

**EXPLANATORY MEMORANDUM TO  
THE CIVIL AVIATION (AIR TRAVEL ORGANISERS' LICENSING) (AMENDMENT)  
REGULATIONS 2012**

**2012 No. 1134**

1. This explanatory memorandum has been prepared by The Department for Transport and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the Instrument**

2.1 The purpose of this instrument is to correct a number of errors in the Civil Aviation (Air Travel Organisers' Licensing) Regulations 2012 (SI 2012 No 1017 - the 2012 ATOL Regulations).

3. **Matters of special interest to the Joint Committee on Statutory Instruments.**

3.1 The Department regrets that there will not be 21 days between the laying of this instrument and its coming into force on 29 April. This instrument needs to come into force before the 2012 ATOL Regulations come into force on 30 April.

4. **Legislative Background**

4.1 The Civil Aviation (Air Travel Organisers' Licensing) (Amendment) Regulations 2012 will amend the Civil Aviation (Air Travel Organisers' Licensing) Regulations 2012.

5. **Territorial Extent and Application**

5.1 This instrument applies to all of the United Kingdom.

6. **European Convention on Human Rights**

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. **Policy background**

7.1 The Explanatory Memorandum accompanying the 2012 ATOL Regulations provides information on the policy background to the reforms to the ATOL scheme implemented by those Regulations.

7.2 Unfortunately, the 2012 ATOL Regulations contained a number of errors that were not identified prior to those Regulations being made. The pressure to lay those Regulations in time to allow them to come into force on 30 April 2012, as announced by

Ministers on 9 February 2012, meant that the rigorous checking normally undertaken was curtailed. The Department very much regrets that this occurred.

7.3 The Department considers it better to amend the 2012 ATOL Regulations rather than revoking them and replacing them entirely. This will make it clear what changes to the 2012 ATOL Regulations have been made. It is considered that stakeholders, who may already have started to prepare for the coming into force of the 2012 ATOL Regulations, will find this approach more helpful. Even though it would be possible to explain the differences in detail if the 2012 ATOL Regulations were to be revoked and replaced, the use of an amending instrument will remove any concern that changes have been made that have not been drawn to the attention of users.

7.4 The Department regrets that the preamble to the 2012 ATOL Regulations is incomplete. The recital of the consultation that took place with the Administrative Justice and Tribunals Council should say “the Secretary of State has consulted with the Administrative Justice and Tribunals Council” after “and in accordance with paragraph 24(1) of Part 3 of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007”. The Council was consulted on the 2012 ATOL Regulations, and the Department considers that the missing words do not affect the Regulations’ validity. They will arrange for a correction slip to be issued free of charge to correct this mistake, as well as errors in the table of contents, which cannot be corrected by an amending instrument. The amending instrument will itself be issued free of charge to purchasers of the 2012 ATOL Regulations.

7.5 The corrections in this instrument are set out below. References to specific regulations are to those in the 2012 ATOL regulations.

- i) Cross-references in regulation 4(3) to periods of time specified in regulation 24(2)(d) and (3) are removed because the interpretation provided by regulation 4(3) is not applicable to those periods of time.
- ii) In Regulation 18(1)(b) the reference to 'person' is replaced with 'consumer' to make it consistent with the rest of the paragraph. Regulation 18(1) is renumbered as regulation 18.
- iii) Regulation 18(2), which provides a non-exclusive definition of 'consumer' for the purposes of the regulation is removed because it is unnecessary. Regulation 13(2) states that an airline ticket agent must not make available flight accommodation except to a person who the airline ticket agent has reasonable grounds for believing is the consumer of that flight accommodation. Accordingly, confirmed tickets would only be issued by the airline ticket agent to those who are reasonably believed to be consumers of the flight accommodation.
- iv) In regulation 20(c) the reference to the agent providing the consumer with the name and ATOL number of “that agent” is corrected to require the agent to provide the name and ATOL number of “that ATOL holder”.
- v) In regulation 22(2)(c), wording is omitted so as to refer simply to the inclusion in the agency agreement of the “schedule of agency terms”: the expression defined in regulation 4(1).

vi) The word “applicant” in regulation 50(1)(b) is replaced with the expression “person concerned” to make it consistent with the rest of regulation 50(1) and to pick up the definition of “person concerned” in regulation 49(1).

vii) The definition of “consumer” inserted by regulation 72(d) in the Civil Aviation (Contributions to the Air Travel Trust) Regulations 2007 (S.I. 2007/2999) is amended so that it is identical to the definition set out in regulation 4(1).

viii) The cross-references in regulation 74(3) are corrected so they refer to paragraphs (1) and (2) instead of (2) and (3).

## **8. Consultation outcome**

8.1 A full consultation was completed for the policies implemented by the 2012 ATOL regulations.

8.2 Stakeholders were urgently informed of the corrections in this instrument on 23 April 2012.

## **9. Guidance**

9.1 Stakeholders have been informed of the rationale for the specific corrections as set out in paragraph 7.5.

## **10. Impact**

10.1 An Impact Assessment has not been prepared for this instrument. The amendments in this instrument do not affect the Impact Assessment that was prepared in relation to the 2012 ATOL regulations.

## **11 Regulating small businesses**

11.1 The instrument applies to small businesses, as do the 2012 ATOL regulations. However, due to its nature it is not expected to create any additional costs and benefits for small businesses.

## **12. Monitoring and review**

12.1 There are no monitoring and review provisions in the legislation, but the Secretary of State is required to review the operation and effect of the 2012 ATOL regulations and publish a report within 5 years of the date they come into effect, and within every 5 years after that. These reviews would include the amendments made under this instrument.

## **13. Contact**

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