
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. 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.

Persons exempt from requirement to hold an ATOL

10. The following persons are exempt from the need to hold an ATOL—

- (a) an agent for an ATOL holder, unless required to hold an ATOL by reason of regulation 15(3);
- (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;
- (d) a person who is established in an EEA state other than the United Kingdom and who is not a Flight-Only provider;
- (e) a worker for an ATOL holder;
- (f) a person who is making available flight accommodation as a component of a Flight-Plus;
- (g) the CAA; and
- (h) the trustees of the Air Travel Trust acting in their capacity as trustees.

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 that hold an ATOL 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.

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

15.—(1) A person must not, in the capacity of an agent for an ATOL holder, make available flight accommodation which constitutes a component of a package except where all the components of the package are made available under a single contract between the ATOL holder and the consumer.

(2) A person must not, in the capacity of an airline ticket agent, make available flight accommodation which constitutes a component of a package or a Flight-Plus.

(3) A person (other than the operator of the relevant aircraft or an airline ticket agent) who makes available flight accommodation which constitutes a component of a Flight-Plus must do so under and in accordance with its own ATOL or under an ATOL held by the accredited body of which it is a member.

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 (other than the operator of the relevant aircraft or an airline ticket agent) who makes available flight accommodation to a consumer—

- (a) on its own,
- (b) as a component of a package, or
- (c) as a component of a Flight-Plus,

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 Flight-Plus.

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

Meaning of specified method

18.—(1) 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 at the time such payment is made;
- (b) in the case of a consumer who is not present, immediately sending to that person the ATOL Certificate or the confirmed ticket by email or some other equivalent electronic means; 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.

(2) For the purposes of this regulation, a “consumer” includes a person whom an airline ticket agent has reasonable grounds for believing is the consumer of the flight accommodation.

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, 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;
- (c) if that person is acting as an agent for an ATOL holder and the flight accommodation is not to form part of a Flight-Plus, the name and ATOL number of that agent;
- (d) if that person is acting as an agent for an ATOL holder and the flight accommodation is to form part of a Flight-Plus, the agent’s name and the agent’s ATOL number; and
- (e) if that person is a member of an accredited body, the name and ATOL number of that accredited body.

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 any relevant parts of the schedule of agency terms required to be included under its ATOL.

(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.

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.

(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.