

STATUTORY INSTRUMENTS

2012 No. 1017

The Civil Aviation (Air Travel Organisers' Licensing) Regulations 2012

PART 2

REGULATION OF PROVISION OF ACCOMMODATION IN AIRCRAFT

Who may make available flight accommodation

9.—^[F1(1)] A person must not in the United Kingdom make available flight accommodation unless that person is—

- (a) the operator of the relevant aircraft;
- (b) an ATOL holder acting in accordance with the terms of its ATOL;
- (c) a person who is exempt from the need to hold an ATOL by reason of regulation 10; or
- (d) a person who is exempted by the CAA under regulation 11 from the need to hold an ATOL.

^{F2}(2)

- F1** Reg. 9 renumbered as reg. 9(1) (1.7.2018) by [The Civil Aviation \(Air Travel Organisers' Licensing\) \(Amendment\) Regulations 2018 \(S.I. 2018/670\)](#), regs. 1, **8(1)**
- F2** Reg. 9(2) omitted (31.12.2020) by virtue of [The Air Passenger Rights and Air Travel Organisers' Licensing \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/278\)](#), regs. 1(3), **6(3)**; 2020 c. 1, Sch. 5 para. 1(1)

[F3] Procuring flight accommodation as agent for the consumer

9A.—(1) Where this paragraph applies, a person (“A”) must not in the United Kingdom procure flight accommodation on behalf of a consumer (“B”) unless A is a person referred to in regulation 9(1)(b), (c) or (d).

- (2) Paragraph (1) applies where—
- (a) A is acting in the course of business; and
 - (b) A is acting as agent for B.

^{F4}(3)

^{F5}(4)

- F3** Regs. 9A, 9B inserted (1.7.2018) by [The Civil Aviation \(Air Travel Organisers' Licensing\) \(Amendment\) Regulations 2018 \(S.I. 2018/670\)](#), regs. 1, **8(3)**
- F4** Reg. 9A(3) omitted (31.12.2020) by virtue of [The Air Passenger Rights and Air Travel Organisers' Licensing \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/278\)](#), regs. 1(3), **6(4)**; 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation: There are currently no known outstanding effects for the The Civil Aviation (Air Travel Organisers' Licensing) Regulations 2012, PART 2. (See end of Document for details)

F5 Reg. 9A(4) omitted (31.12.2020) by virtue of The Air Passenger Rights and Air Travel Organisers' Licensing (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/278), regs. 1(3), **6(4)**; 2020 c. 1, Sch. 5 para. 1(1)

Facilitating the making available of flight accommodation by another person

9B.—(1) Where this paragraph applies, a person (“P”) must not in the United Kingdom facilitate the making available of flight accommodation by another person (“Q”) unless P is a person referred to in regulation 9(1)(b), (c) or (d).

(2) Paragraph (1) applies where—

- (a) the flight accommodation is a component of a package of which P is the organiser and one of the arrangements relating to payment specified in paragraph (3) applies; or
- (b) (i) P is acting in the course of business;
 - (ii) the facilitation is not limited to arranging payment; and
 - (iii) the arrangement relating to payment specified in paragraph (3)(a) applies.

(3) The arrangements relating to payment are that P—

- (a) receives a payment in connection with the flight accommodation from a consumer which P passes in whole or in part to Q;
- (b) arranges for a payment in connection with the flight accommodation to be made by a consumer directly to Q; or
- (c) receives a payment from Q as a consequence of a flight accommodation booking made by a consumer.

^{F6}(4)

^{F7}(5)]

F3 Regs. 9A, 9B inserted (1.7.2018) by The Civil Aviation (Air Travel Organisers' Licensing) (Amendment) Regulations 2018 (S.I. 2018/670), regs. 1, **8(3)**

F6 Reg. 9B(4) omitted (31.12.2020) by virtue of The Air Passenger Rights and Air Travel Organisers' Licensing (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/278), regs. 1(3), **6(5)**; 2020 c. 1, Sch. 5 para. 1(1)

F7 Reg. 9B(5) omitted (31.12.2020) by virtue of The Air Passenger Rights and Air Travel Organisers' Licensing (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/278), regs. 1(3), **6(5)**; 2020 c. 1, Sch. 5 para. 1(1)

Persons exempt from requirement to hold an ATOL

[^{F8}**10.**—(1) The following persons are exempt from the need to hold an ATOL—

- (a) subject to regulation 15, an agent for an ATOL holder;
- (b) a person who acts as a member of an accredited body and in accordance with the conditions of membership of that accredited body;
- (c) an airline ticket agent, except when making available flight accommodation which constitutes a component of a package;

^{F9}(d)

- (e) a worker for an ATOL holder;
- (f) the CAA;

- (g) the trustees of the Air Travel Trust acting in their capacity as trustees;
- (h) a person who is making available flight accommodation under and in accordance with the terms of a general business travel agreement which includes all current terms that have been published by the CAA under paragraph (2);
- (i) a person making available flight accommodation occasionally on a not-for-profit basis to a limited group of consumers;

^{F10}(j)

(2) The CAA may—

- (a) publish terms to be included in a general business travel agreement for the purposes of paragraph (1)(h);
- (b) publish a variation to any such terms, which must not come into force until at least 28 days after the date of publication.

