

2007 No. 2999

CIVIL AVIATION

**The Civil Aviation (Contributions to the Air Travel Trust)
Regulations 2007**

<i>Made</i>	- - - -	<i>19th October 2007</i>
<i>Laid before Parliament</i>		<i>22nd October 2007</i>
<i>Coming into force</i>	- -	<i>14th November 2007</i>

The Secretary of State for Transport, in exercise of the powers conferred upon her by sections 71A and 102 and Schedule 13 of the Civil Aviation Act 1982(a) and after consultation with the Civil Aviation Authority and the trustees of the Air Travel Trust as required by section 71B of that Act, makes the following Regulations.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Civil Aviation (Contributions to the Air Travel Trust) Regulations 2007 and, subject to paragraphs (2) and (3), come into force on 1st April 2008.

(2) The following regulations come into force on 14th November 2007—

- (a) regulation 5(1);
- (b) regulations 6(1) and 6(2);
- (c) regulations 9(1) and 9(2);
- (d) regulation 14; and
- (e) to the extent required for the purposes of sub-paragraphs (a) to (d) and paragraph (3), regulations 12(3), 15, 16 and 19.

(3) Regulation 8(1) comes into force on 1st January 2008.

2.—(1) In these Regulations—

“ATOL Regulations” means the Civil Aviation (Air Travel Organisers’ Licensing) Regulations 1995(b);

“end user” means a person who either—

- (a) makes use of flight accommodation for travel in person; or
- (b) without accepting any payment, provides flight accommodation to another person who uses that flight accommodation for travel in person;

“flight accommodation” means accommodation for the carriage of a person on a flight by an aircraft (whether or not registered in the United Kingdom) in any part of the world;

(a) 1982 c.16; sections 71A and 71B have been inserted by the Civil Aviation Act 2006 c.34.
(b) S.I. 1995/1054 to which there are amendments not relevant to these Regulations.

“LIBOR” means the rate at which three month sterling deposits are offered between leading banks in the London inter-bank market;

“licence” means an air travel organiser’s licence granted by the CAA under the ATOL Regulations;

“the operative date” means the date specified in regulation 1(1);

“the prescribed consultation requirements” means the requirements set out in regulation 15(1);

“passenger” excludes a child below the age of two who is not allocated a separate seat before boarding the aircraft;

“payment period” means a period determined in accordance with regulation 6;

“publish” means publish in accordance with regulation 16;

“quarter” means a period of three months commencing on 1st January, 1st April, 1st July and 1st October;

“relevant booking” means an offer—

- (a) made by an end user to purchase flight accommodation for one or more persons on a flight; and
- (b) which is accepted by an air travel organiser and constitutes an activity in respect of which that organiser is required to hold a licence;

“rate of contribution” means a rate of contribution determined in accordance with regulation 5;

“SBA” means a licence (a Small Business ATOL) which authorises the holder to accept relevant bookings which include not more than 500 passengers; and

“SBA renewal” means a SBA which commences within six weeks of the expiry of a previous licence, provided that the previous licence expired after the operative date.

(2) Any period of time specified in these Regulations by reference to days or months is exclusive of the first day and inclusive of the last day, unless the last day falls on—

- (a) a Saturday, Sunday, Christmas Day or Good Friday; or
- (b) any day appointed by law to be a bank holiday in any part of the United Kingdom,

in which case the period is exclusive of that day also.

Contributions to the Air Travel Trust

3. Subject to regulations 13 and 14, a person who applies for and who is granted a licence which commences on or after the operative date must make contributions to the Air Travel Trust in accordance with these Regulations.

Factors by reference to which contributions to the Air Travel Trust are to be calculated

4. Subject to regulation 8(1), the contributions to the Air Travel Trust payable by an applicant for or holder of a licence are calculated by reference to the number of passengers included in relevant bookings under the licence.

Setting the rates by reference to which contributions are to be calculated

5.—(1) The CAA must from time to time, after complying with the prescribed consultation requirements and with the approval of the Secretary of State, determine and publish—

- (a) the rate of contribution for the purposes of each of regulations 7 and 8; and
- (b) the date on which that rate comes into force.

(2) The date on which a rate of contribution comes into force must not be earlier than the expiration of a period of four weeks beginning with the date of publication.

Payment period

6.—(1) The CAA must from time to time, after complying with the prescribed consultation requirements, determine and publish—

- (a) the payment period applicable to any description or class of licence holder;
- (b) the date on which the application of the payment period commences.

(2) A payment period must be either one quarter or one month.

(3) If the CAA has determined that the payment period applicable to any description or class of licence holder is one quarter, the CAA may in the circumstances described in paragraph (4) determine that the payment period applicable to a particular licence holder falling within that description or class is one month.

(4) The circumstances referred to in paragraph (3) are that the licence holder is in breach of or appears to the CAA likely to breach any term of the licence.

