

# Information note for brokers about the ATOL Regulations and the ATOL scheme

**ATOL Policy and Regulations 2022/02**



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The latest version of this document is available in electronic format at [www.caa.co.uk](http://www.caa.co.uk), where you may also register for e-mail notification of amendments.

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## Chapter 1

# Introduction

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This document provides information for brokers on the ATOL Regulations and clarifies the capacities in which flight accommodation can be sold. It also sets out certain categories of broker and how the regulations may affect them.

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 2012<sup>1</sup> ("the ATOL Regulations")<sup>2</sup>.

The ATOL Regulations apply to all air travel sales in the UK, whether they are flight-only sales or sale 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.

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

<sup>2</sup> 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

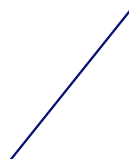
## Why it's important the ATOL Regulations are complied with

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

The CAA's approach in dealing with instances of non-compliance will be based upon its Regulatory Enforcement Policy<sup>3</sup>, its Air Travel Organiser's Licensing and Operating Licences Enforcement Guidance<sup>4</sup> and its Guidance on Consumer Enforcement<sup>5</sup>, 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](mailto:atolcompliance@caa.co.uk).

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.

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<sup>3</sup> [www.caa.co.uk/CAP1326](http://www.caa.co.uk/CAP1326)

<sup>4</sup> [www.caa.co.uk/CAP1039](http://www.caa.co.uk/CAP1039)

<sup>5</sup> [www.caa.co.uk/CAP1018](http://www.caa.co.uk/CAP1018)



## Chapter 3

# Capacities in which businesses can sell air travel in the UK

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The ATOL Regulations list of capacities in which businesses must act when they sell air travel in the UK. This section describes these 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

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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.

Our separate ATOL Policy and Regulations publication “Information note for Airlines about the ATOL Regulations and the ATOL Scheme” includes information on how the ATOL Regulations apply to 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<sup>67</sup>. There are five types of ATOL:

Type	Description
Standard ATOL	Authorises the holder to sell flights and/or flight packages to 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 to up to 500 passengers under its own ATOL.
Accredited Body Member (ABM)	Authorises a firm that is a member of an Accredited Body <sup>8</sup> (AB) to sell flights and/or flight inclusive trips under the AB's 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' ATOL.

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

Brokers should ensure that an ATOL holder has an appropriate passenger limit on its ATOL before arranging a flight seat purchase contract for the ATOL holder.

<sup>6</sup> A "package" is defined within ATOL Regulation 4A.

<sup>7</sup> **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.

<sup>8</sup> Accredited by the CAA.



The names and ATOL numbers of all ATOL holders and information about the number of passengers covered by their licences are available via [www.caa.co.uk/atol-protection/check-an-atol/](http://www.caa.co.uk/atol-protection/check-an-atol/).

## **Agents of ATOL holders<sup>9</sup>**

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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 an ATOL Certificate to the customer naming the ATOL holder.

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

## **Airline ticket agents<sup>10</sup>**

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An Airline Ticket Agent ("ATA") must be appointed as an 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'<sup>11</sup>, 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 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. The ATA cannot accept a booking from the consumer for another component (referred to in law as a "travel service"<sup>12</sup>) in conjunction with the

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<sup>9</sup> See ATOL Regulation 12

<sup>10</sup> See ATOL Regulation 13

<sup>11</sup> See ATOL Regulation 4(1)

<sup>12</sup> 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 are exempt from the written agency agreement requirement referred to above provided they act in accordance with IATA agency rules and under airline ticketing authorities.

## **Exempted persons**

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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 Regulation 10 of the ATOL Regulations;
- class exemptions, which apply to classes of persons in various circumstances. Chapter 5 describes some class exemptions that could be applicable to brokers' 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](http://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/>.

## Chapter 4

## Categories of broker and how the ATOL Regulations affect them

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The terms below are commonly referred to within the industry but are not legally defined terms.

