



ATTA Legal Advice on FCDO Advise on Mozambique

The recent FCDO advice in respect of travel to Mozambique, which now reads as follows
“FCDO now advises against all but essential travel to Mozambique and continues to advise against all travel to parts of Mozambique”

has highlighted the difficult position this places UK tour operators in relation to the law. The 2018 Package Travel Regulations, which are in the main an exact copy of the European Directive issued in 2015 and therefore applicable to all EU based operators, makes it clear that in these circumstances, and possibly others, **customers are entitled to cancel and receive a full refund of all monies paid**, although they do not have any rights to any additional compensation.

Regulation 12(7) states that

in the event of unavoidable and extraordinary circumstances occurring at the place of destination or its immediate vicinity and which significantly affect—
(a) the performance of the package, or
(b) the carriage of passengers to the destination,
the traveller may terminate the package travel contract before the start of the package without paying any termination fee.

Historically operators have always assumed that the FCDO advice is the only ground for offering refunds, but the UK government has suggested the 2018 revisions mean that customers may be able to cancel even without FCDO advice against travel, such as a declaration of a State of Emergency where the FCDO warns of the dangers but does not advise against travel.

Operators can attempt to get customers to either delay their trip or travel to a different destination than the original but cannot force customers to do so. It is vital that suppliers at a destination respect the need to provide refunds and avoid the operator suffering the entire loss themselves.

Naturally some customers may still wish to travel but should be warned that their travel insurance will almost certainly now be void and if they wish to travel, and it is still possible to provide the services on the ground, operators should ensure they obtain an indemnity from the clients before allowing them to proceed.

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