

SUMMARY OF CHANGES TO OFFICIAL RECORD SERIES 3

1. The CAA has published a revised Official Record Series 3 (ORS3). This gives effect to requirements set out in the ATOL Regulations 2012 and contains the means by which the CAA will implement changes to policy and procedures as set out in its Information Paper¹ and Further Information Paper².
2. Stakeholder comments were received on both Information Papers which have helped shape the final content on ORS3. The CAA is grateful to all who have contributed and the changes that have been made to the draft ORS3 are set out below.
3. Requirements set down in ORS3 come into effect on 30 April 2012 to coincide with the commencement date of the ATOL Regulations 2012.

Exemptions from the ATOL Regulations

4. The CAA has the power to exempt persons from the need to hold an ATOL. There have been a number of changes to the exemptions published with the Further Information Paper, and these are set out below. The CAA may also consider making additional exemptions, which will be publicised as appropriate. The exemptions described here are, by necessity, in summary form; ORS3 describes them in further detail.

Corporate Sales Exemption

5. The CAA wishes to emphasise that this exemption does not apply to packages, on the grounds that financial protection obligations under PTR would not be affected by any exemption the CAA could issue, and it will usually be more convenient for businesses to meet those obligations by means of ATOL.
6. This exemption removes the need for a person to hold an ATOL when selling to a corporate body. It contains a list of the bodies to whom a person may sell without an ATOL. In response to industry comments, this has been extended so that the employees of charities, higher education institutions and schools are also exempted from protection.

IATA Airline Ticket Agents Exemption

7. The ATOL Regulations exclude airline ticket agents (ATA) from the need to hold an ATOL. The definition of ATA requires an agent to have a written agency agreement from the airline authorising them to act as their agent. The International Air Transport Association (IATA) manages such agency arrangements for its members, and an exemption will therefore apply to IATA agents, excluding them from the need to hold an ATOL.

¹ Information paper on possible changes to the Civil Aviation Authority's Official Record Series 3, including ATOL Standard Terms (November 2011)

² ATOL Reform: Further information on a proposal to amend the Civil Aviation Authority's Official Record Series 3, including ATOL Standard Terms and Consultation on a proposed change to an ATOL Protection Contribution payment period (February 2012)

Credit Sales Exemption

8. A new exemption will come into force which excludes a person from the need to hold an ATOL when selling to consumers on a credit basis where no money is received until the trip is concluded. This will apply to Flight-Only and Flight-Plus, and not to packages so that firms with obligations under the PTRs can comply with these through ATOL.

Flight-Only/Use of consumer's credit or debit card exemption

9. A new exemption will come into force which excludes a person from the need to hold an ATOL if they purchase flight accommodation using the consumer's credit or debit card, and the operator immediately issues a confirmed ticket. The exemption will not apply when this is done as part of a holiday.

ATOL Certificate (1.3)

10. The ATOL Regulations state that the ATOL Certificate must be supplied in the form and contain the content set down by the CAA. Before 1 October, this is defined purely in terms of required content set out in Section 1.3.3 of ORS3.
11. Any person wishing to supply an ATOL Certificate in the form and content referenced in Section 1.3.1 of the ORS3 before 1 October 2012 must have permission from the CAA to do so. This permission will be granted only on the provision of evidence that the ATOL holder is able to comply with all the requirements associated with the ATOL Certificate. Specific guidance on this will be published shortly.
12. You should note that there have been some minor changes to the form and content of the ATOL Certificate to be used from 1 October 2012, since our Information Paper was published in November last year.
13. The CAA received useful comments from industry regarding ATOL Standard Terms related to ATOL Certificates which are addressed below.

Schedule of Agency Terms (1.4)

Agency agreement wording

14. Changes have been made to the CAA mandated agency terms which must be included in written agency agreements between ATOL holders and their agents. These have been made to achieve consistency of language and to delay some ATOL Certificate related terms until 1 October 2012.
15. The CAA has been asked whether it will be permissible to amend the wording of the Schedule of Agency Terms so that references to the parties described can be brought in line with other, non-mandated terms which will appear in agency agreements. The CAA will not allow such amendments, but suggest that a rider be inserted which explains how the agent should read the CAA mandated terms (i.e. for 'ATOL holder' read 'us').

Pipeline monies

16. The CAA has not amended the Agency Term which relates to the status of 'pipeline money'. If an ATOL holder ceases to trade, any money held by the agent for licensable bookings will be deemed to be held on behalf of the ATT.
17. Comments received from industry on the Further Information Paper re-iterated concerns raised in responses to the previous Information Paper, but no evidence has been produced that supports the concerns that have been raised. The CAA believes that the benefits of this policy for consumers (in terms of speed of claims resolution) and the trade (where the exposure to the industry funded ATT is reduced) are sufficient to warrant this approach.
18. The Trustees of the ATT will shortly be considering proposals from the CAA, including how the Agency Term would be implemented. This will include looking at how to best ensure consumers receive these funds efficiently, and how to respond to the reasonable concerns raised by some respondents about the potential loss of agents' commission under the new arrangements. Once finalised, details will be included within the ATT Payment Policies and published.

ATOL Standard Terms (1.8)

19. Minor amendments have been made to the ATOL Standard Terms (AST). All notable changes relate to publicity requirements or ATOL Certificate requirements. These are:
 - Some ASTs which refer to the ATOL Certificate will now come into force on 1 October 2012;
 - AST1.3 which requires an audible 'ATOL Protected' statement on televised advertising has been revised so that ATOL holders may agree an alternative with the CAA if it achieves the same consumer awareness aims;
 - AST1.6 which states that a revised ATOL Certificate must be issued if changes are made to the booking has been amended so that it applies only to changes made more than 72 hours before departure. This was previously 48 hours.
20. The CAA has decided not to amend ASTs relating to pipeline money, for the reasons outlined above (see paragraph 19) and will retain the requirement for ATOL holders to ensure that the terms that they have with their business systems suppliers provide the CAA access to the system at any time. The potential for a bond to be requested where such terms are not in place will also be retained, and will be applied on a case-by-case basis.