

Information note for airlines about the ATOL Regulations and the ATOL scheme

ATOL Policy and Regulations 2022/01



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Civil Aviation Authority,
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Enquiries regarding the content of this publication should be addressed to: atolcompliance@caa.co.uk

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Chapter 1

Introduction

This document provides information for airlines on the ATOL Regulations and clarifies the capacities in which flight seats can be sold. It also sets out certain requirements that airlines must meet when selling flight seats through ATOL holders or agents.

The information contained in this document is provided for informational purposes only and should not be construed as legal advice on any matter. It does not take account of individual circumstances and may not reflect recent changes in the law. If you are unsure of your legal obligations, always seek independent legal advice.

To protect consumers, the sale of air travel in the UK is restricted by UK law through The Civil Aviation (Air Travel Organisers' Licensing) Regulations 2012¹, ("the ATOL Regulations")².

The ATOL Regulations apply to all air travel sales in the UK, whether they are flight-only sales or sales of flight packages and irrespective of whether the sales are made by travel agents or by tour operators or by airlines and whether or they are made in person, such as in a travel agency's premises, or by distance means such as by telephone or online.

¹ UK Statutory instrument (SI) [2012/1017](#), as amended by [SI 2012/1134](#) and [SI 2018/670](#).

² **Note:** The ATOL Regulations use the terms 'make available' and 'making available' for the entire process from acceptance of a booking for an arrangement including air travel up to and including fulfilment of the booking.

Chapter 2

Why it's important the ATOL Regulations are complied with

Compliance with the ATOL Regulations ensures that UK consumers receive financial protection when purchasing air travel and therefore helps maintain consumer confidence in the UK air travel industry.

Unless exempt, anyone not complying with the ATOL Regulations when advertising, offering or selling flights or flight packages in the UK is committing an offence under UK law for which they may be prosecuted. The UK Civil Aviation Authority (CAA) is responsible for enforcement of the ATOL Regulations, as well as other general consumer protection legislation.

The CAA's approach in dealing with instances of non-compliance will be based upon its Regulatory Enforcement Policy³, its Air Travel Organiser's Licensing and Operating Licences Enforcement Guidance⁴ and its Guidance on Consumer Enforcement⁵, which may mean the CAA taking regulatory action against someone who currently holds an ATOL or bringing civil/criminal proceedings.

The aim of this document is to help you to understand the ATOL Regulations. If you would like to ask us a question about any of the matters referred to in this document and what they may mean for your business, please email atolcompliance@caa.co.uk.

³ www.caa.co.uk/CAP1326

⁴ www.caa.co.uk/CAP1039

⁵ www.caa.co.uk/CAP1018

Non-compliance with the ATOL Regulations may additionally result in non-compliance with other UK consumer protection legislation for which action may be taken by the CAA or by other UK enforcement bodies.

Chapter 3

Capacities in which businesses can sell air travel in the UK

The ATOL Regulations list capacities in which businesses must act when they sell air travel in the UK. This section describes those capacities, which are as follows:

1. Aircraft operator
2. ATOL holder
3. Agent for an ATOL holder
4. Airline ticket agent
5. Exempted persons

Aircraft operator

The 'operator of the relevant aircraft' referred to in ATOL Regulation 9 covers any operator holding either an appropriate Air Transport Licence or Operating Licence and which is selling seats on flights that it will be operating under that licence. The operator of a 'relevant aircraft' does not need to hold an ATOL.

UK-air carriers which sell seats on their services via agents or to tour operators or other businesses for resale in the UK must ensure that the agents, tour operators and/or other businesses possess an appropriate ATOL, unless the latter are exempted from holding an ATOL by acting either as an airline ticket agent or in another exempted capacity as referred to later in this note

Similar obligations apply to air carriers based on the Channel Islands and the Isle of Man and are additionally a consequence of the conditions of the Foreign Carrier Permits issued by the CAA to non-UK airlines.