(3) In this regulation, “general business travel agreement” means an agreement which is concluded between a trader and another person, for the purpose of booking travel arrangements in connection with that other person’s trade, business, craft or profession.]

- F8** Reg. 10 substituted (1.7.2018) by [The Civil Aviation \(Air Travel Organisers' Licensing\) \(Amendment\) Regulations 2018 \(S.I. 2018/670\)](#), regs. 1, **9**
- F9** Reg. 10(1)(d) omitted (31.12.2020) by virtue of [The Air Passenger Rights and Air Travel Organisers' Licensing \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/278\)](#), regs. 1(3), **6(6)**; 2020 c. 1, Sch. 5 para. 1(1)
- F10** Reg. 10(1)(j) omitted (31.12.2020) by virtue of [The Air Passenger Rights and Air Travel Organisers' Licensing \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/278\)](#), regs. 1(3), **6(6)**; 2020 c. 1, Sch. 5 para. 1(1)

Power to exempt

11.—(1) The CAA may exempt from the need to hold an ATOL any person or any class or description of persons.

(2) The CAA may exempt from any of the provisions of these Regulations any person or class or description of persons ^{F11}... provided the CAA is satisfied that consumers will receive a level of consumer protection equivalent to that which would otherwise be required under these Regulations.

(3) Any exemption issued under paragraph (1) or (2)—

- (a) must be in writing;
- (b) may be subject to such conditions as the CAA thinks fit;
- (c) may be revoked or varied in writing by the CAA; and
- (d) must be published by the CAA.

(4) An exemption issued under paragraph (1) or (2) comes into force on the day after the date on which such exemption is published by the CAA.

- F11** Words in reg. 11(2) omitted (1.7.2018) by virtue of [The Civil Aviation \(Air Travel Organisers' Licensing\) \(Amendment\) Regulations 2018 \(S.I. 2018/670\)](#), regs. 1, **10**

Acting as agent for an ATOL holder

12.—(1) “Agent for an ATOL holder” means, subject to paragraph (2), a person who acts as agent on behalf and with the authority of a disclosed identified principal who is an ATOL holder.

- (2) A person does not act as an agent for an ATOL holder unless, immediately upon receipt by that person of any payment for the flight accommodation being made available, that person—
- (a) is entitled to supply an ATOL Certificate on behalf of the ATOL holder without reference to the ATOL holder;
 - (b) is able to bind the ATOL holder to the contract for flight accommodation; and
 - (c) acts in accordance with the terms of a written agency agreement which complies with regulation 22.
- (3) For the purposes of these Regulations, a worker for an ATOL holder is not an agent for an ATOL holder.

Acting as an airline ticket agent

13.—(1) “Airline ticket agent” means, subject to paragraphs (2) to (5), a person appointed by an aircraft operator as its agent to make available flight accommodation on a flight operated by that aircraft operator.

(2) An airline ticket agent must not make available flight accommodation except to a person who the airline ticket agent has reasonable grounds for believing is the consumer of that flight accommodation.

(3) An airline ticket agent must act in accordance with a written agency agreement under which the airline ticket agent is entitled to supply a confirmed ticket as required by paragraph (4).

(4) An airline ticket agent must, immediately upon receipt of any payment for the flight accommodation supply a confirmed ticket by the specified method.

(5) When supplying a confirmed ticket as required by paragraph (4), the airline ticket agent must at the same time and by the same method, notify the person to whom the ticket is supplied that they are an airline ticket agent for that aircraft operator.

(6) The CAA may require at any time an airline ticket agent or any person purporting to be an airline ticket agent to provide the CAA with a copy of the written agency agreement required under paragraph (3) by serving a notice on that airline ticket agent or on that person purporting to be an airline ticket agent.

(7) Any notice served by the CAA under paragraph (6) must specify a reasonable period during which the person receiving the notice must provide the CAA with a copy of the written agency agreement.

(8) An airline ticket agent must provide the CAA with a copy of the written agency agreement required under paragraph (3) within the period specified by the CAA in the notice served under paragraph (6).

Acting as member of an accredited body

14. Where a member of an accredited body makes available flight accommodation, the accredited body is liable to the consumer to the same extent as if it were the member.

Restrictions on when flight accommodation may be made available

^[F12]**15.**—(1) A person cannot, in the capacity of an agent for an ATOL holder, rely on the exemption in regulation 10(1)(a) when making available flight accommodation which constitutes a component of a package unless both of the conditions in paragraph (2) are met.

