as specified in Rule 30 below (together 'the Claim Documents'), along with the appropriate registration fee (as set out on the application form).
- 12) Where the customer wishes to use the Service, and the company consents to this, the company must sign a declaration of agreement to participate and pay a separate registration fee directly to CEDR along with their Defence to the claim.
- 13) Registration fees are non-returnable except as provided for in Rule 16 and Rule 37.
- 14) The arbitration begins on the date that CEDR sends correspondence to the parties telling



them that the customer's application has been accepted.

- 15) Upon receipt of the Defence from the company, CEDR will appoint an arbitrator from its Panel of Arbitrators and inform the parties of the appointment.
- 16) If the Arbitrator considers that the dispute is not capable of proper resolution under these Rules, the parties will be so advised. In that case the arbitrator's appointment will be cancelled, the application for arbitration will be treated as withdrawn and 75% of the registration fees will be refunded to both parties.
- 17) Once appointed, the arbitrator will communicate with or issue directions to the parties through CEDR. All correspondence with the arbitrator will be copied to all parties and CEDR.

### **Arbitration procedure**

- 18) The arbitrator will have the widest discretion permitted by law to resolve the dispute in a final manner in accordance with natural justice. In particular, the arbitrator has the power to direct the procedure of the arbitration, including varying time limits and other procedural requirements, and to:
  - a) allow the parties to submit further evidence and/or amend any of the submissions already made;
  - b) order the parties to produce goods, documents, property or other items for inspection;
  - c) conduct enquiries and receive and consider additional evidence as the arbitrator considers appropriate;
  - d) award interest on any sum awarded, even if not claimed;
  - e) proceed with the arbitration if either party fails to comply with these Rules or with the arbitrator's directions;
  - f) end the arbitration if the arbitrator considers the case to be incapable of resolution under



the Service, or if the parties settle their dispute prior to an award being made. If the case is settled, both parties must immediately inform CEDR in writing of the terms of the settlement;

- g) order the customer to pay the company any outstanding fees.
- 19) The arbitration will proceed on the basis of written argument and evidence. No oral hearing will be convened as part of the arbitration.
- 20) The arbitration will proceed as follows:
- 21) CEDR will send a copy of the Claim Documents to the company, who has fifteen working days from the date on which the Claim Documents were sent in which to either submit a written defence to the claim (the Defence), prepared in accordance with Rule 32 below, or to notify CEDR in writing that the claim has been settled. If no defence or notification of settlement is submitted after fifteen working days, the Arbitrator will proceed with the arbitration as they see fit.
- 22) Where a notification of settlement is submitted to CEDR in writing by both parties, the arbitrator will have the power to bring the arbitration to an end.
- 23) On receipt of the company's Defence (if any), CEDR will send a copy to the customer, who is entitled to submit written comments within a further ten working days from the date on which the Defence is sent as indicated in the covering communication. Such comments must be restricted to points arising from the Defence, and shall not introduce any new claim, assertion or evidence.
- 24) CEDR will send a copy of the customer's comments to the company. The company cannot make any further comments without the Arbitrator's written approval.
- 25) On receipt of all submissions, documents and evidence, CEDR will send the complete case file to the arbitrator. The arbitrator will consider all documentation and other evidence and may, via CEDR, ask for further information from the parties.
- 26) Within twenty working days of the case file being sent to the arbitrator, or of the date on



which the last of the information required by the arbitrator is submitted to him/her, CEDR will send a copy of the arbitrator's Award to each party.

- 27) Unless otherwise directed by the arbitrator, all parties shall comply with the Award within fifteen working days of the date on which the Award is sent to the parties.
- 28) Any Award made under the Service is final and legally binding on all parties, subject to either party's right under the provisions of the Act to seek leave to appeal in the courts.
- 29) Please do not provide any original documents if you wish to use them in the future. We do not keep any documents on our premises and all documents sent to us will be disposed of securely.

### **Content of submissions for arbitration**

- 30) The Claim Documents shall include:
  - a) the nature and basis of the claim;
  - b) the amount of compensation claimed or other remedy sought;
  - c) all supporting documents relied on as evidence;
  - d) confirmation that all reasonable efforts have been made to resolve the dispute through the company's complaints procedure.
- 31) An Award cannot be made for any amount that is more than the total amount claimed on the application form. This Rule does not affect the arbitrator's power under Rule 18.d above to award interest on any sum awarded, even if not claimed.
- 32) The Defence shall include:
  - a) what matters in the Claim Documents are accepted or agreed;
  - b) what matters are disputed, with reasons why;
  - c) details of any outstanding amounts which remain unpaid by the customer, and any associated counterclaim for such amounts;
  - d) any supporting documents relied on as evidence in support of their response.



- 33) In the reply to the Defence, the customer must state which matters in the Defence are now accepted, and the matters which remain disputed, with reasons.
- 34) If any party fails to deliver anything required by the arbitrator, the arbitration shall proceed as the arbitrator considers appropriate.

### **Costs**

- 35) The registration fees paid by the parties constitute a payment of CEDR's administration fee and the arbitrator's fee.
- 36) Subject to rule 37 below, each party shall bear its own costs of legal representation, and of preparing and submitting its case. No legal action may be brought to recover these costs. It should be noted that the Service has been set up for the purpose of providing low-cost dispute resolution. The parties are therefore not encouraged to make arrangements for legal representation, although they are not precluded from doing so.
- 37) The arbitrator may award that the company reimburse the customer their registration fee if the arbitrator considers this to be appropriate. These provisions for costs will not apply to any appeal of the Award to the courts.

### **Confidentiality**

- 38) Both the customer and the company undertake not, at any time, to disclose to any person any details of the Arbitration, except where necessary to uphold the Award.
- 39) CEDR may gather and retain details, in summary form, of individual cases and, while preserving the anonymity of the parties, may publish such summaries on its website and to other arbitrators as a resource in order to encourage consistency of practice under these rules. CEDR may also publish statistical and outline information on such disputes whilst preserving the anonymity of the parties as required by TSi.

### **General**

- 40) The law of England and Wales shall apply to the arbitration. The seat of the arbitration



shall be London. The arbitrator shall determine the applicable law of the contract.

- 41) All references to 'working days' in these Rules shall be interpreted by reference to public and bank holidays in England and Wales.
- 42) CEDR will appoint a substitute arbitrator if the arbitrator originally appointed is unable to deal with the dispute for any reason. CEDR will inform the parties if such an appointment is made and reasons for that appointment.
- 43) With the exception of amending the Award following any minor error or omission which the arbitrator has power to correct by law, neither CEDR nor the arbitrator will enter into correspondence relating to the Award.
- 44) Neither CEDR nor the arbitrator will be liable to any party for any act or omission in connection with any arbitration conducted under these Rules, save for any wrongdoing on the part of the arbitrator arising from bad faith.
- 45) These Rules are subject to revision and amendment from time to time. The edition of the Rules in force at the time the application is made will govern any arbitration under the Service.

March 2018

### Schedule 1 – Registration Fees

1 The case fee of £350.00 plus VAT applies and is payable by the parties as set out below:

<b>Claim Value</b>	<b>Customer's fee</b>	<b>Companies fee</b>
£1 and £2,999.99	£90 + VAT	£260 +VAT
£3,000.00 and £7,499.99	£150 +VAT	£200 +VAT
£7,500.00 and £25,000.00	£175+VAT	£175+VAT



## Schedule 2 - Time Frame Breakdown