ATOL holders

ATOLs are Air Travel Organisers' Licences. ATOLs are issued solely by the CAA, may be held by businesses that sell flight-onlys, and *must* be held by businesses that organise packages that include flights unless otherwise exempted^{6,7}. There are five types of ATOL:

Type	Description
Standard ATOL	Authorises the holder to sell flights and/or flight packages for more than 500 passengers per annum (subject to its licence authorisation limits) under its own ATOL.
Small Business ATOL (SBA)	Authorises the holder to sell flights and/or flight packages for up to 500 passengers per annum under its own ATOL.
Accredited Body Member (ABM)	Authorises a firm that is a member of an Accredited Body ⁸ (AB) to sell flights and/or flight inclusive trips under the AB's own ATOL.
Franchise ATOL	Authorises a firm to sell flights and/or flight inclusive trips based on its membership of a CAA approved franchise scheme.
Trade ATOL	Authorises a firm to sell flights and/or flight packages but <i>only</i> to other ATOL holders for onward sale under the other ATOL holders' own ATOL.

An ATOL holder selling above the authorisation limits of its ATOL is acting in breach of the ATOL Regulations.

Airlines should ensure that an ATOL holder has an appropriate passenger limit on its ATOL before contracting with the ATOL holder for flight seats.

⁶ A "package" is defined within Regulation 4A of the ATOL Regulations.

⁷ **Note:** The requirement to hold an ATOL does not apply to occasional organisers of packages for not-for-profit for limited groups or to persons selling air travel under general business travel agreements.

⁸ Accredited by the CAA.

The names and ATOL numbers of all current ATOL holders and information about the number of passengers currently covered by their ATOLs are available via

www.caa.co.uk/atol-protection/check-an-atol/.

Agents of ATOL holders⁹

Agents of ATOL holders cannot deal directly with airlines unless they are acting in another of the capacities listed in this chapter.

An ATOL holder may appoint an agent to sell the ATOL holder's flight packages and/or flight seats to consumers on the ATOL holder's behalf. Customers book with and pay the agent, and the agent must immediately notify the ATOL holder of the booking and issue the customer with an ATOL Certificate naming the ATOL holder.

Airline ticket agent¹⁰

An Airline Ticket Agent ("ATA") must be appointed as agent of an airline and must act in accordance with a written agency agreement under which it is entitled to issue a document, referred in the ATOL Regulations as a 'confirmed ticket'¹¹, which will allow the consumer to travel on the airline's flight(s) referred to on that document without having to make any further payment. An ATA must act in accordance with a written agency agreement in place between the ATA and the airline. There is no CAA specification for this agreement.

ATAs may only deal directly with end user consumers and must issue the confirmed ticket directly to the consumer in immediate exchange for the initial or full payment it has accepted for the ticket. The ATA cannot accept a booking from the consumer for another component (referred to in law as a "travel service"¹²) in conjunction with the

⁹ See ATOL Regulation 12

¹⁰ See ATOL Regulation 13

¹¹ See ATOL Regulation 4(1)

¹² ATOL Regulation 4(1) includes the definition of a "travel service".

consumer's ticket booking unless it also holds an ATOL and sells the resulting combination as a package under its ATOL.

IATA accredited agents making available flight accommodation to a consumer are exempt from the requirements to either hold an ATOL or to be party to a written agency agreement as referred to above, provided that they act in accordance with IATA agency rules and under airline ticketing authorities, and subject to a confirmed ticket being issued to the consumer and the statement that the flight is sold as Agent of the Airline(s) named on the ticket and is not protected under the ATOL scheme.

Exempted persons

The ATOL Regulations give the CAA the power to exempt persons from the need to hold an ATOL provided the CAA is satisfied that consumers booking with the exempted person will receive a level of consumer protection equivalent to that which would be in place if the exempted person did hold an ATOL. There are three types of exemption:

- exemptions listed in ATOL Regulation 10;
- class exemptions applicable to classes of persons in various circumstances. Chapter 5 describes class exemptions that could be applicable to airlines' own activities;
- specific exemptions, which apply to individual persons and bodies – individual exemptions are only occasionally issued by the CAA.

Exemptions from the need to hold an ATOL are published in the CAA's Official Record Series 3 (ORS3), available at www.caa.co.uk/ors3 and at the section of the ATOL website at <http://www.caa.co.uk/ATOL-protection/Trade/Compliance-and-regulation/Official-Record-Series-3/>.