(2) The conditions are that—

- (a) the person's involvement in the creation of the package is limited to selecting or enabling a consumer to select from a closed group of travel services made available by the ATOL holder; and
- (b) the ATOL holder (and not the agent for the ATOL holder) is responsible for and performs the obligations imposed on the organiser of the package under the Package Travel Regulations.]

F12 Reg. 15 substituted (1.7.2018) by [The Civil Aviation \(Air Travel Organisers' Licensing\) \(Amendment\) Regulations 2018 \(S.I. 2018/670\)](#), regs. 1, **11(1)**

Who may hold themselves out as being able to provide flight accommodation

16. A person must not in the United Kingdom—

- (a) hold themselves out as a person who may make available flight accommodation unless—
 - (i) they may make available that flight accommodation under regulation 9; and
 - (ii) at all times in the course of holding themselves out as a person who may make available flight accommodation, they disclose to the consumer the capacity in which they are making that flight accommodation available; or
- (b) give an indication directly or indirectly by whatever means that they—
 - (i) hold an ATOL which they do not hold; or
 - (ii) are a member of an accredited body when they are not a member.

Supply of ATOL Certificate

17.—(1) Any person ^{F13}... who^{F14}, in circumstances in which an ATOL is required to be held by them or another person under these Regulations,] makes available flight accommodation to a consumer—

- (a) on its own, [^{F15}or]
- (b) as a component of a package, ^{F16}...
- ^{F17}(c)

must supply an ATOL Certificate to the consumer by the specified method where paragraph (2) applies.

(2) This paragraph applies when a person specified in paragraph (1)—

- (a) accepts a first payment, whether in part or in full, for flight accommodation;
- (b) makes a booking for the flight accommodation requested by the consumer where payment for such flight accommodation is made by the consumer to the aircraft operator or another ATOL holder; or
- (c) accepts a first payment, whether in part or in full, for anything other than the flight accommodation which is or would be a component of a [^{F18}package].

(3) A person must not supply an ATOL Certificate unless they are required to do so by paragraph (1).

F13 Words in reg. 17(1) omitted (1.7.2018) by virtue of [The Civil Aviation \(Air Travel Organisers' Licensing\) \(Amendment\) Regulations 2018 \(S.I. 2018/670\)](#), regs. 1, **12(2)(a)**

F14 Words in reg. 17(1) inserted (1.7.2018) by [The Civil Aviation \(Air Travel Organisers' Licensing\) \(Amendment\) Regulations 2018 \(S.I. 2018/670\)](#), regs. 1, **12(2)(b)**

Changes to legislation: There are currently no known outstanding effects for the The Civil Aviation (Air Travel Organisers' Licensing) Regulations 2012, PART 2. (See end of Document for details)

- F15** Word in reg. 17(1) inserted (1.7.2018) by The Civil Aviation (Air Travel Organisers' Licensing) (Amendment) Regulations 2018 (S.I. 2018/670), regs. 1, **12(2)(c)**
- F16** Word in reg. 17(1) omitted (1.7.2018) by virtue of The Civil Aviation (Air Travel Organisers' Licensing) (Amendment) Regulations 2018 (S.I. 2018/670), regs. 1, **12(2)(d)**
- F17** Reg. 17(1)(c) omitted (1.7.2018) by virtue of The Civil Aviation (Air Travel Organisers' Licensing) (Amendment) Regulations 2018 (S.I. 2018/670), regs. 1, **12(2)(e)**
- F18** Word in reg. 17(2)(c) substituted (1.7.2018) by The Civil Aviation (Air Travel Organisers' Licensing) (Amendment) Regulations 2018 (S.I. 2018/670), regs. 1, **12(3)**

Meaning of specified method

[^{F19}18]. The specified method means in relation to the supply of an ATOL Certificate or a confirmed ticket—

- (a) in the case of a consumer who is present, providing the ATOL Certificate or the confirmed ticket to that consumer[^{F20}, or sending the ATOL Certificate or the confirmed ticket to that consumer by electronic communication,] at the time such payment is made;
- (b) in the case of a consumer who is not present, immediately sending to that [^{F21}consumer] the ATOL Certificate or the confirmed ticket by [^{F22}electronic communication]; or
- (c) in the case of a consumer who makes a booking by telephone, either the method specified in paragraph (b) or immediately posting the ATOL Certificate or the confirmed ticket to that consumer.

