

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations revoke and replace the Civil Aviation (Air Travel Organisers' Licensing) Regulations 1995, as amended. In addition to some minor and drafting amendments the following changes are made.

*Regulation 2* requires the Secretary of State to review the operation and effect of these Regulations and publish a report within five years after they come into force and within every five years after that. Following a review it will fall to the Secretary of State to consider whether the Regulations should remain as they are, or be revoked or be amended. A further instrument would be needed to revoke the Regulations or to amend them.

Part 2 (regulations 9 to 23) regulates who in the United Kingdom is entitled to provide flight accommodation, and restricts how such provision is made.

*Regulation 9* requires an Air Travel Organiser's Licence (ATOL) to be held by anyone in the United Kingdom (other than an aircraft operator) who makes available flight accommodation, unless they are exempt under regulation 10 or 11. The exemption applies to agents of an ATOL holder, persons acting as a member of an accredited body, airline ticket agents, those persons established in an EEA state other than the UK who is not a Flight-Only provider, a worker for an ATOL holder, the CAA, the trustees of the Air Travel Trust (acting in that capacity) and those exempted by the CAA under regulation 11. "Accredited body" and "airline ticket agent" are defined in regulations 4, 13 and 33. Regulation 10(f) also exempts a person who is making available flight accommodation as a component of a Flight-Plus, but this exemption will not come into force until 30th April 2019.

*Regulation 22* requires the CAA to publish a schedule of terms for written agency agreements which may be required to be included in any agency agreement between an ATOL holder and its agent.

Part 3 (regulations 24 to 30) regulates the arrangement of a Flight-Plus; this term is defined in regulation 24 but in brief, it relates to where a flight out of or into the United Kingdom is made available, and living accommodation and car hire abroad are requested to be booked. A Flight-Plus arranger (defined in regulation 25) is liable to the consumer for the provision of the flight accommodation, living accommodation and self-drive car hire provided as part of a Flight-Plus. If prior to departure by the consumer, the Flight-Plus arranger becomes aware that any of these elements will not be provided, the Flight-Plus arranger must provide suitable alternatives at no extra cost to the consumer (regulation 26). If after departure the Flight-Plus arranger becomes aware that the flight will not be provided, the Flight-Plus arranger must provide the consumer at no extra cost suitable alternative transport back to the place of departure. In the case of living accommodation or self-drive car hire not being provided, the Flight-Plus arranger must provide the consumer at no extra cost with suitable alternative living accommodation or self-drive car hire, as appropriate (regulation 27). Where suitable alternative arrangements cannot be made, the Flight-Plus arranger must compensate the consumer (regulation 28). However, the Flight-Plus arranger is not liable unless the reason for the non-availability of the flight or living accommodation or self-drive car hire is due to the insolvency of any person concerned with its provision or the failure of the ATOL holder providing the flight accommodation (regulation 30).

Part 4 (regulations 31 to 48) regulates the process for the CAA in dealing with applications, refusals and variations for ATOLs and accreditations as an accredited body. Regulations 32 and 34 specify circumstances where the CAA must or may refuse an ATOL or accreditation. Regulations 37 and 45 provide for expedited suspension of an ATOL or accreditation and regulations 38 and 46 provide for provisional variation of an ATOL or accreditation where the CAA believes such provisional variation is in the interests of consumers. The CAA is required to publish a schedule

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of ATOL standard terms and in granting an ATOL, the CAA may make an ATOL subject to one or more of the ATOL standard terms (regulation 40). The CAA is also required to publish a schedule of standard terms which may be made applicable to accredited bodies (regulation 48).

Part 5 (regulations 49 to 66) regulates the process by which decisions on licensing are made by the CAA. Regulation 50 requires certain decisions to be made by a Member of the CAA, whilst other decisions may be made by a Member or an employee of the CAA. "Member" is defined in regulation 4. The process incorporates an opportunity for representations to be made by the person concerned (regulation 53) and for that person to make a request for a hearing (regulation 56).

There is also provision for an expedited hearing for urgent cases (regulation 58) and hearings in private (regulation 63). CAA is required to publish decisions to revoke or suspend a licence or accreditation (regulation 55).

Part 6 (regulations 67 and 68) provides for appeals to the county court, or in Scotland the sheriff court, from any decision of the CAA that a person is not a fit person to hold an ATOL, and for the transfer of an ATOL following the death of a sole holder of an ATOL.

Part 7 (regulations 69 to 71) deals with offences and penalties. Regulation 69 specifies the offences and penalties and regulation 70 provides for a due diligence defence. Regulation 71 extends the time limit for prosecution to 12 months beginning with the date of the commission of the offence.

Part 8 (regulation 72) makes amendments to the Civil Aviation (Contributions to the Air Travel Trust) Regulations 2007.

Part 9 makes transitional and saving provision. *Regulation 73* provides for an ATOL granted by the CAA under the Civil Aviation (Air Travel Organisers' Licensing) Regulations 1995 to remain in force. *Regulation 74* provides for supplying an ATOL Certificate "immediately" in regulation 18 to include posting or emailing within 3 days, until the end of September 2012.

An impact assessment has been prepared in relation to these Regulations. The assessment has been placed in the Library of each House of Parliament and can be found on the Department for Transport website (<http://www.dft.gov.uk>).

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