

# **AIR TRAVEL TRUST**

**Report and Accounts**

**31 March 2001**



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**Air Travel Trust  
CAA House  
45-59 Kingsway  
London WC2B 6TE**

11 July 2001

Secretary of State for Transport, Local Government and the Regions  
Great Minster House  
76 Marsham Street  
London SW1P 4DR

Sir

I submit herewith the Report & Accounts of the Air Travel Trust for the year ended 31 March 2001.

It is now ten years since the Trustees first drew the Government's attention to the need for powers to replenish the fund, which is now £8.96 million in deficit and would be unable to cover a significant tour operator failure without further Government intervention. With interest payments costing over £500,000 a year and now comprising the major part of the Trust's expenditure, the Trustees would urge the Government to introduce the necessary legislation to prevent the burden of clearing the deficit becoming unduly onerous for consumers.

A handwritten signature in black ink, appearing to read 'Colin Senior', followed by a period.

C Senior  
Chairman

# Air Travel Trust

CAA House  
45-59 Kingsway  
London  
WC2B 6TE

## TRUSTEES

Mr C Senior	(Chairman)
Mr D Andrew	
Mr R J Britton	
Mr A G Herron	(until October 2000)
Miss C Jesnick	(from March 2001)

## OFFICIALS

Mrs H M Simpson, Secretary  
Mr M Ashby, Treasurer  
Miss S Springett, Assistant Secretary

## BANKERS

National Westminster Bank plc  
Bloomsbury Parr's Branch  
214 High Holborn  
London WC1V 7BX

Bank of Scotland  
38 Threadneedle Street  
London EC2P 2EH

## AUDITORS

Deloitte & Touche  
Hill House  
1 Little New Street  
London EC4A 3TR

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# Report of the Trustees

## CONSTITUTION AND TERMS OF REFERENCE

The Air Travel Trust Fund is an integral part of ATOL (the Air Travel Organisers' Licensing system) managed by the Civil Aviation Authority.

ATOL is a statutory scheme which exists to provide financial protection for holidaymakers and with few exceptions, all travel firms advertising or selling air travel in the UK must hold an Air Travel Organiser's Licence. As a condition of being granted a licence each firm must provide a bond. If the travel firm then ceases to trade, the CAA uses the money from the bond to repatriate customers at the end of their holiday and to repay those who have made payments in advance but not travelled. The purpose of the Air Travel Trust Fund is to act as a back-up to any individual bond which proves to be insufficient to meet all the customer claims made upon it.

The Trust's terms of reference remain unchanged and are contained in the Trust Deed which has been reproduced at Appendix 1 to this Report. There was one meeting of the Trust during the year, in June 2000.

The Trustees are all Board Members and officials of the Civil Aviation Authority appointed ex officio. Mr Anthony Herron retired as a Trustee in October 2000 on his ceasing to be a CAA Board Member and Finance Director. Miss Chris Jesnick was appointed to that role on 1 March 2001 and became a Trustee from that date. The Trustees are grateful for Mr Herron's contribution during his four-year tenure.

Since the Trust was formed, the Trustees have benefited greatly from the support and advice it has received from The Air Travel Trust Committee. With the agreement of the Secretary of State for the Environment, Transport and the Regions this Committee was reconstituted in April 2000 to include a broader range of Members and its terms of reference were also widened. It was considered



appropriate that the Committee should change its name and The Air Travel Insolvency Protection Advisory Committee was selected as the one which best suited its future role. The Trustees wish to record their sincerest gratitude to the former Members of the Air Travel Trust Committee and in particular to Lord Lane who had been the Committee's Chairman since its inception in 1985. The Trustees look forward to working closely with ATIPAC and invited one of its members to attend Trust meetings. Mr Martin Brackenbury was selected as ATIPAC's representative.

## **REVIEW OF THE YEAR**

The credit facility with the Bank of Scotland which had been negotiated by the Trustees in Summer 1996 remained in force throughout the year. The facility continues to be secured by a Government guarantee which was increased in November 1996 from £11 million to £21 million, inclusive of interest and charges.

At the start of the year the Trust Fund was in deficit by £8.03 million. During the year, interest payable on the debt amounted to £528,000 which was equivalent to £1,447 per day, a rise of more than 17% over the previous year's liability. There was £257,000 of expenditure and provisions in relation to new failures as well as £198,000 on administration and legal expenses, the majority of which was incurred in relation to The Flight Company litigation. The Trust's total expenditure for the year was offset by the return of prior year advances and the receipt of liquidation dividends. Overall there was a net decrease in the Fund of £933,000 and at the year end the deficit had increased to £8.96 million.