(5) If the CAA—

- (a) has determined in accordance with paragraph (3) that the payment period applicable to any particular licence holder is one month; and
- (b) is satisfied that the circumstances described in paragraph (4) no longer apply,

the CAA may determine that the payment period applicable to that licence holder is one quarter.

(6) The date on which the application of a payment period commences shall not be earlier than the expiration of a period of four weeks beginning with the date of publication.

Contributions by holders of a licence (other than a SBA)

7. The holder of a licence (other than a SBA) must within six weeks of the end of each payment period pay to the CAA (or to such other person as the CAA may direct) the sum resulting from multiplying—

- (a) the number of passengers included in relevant bookings under the licence during that payment period; by
- (b) the rate of contribution in force at the beginning of that payment period.

Contributions by applicants for and holders of a SBA

8.—(1) An applicant for a SBA (other than a SBA renewal) must pay to the CAA (or to such other person as the CAA may direct), prior to the date of grant of the SBA, the sum calculated by multiplying—

- (a) the number of passengers authorised to be included in relevant bookings under the SBA; by
- (b) the rate of contribution in force on the date on which the SBA commences.

(2) Within six weeks of the date of commencement of a SBA renewal, the holder of that SBA must pay to the CAA (or to such other person as the CAA may direct) the sum calculated by multiplying—

- (a) the number of passengers included in all relevant bookings made during the period of the immediately preceding SBA; by
- (b) the rate of contribution in force on the date of commencement of the SBA renewal.

Supplemental requirements

9.—(1) Without limiting the duties set out in regulations 7 and 8, an applicant for or the holder of a licence must provide to the CAA, if the CAA from time to time so requires of that person—

- (a) an undertaking to pay contributions in accordance with the duty set out in regulation 7 or regulation 8; and

- (b) if the CAA has reason to believe that that person may not discharge any such duty, in whole or in part, security for the duty to pay the whole or any part of such contributions (which may include a payment in advance);

in each case, in such form and on such terms (or, in the case of a payment in advance, of such amount) as the CAA may determine to be appropriate.

(2) A person who is required to provide an undertaking or security pursuant to paragraph (1) must comply with the terms of that undertaking or security.

Reimbursement by the CAA

10. Where the CAA is satisfied that an applicant for, holder of or former holder of a licence has paid more than the sums properly payable under these Regulations or where the CAA considers in all the circumstances that it would be equitable so to do, the CAA may reimburse any such persons, or credit any such persons with amounts paid by them by way of contributions.

Recovery of contributions and interest on late payments

11.—(1) Any sum due in respect of a contribution payable under these Regulations may be recovered by the CAA as a civil debt due to the Air Travel Trust in any court of competent jurisdiction.

(2) The CAA may in addition recover interest on any such sum from the date on which it was due for payment at two percentage points above the LIBOR rate as at such date.

CAA to act as agent of the trustees of the Air Travel Trust

12.—(1) When collecting, recovering or reimbursing contributions payable or paid under these Regulations, the CAA acts as the agent of the trustees of the Air Travel Trust.

(2) The trustees of the Air Travel Trust must accept any such contributions.

(3) The Air Travel Trust must reimburse the CAA for any expenses incurred in performing any of the functions conferred on it by or under these Regulations.

Suspension of contributions

13.—(1) The CAA may, after complying with the prescribed consultation requirements and with the approval of the Secretary of State, suspend the requirement to make contributions in respect of any period, either generally or in relation to any description or class of persons.

(2) The CAA must publish details of any such suspension.

Exemptions

14.—(1) The CAA may exempt from the need to comply with these Regulations any person or description or class of persons specified in the exemption, to such extent and subject to such conditions as the CAA, after consulting with the Secretary of State, thinks fit.

(2) The CAA may vary or revoke any such exemption after consulting with the Secretary of State.

(3) The CAA must publish any such exemption, variation or revocation.

Prescribed consultation requirements

15.—(1) Where the CAA is required by any of these Regulations to comply with the prescribed consultation requirements, the CAA must consult—

- (a) the trustees of the Air Travel Trust;
- (b) licence holders; and

(c) persons appearing to the CAA to represent licence holders.

(2) If, during the 12 months prior to the day upon which any of these Regulations comes into force, any consultation was undertaken which, had it been undertaken after that day, would to any extent have satisfied the requirements set out in paragraph (1), those requirements are to that extent to be taken to have been satisfied.

Manner of publication by the CAA

16.—(1) Any notice or other matter required by these Regulations to be published must be published by the CAA in its Official Record.

(2) Where the CAA is required to publish anything in its Official Record, it may do so electronically or otherwise.

Supply of false information

17.—(1) The persons specified in paragraph (2) must not, for the purpose of paying less than is due in accordance with regulation 7 or 8, knowingly or recklessly supply to the CAA any information which is false in any material particular.