Other relevant factors

Fare types and ticket validity

The ATOL Regulations do not differentiate between airline fare type or booking class but include the following definition¹³ of ‘a confirmed ticket’:

“a document or information which gives to every person specified in the document or information access to the flight specified in the document or information without the need for any further payment”.

The CAA expects airlines to honour bookings where the consumer holds a ticket meeting the above definition, since a contract will exist between the consumer and the airline.

Group bookings and corporate sales

If a *travel* business wants to place a group booking with an airline, the airline must either ensure that the business holds an ATOL or appoint the business as its ATA¹⁴. If the airline appoints the business as its ATA the airline must also then ensure that the business complies with the terms set out in the ticketing agreement under which it has been appointed by the airline.

Where an individual or non-travel organisation wishes to make a group booking with an airline, provided they are acting on an occasional and not-for-profit basis for a limited group of consumers¹⁵ e.g. the booking is for a group of friends and is being made by a member of that group, they will be exempt from having to hold an ATOL.

Sales of flight seats and flight packages to *corporate* consumers are ATOL exempt, providing that the sale is being made under a general business travel agreement between the seller and the consumer which is in place wholly to enable the

¹³ See ATOL Regulation 4(1)

¹⁴ If the business is to combine the seats it is booking with other components to create packages, it cannot act as an ATA and must therefore hold an ATOL unless otherwise exempted.

¹⁵ ATOL Regulation 10(1)(i)

consumer to purchase seats or package for use in connection with the consumer's own trade, business, craft or profession.

Brokers

The CAA acknowledges two types of flight seat 'broker':

1. A 'Commission broker' is not itself party to any contract with either a flight seat supplier or purchaser but acts as intermediary between the contracting parties, for which service it receives commission payments. The CAA's view is that a broker that trades in this way is not making available flight accommodation as referred to in the ATOL Regulations¹⁶, and that therefore it does not need to hold an ATOL;
2. A 'Contracting broker' *enters into a contract* to supply seats to a purchaser, and by doing so will be making available flight accommodation as referred in of the ATOL Regulations. Consequently, where the broker is supplying seats to a purchaser who intends to use the seats themselves, the broker needs to hold a Standard ATOL unless the sale is otherwise ATOL exempt. Where the broker is supplying seats to purchasers that themselves hold ATOLs and who intend to sell the seats on under their ATOLs, it will be appropriate for the broker to hold a Trade ATOL¹⁷.

Our separate ATOL Policy and Regulations publication "Notes for Brokers about the ATOL Regulations and the ATOL Scheme" includes information on how the ATOL Regulations apply to brokers.

Airline packages

The Package Travel and Linked Travel Arrangements Regulations 2018 (the 'PTR')¹⁸ define a package as a combination of least two 'travel services' for the purpose of

¹⁶ ATOL Regulation 9

¹⁷ As referred to in the "ATOL holders" section above. Trade ATOL holders are not permitted to sell flight seats to the public, either directly or through agents.

¹⁸ [SI 2018/634](#), as amended by [SI 2018/1367](#).

the same trip which is: combined by one trader and sold under a single contract; sold in a single booking process; sold at an inclusive or total price; sold using the term 'package' (or a similar term); combined in such a way that allows the traveller to choose different travel services after they have booked; or, sold through a linked online booking process. A 'travel service' is either the carriage of passengers, accommodation which is not part of the carriage, car hire or another tourist service which is not a part of the other travel service/s¹⁹²⁰.

Combinations of flight seats and overnight stopovers including accommodation offered for sale by airlines as part of the passenger's air transport *may* not fall under the category of packages under the PTR. However, where the stopover is distinguishable from the flight as a travel service (e.g. because it is sold as a touristic value in itself or on part of a multi-stop itinerary), it *may* amount to a package. *This will depend on the specific facts and circumstances of the combination.*

Airlines that organise and offer packages for sale in the UK are required to comply with the PTR. However as airlines selling seats on their own services are not required to hold an ATOL in order to do so, if they are organising *packages including seats on their own services* they have to comply with the PTR's insolvency protection requirements by means other than by holding an ATOL²¹. In order to provide ATOL protected packages based on their flights, some airlines choose to form or appoint an associated business which has obtained an ATOL itself and which organises and sells the packages that include seats on the airline's services under its ATOL.