## **REPLENISHMENT OF THE TRUST FUND**

The Trust Fund was originally financed by a levy on holidays (while under the management of the Air Travel Reserve Fund Agency) and from 1978 its only income was from investments. It was clear for a number of years that unless the Trust was granted the power to raise additional funds by way of another levy, its assets would inevitably

become exhausted. This point eventually occurred in Summer 1996. Since that time the Trustees have satisfied themselves that they are able to meet customer claims based on the Government guarantee and on assurances from DETR that Government remains totally committed to ATOL and that it will extend its guarantee if the need arises.

This year was the best in the Trust's history in that only two bonds proved to be insufficient, with a combined call on the Fund of £257,000. However, for the second consecutive year the interest payable on the debt exceeded the amount required to meet passenger claims and the interest burden was the largest single element contributing to the net movement for the year. At the year end the overdraft facility had accrued in excess of £1.84 million in interest charges which represents over 20% of the deficit.

It has been ten years since the Trustees first drew Government's attention to the fact that the Fund was rapidly diminishing, its size was small in relation to the industry which it protected and that powers to replenish it needed to be given early consideration. It is therefore with considerable dismay that this Report must highlight that there is still no Bill to correct the deficit.

## **THE FLIGHT COMPANY (UK) PLC**

The collapse of The Flight Company in Summer 1996 resulted in a call on the Trust Fund of £5.8 million. The size of the call was disproportionate to the £1.5 million bond provided because the failure occurred during the peak season, at a time when The Flight Company had a substantial number of passengers abroad and had taken extensive forward bookings for the remainder of the summer.

An independent investigation commissioned by the CAA concluded that the information provided for The Flight Company's licence renewal in March 1996 was materially inaccurate. It indicated that the turnover in the 1995 accounts had been understated by a large margin and the balance sheet had been overstated. The CAA believed that if the turnover and assets had been presented accurately then it was unlikely that The Flight Company's licence would have been

renewed, and a failure in March would have resulted in a much smaller call on the Fund than the eventual failure in July. The CAA and Trustees commenced legal action against Kounnis Freeman, The Flight Company's auditors. In June 2000 the Trustees agreed that the external legal costs in relation to the litigation should be borne by the Trust as it, rather than the CAA, would be the principal beneficiary of any successful outcome.

The case was scheduled for trial in May 2001. Shortly beforehand a settlement was agreed between the parties. The ATT will receive £1.3 million.

## **BONDS CALLED IN THE YEAR UNDER REPORT**

2000 was a successful year for the UK travel industry with an outturn which was significantly better than tour operators' expectations suggested in late 1999. For the fourth consecutive summer there was strong market growth and the sales for Summer 2000 were almost 7.5% higher than the 5% achieved in Summer 1999.

The positive trading throughout the year was reflected in the reduced number and size of failures. Only 12 firms had their ATOL bonds called and this was the lowest failure rate in absolute terms since 1989. The number of failures expressed as a proportion of licence holders (1,858 at the mid calendar year point) was less than 0.65% and was the lowest since the Trust was formed. Throughout the year under report, less than 200 passengers were repatriated and 4,800 who had made advance payments were refunded. Total expenditure was £1.17 million and out of this total only £257,000 was met by the Trust. Full details of all bonds called can be found at Appendix 2.

The largest company to fail in terms of the number of passengers authorised by its licence was that of Hamilton Travel Limited. As at the time of its failure in August 2000 Hamilton had become the 12th largest ATOL holder in the Scheduled Bonded/Agency category of licence. Hamilton specialised in the sale of scheduled flight-onlys and the failure's impact was minimised as it sold the flights largely under Airline Deeds of Undertakings. In effect the scheduled airlines which had entered into a Deed with the CAA were responsible for providing

a return flight for any passengers abroad and they honoured all payments customers had made to Hamilton as if the money had been paid to them directly. Hamilton had provided a bond of £107,000 which proved to be more than sufficient to meet claims from those customers who were not covered by Airline Deeds.