### Commission broker

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This type of broker is not itself party to any contract with either a flight seat supplier or a 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 within the ATOL Regulations<sup>13</sup> and that therefore does not need to hold an ATOL.

### Contracting broker

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This type of broker enters into a contract to supply flight seats to a purchaser, and by doing so will be making available flight accommodation as referred to within 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 ATOL<sup>14</sup>.

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<sup>13</sup> ATOL Regulation 9

<sup>14</sup> 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.

## Chapter 5

## Class exemptions affecting brokers' activities

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Class exemptions from the need to hold an ATOL are published in full in the [CAA's Official Record Series 3](#) (ORS3). There are several exemptions which may apply to brokers' activities and they are summarised below.

### Whole plane sales (06/2012)

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This exemption allows a broker to enter into a contract to sell the *entire* capacity of an aircraft without the broker having to hold an ATOL providing that the business to which the broker will be selling will **not sell any** of the capacity on to another consumer or consumers.

### Overseas exemption (04/2013)

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This exemption allows a broker to enter into a contract to sell flight seats without the broker having to hold an ATOL providing that the first leg of the flight(s) is to commence from a point outside of the United Kingdom (other than from the Republic of Ireland).

### Flights with small aircraft and flights to the grounds of sporting events (01/2018)

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This exemption applies to the sale of seats:

- on flights on aircraft with a maximum capacity of 19 or fewer seats;
- on flights to the grounds of (or immediately adjacent to) a sporting event carrying passengers for the sole purpose of attending that event;
- to persons booked to travel by a non-air means of public transport but who are then unable to travel on that transport due to circumstances beyond the control of the intended operator of that transport, e.g. in case of cancellation of a sea ferry service due to adverse weather conditions;

- to persons carried for the purpose of attending to animals during the flight and persons returning from having attended to animals on a previous flight;
- on any flight by a hot air balloon or airship.

This exemption does not apply if, in the case of flights on aircraft with a maximum capacity of 19 or fewer seats, either the seats are being sold to a person who makes the seats available on more than three occasions per month, or the person advertises the seats as if they were to be on a scheduled air service.

**None of the first three exemptions apply if the broker's customer is to use any of the flight seats as part of a 'package', as defined by the ATOL Regulations and The Package Travel and Linked Travel Arrangements Regulations 2018.<sup>15</sup>**

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<sup>15</sup> [UK Statutory Instrument \(SI\) 2018/634](#)

## Chapter 6

## Information to be provided to customers when an ATOL exemption applies

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The Consumer Protection from Unfair Trading Regulations 2008<sup>16</sup> require businesses to provide accurate information and prohibit practices that are unfair, misleading or aggressive. The ATOL Regulations<sup>17</sup> require that anyone making available air travel must disclose to their customers the capacity in which they are acting. Together these requirements mean that if you are operating within the scope of any ATOL exemption you should inform your customers that you are doing so and that therefore they are not protected by the ATOL scheme.

Therefore, contract documents and invoices should include either the following words or an alternative message to the same effect that has been approved by the CAA where the booking is not protected under the ATOL scheme:

*“Air travel sales in the UK must be covered by an Air Travel Organiser’s Licence (ATOL) unless the sale is exempt. This transaction is exempt from this requirement and therefore you will not be ATOL Protected in the event of our insolvency.”*

Promotional material should also include an indication of your capacity in a form such as “ATOL Exempt”. In some cases, in order to invoke an ATOL exemption, you will need to state clearly on all invoices and receipts that the sale is not protected under the ATOL scheme.

In the case of sales made to customers referred to within the Whole Plane Exemption referred to above or under the ATOL Regulations exemption applicable to persons selling under a General Business Travel Agreement<sup>18</sup>, , the customer can

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<sup>16</sup> UK Statutory Instrument (SI) 2008/1277

<sup>17</sup> ATOL Regulation 16(a)

<sup>18</sup> ATOL Regulation 10(h)

sell on to a third party providing that the onward sale is also made under a General Business Travel Agreement.