(2) The persons referred to in paragraph (1) are—

- (a) the holder of a licence; and
- (b) an applicant for a licence.

Offences and penalties

18.—(1) Any person who contravenes regulation 17 will be guilty of an offence and liable on summary conviction to a fine not exceeding Level 5 on the standard scale.

(2) Where an offence under paragraph (1) has been committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any—

- (a) director;
- (b) manager;
- (c) secretary;
- (d) other similar officer of the body corporate; or
- (e) any person who was purporting to act in any such capacity,

he as well as the body corporate will be guilty of that offence and liable to be proceeded against and punished accordingly.

(3) Where the affairs of a body corporate are managed by its members, paragraph (2) will apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(4) Where a limited partnership is guilty of an offence under paragraph (1) and the offence is proved to have been committed with the consent or the connivance of, or to be attributable to any neglect on the part of, a partner, he as well as the partnership will be guilty of that offence and liable to be proceeded against and punished accordingly.

Power to refuse to grant a licence or to revoke a licence etc

19. The ATOL Regulations are amended by inserting—

(a) after regulation 6(2)(b)—

“(c) The Authority may refuse to grant a licence (or a variation to a licence) if the Authority, after complying with the procedure prescribed in regulation 9 of these Regulations, is not satisfied that the applicant has complied with any of regulations

7, 8 or 9 of the Civil Aviation (Contributions to the Air Travel Trust) Regulations 2007(a).”;

(b) after regulation 7(3)(b)—

“(c) The Authority may revoke, suspend or vary a licence (whichever the Authority thinks appropriate in the circumstances) if the Authority, after complying with the procedure prescribed in regulation 9 of these Regulations, is not satisfied that the holder has complied with any of regulations 7, 8 or 9 of the Civil Aviation (Contributions to the Air Travel Trust) Regulations 2007.”.

Signed by authority of the Secretary of State

19th October 2007

Jim Fitzpatrick
Parliamentary Under Secretary of State
Department for Transport

(a) S.I. 2007/

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under section 71A of the Civil Aviation Act 1982, which authorises the Secretary of State to make provision for persons applying for licences under section 71 of that Act to make contributions to the Air Travel Trust.

Regulation 3 provides that a person who applies for and who is granted a licence pursuant to the Civil Aviation (Air Travel Organisers' Licensing) Regulations 1995 must make contributions to the Air Travel Trust.

Regulation 4 provides that contributions are to be calculated by reference to the number of passengers included in bookings under a licence.

Regulation 5 provides that the CAA must, after consultation, determine and publish applicable rates of contribution and the dates on which they come into force.

Regulation 6 provides that the CAA must, after consultation, determine and publish applicable payment periods, which may be either one month or three months.

Regulation 7 provides for the method of calculating contributions payable by licence holders (other than the holders of Small Business ATOLs), which are payable in arrears at the end of each payment period.

Regulation 8 provides for the method of calculating contributions payable by the holders of and applicants for Small Business ATOLs, which are payable either in advance of the grant or within six weeks after the renewal of such licences.

Regulation 9 provides that the CAA may require the provision of undertakings to make payments of contributions and security for the duty to pay contributions.

Regulation 10 provides that the CAA may reimburse amounts paid in certain circumstances.

Regulation 11 provides for the recovery of sums due as civil debts and authorises the CAA to recover interest on overdue amounts.

Regulation 12 provides that the CAA will act as agent for the trustees of the Air Travel Trust, obliges the trustees to accept contributions collected by the CAA and requires the Air Travel Trust to reimburse the CAA's expenses.

Regulation 13 provides that the CAA may, after consultation and with the consent of the Secretary of State, suspend the requirements to make contributions.

Regulation 14 provides that the CAA may, with the consent of the Secretary of State, make exemptions.

Regulation 15 provides that, where the Regulations require compliance with prescribed consultation requirements, certain persons must be consulted. It also provides that this requirement is to be treated as having been satisfied to the extent that consultation occurred in the 12 month period before the Regulations came into force.

Regulation 16 provides for the manner in which matters must or may be published.

Regulation 17 provides that holders of and applicants for licences must not knowingly or recklessly supply false information to the CAA for the purpose of paying less than is due.

Regulation 18 provides that any contravention of regulation 17 is a criminal offence.

Regulation 19 amends the Civil Aviation (Air Travel Organisers' Licensing) Regulations 1995 to provide that the CAA may refuse to grant, vary, suspend or revoke a licence in the event of non-compliance with these Regulations.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business has been produced and a copy placed in the library of both Houses of Parliament. Copies may be obtained from the Department for Transport, 76 Marsham Street, London SW1P 4DR. Alternatively, copies can be obtained from the Department for Transport's website which is at www.dft.gov.uk.

£3.00

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