Of the twelve failures which occurred during the year only two resulted in a call on the Trust Fund. The failure of Sun & City Holidays Limited which sold packages to the Mediterranean resulted in the largest call. Sun & City's licence lapsed at the end of March 2000 and had authorised the carriage of 2,038 annual passengers. The Trust's liability of £247,000 (96% of the year's total) is disproportionately high compared to the £67,000 bond provided and a change in ownership may have been a contributing factor. At the year end the CAA was in the process of considering a case of "overtrading" against the Director and former Director of the company given the number of passengers refunded as a result of the failure appeared to be beyond the scale of the licence.

The failure of Riddle B J which traded as Chelmer Travel resulted in a £10,000 call on the Trust. This firm ceased trading in March 2001 and had sold discounted scheduled flights to USA, Canada and Africa. Chelmer Travel was a relatively small firm which had only been authorised to carry 200 passengers a year.

## **ACKNOWLEDGEMENTS**

The Trustees are grateful to the Civil Aviation Authority for the administrative support and secretariat services provided during the year.



**Accounts for the year  
ended 31 March 2001**



## **AUDITORS' REPORT TO THE SECRETARY OF STATE FOR TRANSPORT, LOCAL GOVERNMENT AND THE REGIONS**

We have audited the accounts on pages 11 to 15 which have been prepared under the accounting policies set out on page 13.

### **RESPONSIBILITIES OF TRUSTEES**

The Trust Deed requires the Trustees to prepare accounts for each financial year.

The Trustees consider that in preparing these accounts, they have used appropriate accounting policies, consistently applied and supported by reasonable and prudent judgments and estimates. The Trustees have prepared the financial statements on a going concern basis.

The Trustees are responsible for keeping proper accounting records to enable them to ensure that the accounts comply with the Trust Deed and the directions made thereunder by the Secretary of State. They are also responsible for safeguarding the assets of the Trust and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

### **RESPONSIBILITIES OF AUDITORS**

It is our responsibility to form an independent opinion, based on our audit, on those accounts and to report our opinion to you.

### **BASIS OF OPINION**

We conducted our audit in accordance with United Kingdom auditing standards issued by the Auditing Practices Board. An audit includes an examination, on a test basis, of evidence relevant to the amounts and disclosures in the accounts. It also includes an assessment of the significant estimates and judgements made by the Trustees in the preparation of the accounts, and of whether the accounting policies



are appropriate to the Trust's circumstances, consistently applied and adequately disclosed.

We planned and performed our audit so as to obtain all the information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance that the accounts are free from material misstatement, whether caused by fraud or other irregularity or error. In forming our opinion we also evaluated the overall adequacy of the presentation of information in the accounts.

### *Going Concern*

In forming our opinion, we have considered the adequacy of the disclosures made in Note 1 to the accounts concerning the current Government guarantee which allows the Trust to meet its current obligations. However, Note 1 refers to the Trustees' belief that the Government will continue to support the Trust either in terms of replenishing the fund or providing further guarantees if this should be needed. In view of the significance of the situation we consider that it should be drawn to your attention but our opinion is not qualified in this respect.

## **OPINION**

In our opinion the accounts give a true and fair view of the state of the Trust's affairs at 31 March 2001 and its income and expenditure for the year then ended and have been properly prepared in accordance with the provisions of the Trust Deed and the directions made thereunder by the Secretary of State.

Deloitte & Touche  
Chartered Accountants  
and Registered Auditors  
Hill House  
1 Little New Street  
London EC4A 3TR

03 July 2001

## AIR TRAVEL TRUST

### FUND ACCOUNT for year ended 31 March 2001

	Note	Year to 31.3.01 £	Year to 31.3.00 £
<b>INCOME</b>			
Liquidation dividends	2	36,427	50,626
<b>EXPENDITURE</b>			
Compensation claims	3	(243,292)	(241,663)
Legal and administration expenses	4	(197,868)	(2,116)
Loan interest		(528,128)	(451,050)
		<u>(969,288)</u>	<u>(694,829)</u>
<b>NET DECREASE IN FUND FOR THE YEAR</b>		<u>(932,861)</u>	<u>(644,203)</u>
Fund at beginning of year		(8,029,694)	(7,385,491)
Net decrease in fund for the year		(932,861)	(644,203)
<b>FUND AT END OF YEAR</b>		<u>(8,962,555)</u>	<u>(8,029,694)</u>