¹⁹ The definitions of 'package' and 'travel service' are repeated in the ATOL Regulations.

²⁰ When an 'other tourist service' is combined with one of the other types of travel service, this only leads to the creation of a package if the 'other tourist service' is either advertised as an essential feature of the combination or accounts for a significant proportion of the value of the overall combination.

²¹ Regulations 20 to 24 of the PTR refer to alternative means of insolvency protection.

Chapter 4

Class exemptions affecting airlines' activities

Class exemptions from the need to hold an ATOL are published in full in the [CAA's Official Record Series 3 \(ORS3\)](#). The following exemptions may apply either to airline activities or to activities of firms that airlines do business with.

Technical problem and code share (02/2012)

This exemption allows airlines to make available seats on a flight to be operated by another airline in circumstances where the aircraft that the first airline intended to operate becomes unavailable due to technical reasons, or where, as a member of IATA, the airline making available the seats takes responsibility for a ticket that has been issued on for travel on another airline's flight, as in the case of code-share arrangements.

Whole plane sales (06/2012)

This exemption applies to businesses that provides the *entire* capacity of an aircraft to a consumer who will **not sell any** of that capacity on to another consumer or consumers.

Flight-only ticket fully paid (02/2018)

This exemption applies to businesses that book their customer either directly with the airline or via an automated reservation system through which the airline has enabled access to tickets for seats on its flights. The business must immediately both meet the full cost of the booking and issue the resultant ticket/s to the customer.

IATA accredited agents selling flight-only (05/2018)

As noted in the Airline Ticket Agent section of Chapter 3, IATA accredited agents making available flight accommodation to a consumer are exempt from the requirement to hold an ATOL or operate under a written agency agreement provided they act in accordance with IATA agency rules and under the ticketing authority of the airline concerned. This is also subject to a confirmed ticket being issued to the consumer and the statement that the flight is sold as Agent of the Airline(s) named on the ticket and is not protected under the ATOL scheme.

None of the above exemptions apply when the flight seat is being supplied as part of a 'package' as defined within the ATOL Regulations and The Package Travel and Linked Travel Arrangements Regulations 2018.²²

²² [UK Statutory Instrument \(SI\) 2018/634](#).

Chapter 5

What happens in the event of the failure of a travel organiser?

The ATOL scheme protects consumers from losing money or becoming stranded abroad if their travel organiser fails²³. Consumers may make claims under the scheme if they have booked ATOL protected flights or packages with an ATOL holder that has failed.

Where a confirmed ticket has been issued to the consumer in response to a flight-seat only booking by an airline ticket agent as referred to in Chapter 3, the CAA will expect that the airline should honour the confirmed ticket since a contract for carriage exists between the consumer and the airline.

When a confirmed ticket has been supplied to a consumer *as part of a package* organised by an ATOL holder which has failed, unless the CAA advises otherwise it will expect the airline concerned to honour the ticket, particularly if it is for a return flight to the UK.

If consumers holding tickets for outbound flights are advised by the CAA not to travel, possibly because suppliers of hotel accommodation or other significant components of the packages have not been booked or paid for, the consumers will be able to claim refunds for their entire package bookings under the ATOL scheme.

When an ATOL holder fails, the CAA publishes information and advice to consumers and suppliers at <https://www.caa.co.uk/ATOL-protection/Make-an-ATOL-claim/Latest-ATOL-holder-failures/>.

²³ A 'failure of an ATOL holder' is defined in Regulation 23 of the ATOL Regulations. It occurs where the CAA holds an opinion that the ATOL holder (or previous ATOL holder, as the case may be) has gone into insolvency, cannot or will not be able to meet its obligations to its consumers or will fail to meet its obligations to its consumers, and the CAA publishes a notice of the failure in the Register of Failed ATOL Holders.