^{F23}(2)

- F19** Reg. 18(1) renumbered as reg. 18 (29.4.2012) by The Civil Aviation (Air Travel Organisers' Licensing) (Amendment) Regulations 2012 (S.I. 2012/1134), regs. 1, 2(b)
- F20** Words in reg. 18(a) inserted (1.7.2018) by The Civil Aviation (Air Travel Organisers' Licensing) (Amendment) Regulations 2018 (S.I. 2018/670), regs. 1, **13(2)**
- F21** Word in reg. 18(1)(b) substituted (29.4.2012) by The Civil Aviation (Air Travel Organisers' Licensing) (Amendment) Regulations 2012 (S.I. 2012/1134), regs. 1, 2(b)
- F22** Words in reg. 18(b) substituted (1.7.2018) by The Civil Aviation (Air Travel Organisers' Licensing) (Amendment) Regulations 2018 (S.I. 2018/670), regs. 1, **13(3)**
- F23** Reg. 18(2) omitted (29.4.2012) by virtue of The Civil Aviation (Air Travel Organisers' Licensing) (Amendment) Regulations 2012 (S.I. 2012/1134), regs. 1, 2(c)

Form and content of an ATOL Certificate

19.—(1) An ATOL Certificate is a document which complies with any requirements as to the form and content of an ATOL Certificate which have been published by the CAA.

(2) The CAA must publish requirements as to the form and content of an ATOL Certificate.

Information to be provided to the consumer when making available flight accommodation

20. Where a person makes available flight accommodation [^{F24}in circumstances in which an ATOL is required to be held under these Regulations], that person must provide to the consumer—

- (a) the name of the person who would be accepting the payment;
- (b) the capacity in which that person is making available the flight accommodation; [^{F25}and]
- [^{F26}(c) the name of the ATOL holder and the ATOL number of the ATOL under which the flight accommodation is being made available.]

- ^{F27}(d)
^{F27}(e)

- F24** Words in reg. 20 inserted (1.7.2018) by [The Civil Aviation \(Air Travel Organisers' Licensing\) \(Amendment\) Regulations 2018 \(S.I. 2018/670\)](#), regs. 1, **14(2)**
- F25** Word in reg. 20(b) inserted (1.7.2018) by [The Civil Aviation \(Air Travel Organisers' Licensing\) \(Amendment\) Regulations 2018 \(S.I. 2018/670\)](#), regs. 1, **14(3)**
- F26** Reg. 20(c) substituted (1.7.2018) by [The Civil Aviation \(Air Travel Organisers' Licensing\) \(Amendment\) Regulations 2018 \(S.I. 2018/670\)](#), regs. 1, **14(4)**
- F27** Reg. 20(d)(e) omitted (1.7.2018) by virtue of [The Civil Aviation \(Air Travel Organisers' Licensing\) \(Amendment\) Regulations 2018 \(S.I. 2018/670\)](#), regs. 1, **14(5)**

Compliance

21. A person must not contravene any term or condition of an ATOL or of an accreditation as an accredited body which they hold.

Requirement for a written agency agreement

22.—(1) The CAA must publish a schedule of terms to be included in a written agency agreement which the ATOL holder must include in any agency agreement with its agents.

(2) An ATOL holder who makes available flight accommodation and sells it to a consumer via an agent for the ATOL holder, must have a written agency agreement with that agent—

- (a) which authorises the transaction;
- (b) under which the agent undertakes not to accept payment for the making available of flight accommodation unless the agent supplies to the consumer, by the specified method, an ATOL Certificate on behalf of the ATOL holder; and
- (c) which includes ^{F28}... the schedule of agency terms ^{F28}... .

(3) The CAA may at any time propose to vary the schedule of agency terms or any part of that schedule and any such proposal is for the purposes of these Regulations to be treated as a proposal for the variation of every ATOL to which the schedule of agency terms or any part of that schedule applies.

- F28** Words in reg. 22(2)(c) omitted (29.4.2012) by virtue of [The Civil Aviation \(Air Travel Organisers' Licensing\) \(Amendment\) Regulations 2012 \(S.I. 2012/1134\)](#), regs. 1, **2(e)**

Failure of an ATOL holder

23.—(1) The CAA must publish a Register of Failed ATOL Holders.

(2) “Failure of an ATOL holder” occurs where paragraphs (a) and (b) are satisfied—

- (a) the CAA holds an opinion that an ATOL holder or a person who held an ATOL within the previous 6 months—
 - (i) has gone into insolvency;
 - (ii) cannot or will not be able to meet its obligations to its consumers; or
 - (iii) will fail to meet its obligations to its consumers;
- (b) the CAA publishes a notice of the failure of that ATOL holder in the Register of Failed ATOL Holders.

Changes to legislation: There are currently no known outstanding effects for the The Civil Aviation
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(3) The date on which failure of an ATOL holder occurs is the date on which the relevant notice of the failure of the ATOL holder is published in the Register of Failed ATOL Holders.

Changes to legislation:

There are currently no known outstanding effects for the The Civil Aviation (Air Travel Organisers' Licensing) Regulations 2012, PART 2.