*The notes on pages 13 to 15 form part of these accounts.*

## AIR TRAVEL TRUST

### BALANCE SHEET as at 31 March 2001

	31.3.01 £	31.3.00 £
<b>ASSETS</b>		
Cash	1	1
	<u>1</u>	<u>1</u>
<b>LIABILITIES</b>		
Compensation claims outstanding	(9,800)	(200,258)
Bank loans	(8,866,199)	(7,660,659)
Loan interest and other creditors	(86,557)	(168,778)
	<u>(8,962,556)</u>	<u>(8,029,695)</u>
<b>NET LIABILITIES</b>	<u>(8,962,555)</u>	<u>(8,029,694)</u>
Represented by :		
<b>FUND ACCOUNT</b>	<u>(8,962,555)</u>	<u>(8,029,694)</u>

C Senior, Trustee

D Andrew, Trustee

03 July 2001

*The notes on pages 13 to 15 form part of these accounts.*

## **AIR TRAVEL TRUST**

### **NOTES TO THE ACCOUNTS for the year to 31 March 2001**

#### **1 ACCOUNTING POLICIES**

(a) **Basis of preparation :**

The Trust Deed allows liabilities to be paid out of the Trust Fund at the absolute discretion of the Trustees. The Trust currently meets its day-to-day working capital requirements through bank loans which are secured by a Government guarantee of up to £21 million. The Trustees have been informed that the Government will continue to support the Trust Fund by continuing the loan guarantee. However, there is currently no mechanism in place to replenish the Trust Fund by means of levies authorised by legislation or otherwise.

The Trustees have prepared the financial statements on a going concern basis. The financial statements do not include any adjustments that would result from a withdrawal of support by the Government.

(b) **Accounting Convention :**

The accounts are prepared under the historical cost convention.

#### **2 LIQUIDATION DIVIDENDS**

Dividends were receivable during the year from the liquidators of Leisure Villas Ltd £16,130 and Marchfar Tours Ltd £16,679. £3,618 was also received being sundry receipts. (2000 : ILG Travel Ltd £186, Sharman Communications Ltd £5,614, Sheridan Travel Ltd £621 and Quest Leisure Group Ltd £44,205). Monies had previously been advanced from the Air Travel Trust to meet the costs of the failures.

### 3 COMPENSATION CLAIMS

The compensation paid or provided (or prior advances released) during the year as a result of the failures of holders of Air Travel Organiser Licences:

	<i>Year to</i> <i>31.3.01</i> £	<i>Year to</i> <i>31.3.00</i> £
<b>Failures prior to 31.3.00</b>		
Dayrise Ltd	–	(83,031)
Evergreen Travel Service Ltd	7,180	36,278
Excalibur International Travel Ltd	(1,602)	6,500
Global Air Travel plc	–	(3,095)
Imari Travel Company Ltd	–	(2,454)
Intra Travel Ltd	(1,299)	36,811
Justtravel Ltd	–	(10,000)
Metro Travel & Tours Ltd	(349)	(4,714)
Sportcullis Travel Ltd	–	(9,812)
The Flight Company (UK) plc	–	(2,598)
Travel Trade Consultants Ltd	(9,371)	80,000
Uncle Sam Travel Agency Ltd	–	(2,480)
Winterski Holidays Ltd	(8,279)	200,258
<b>Failures since 31.3.00</b>		
Riddle B J	10,033	–
Sun & City Holidays Ltd	246,979	–
	<hr/>	<hr/>
	243,292	241,663
	<hr/>	<hr/>

### 4 ADMINISTRATION EXPENSES

	<i>Year to</i> <i>31.3.01</i> £	<i>Year to</i> <i>31.3.00</i> £
Audit and taxation	3,112	2,116
Legal fees	194,756	–
	<hr/>	<hr/>
	197,868	2,116
	<hr/>	<hr/>

Administration is provided by the Civil Aviation Authority.

## **5 POST BALANCE SHEET EVENTS**

Since the balance sheet date and up to 22 June 2001, there has been 1 failure of holders of Air Travel Organisers' Licences. This failure is likely to result in a call on the Trust of £27,000.

The Trust is expected to receive £1.3m following settlement of a dispute with the auditors of The Flight Company (UK) plc.



## Appendix 1 Text of the Trust Deed dated 28 January 1986

THIS DEED OF TRUST is made the *twenty - eighth*  
day of *January* One thousand nine hundred and eighty-six  
BETWEEN THE SECRETARY OF STATE FOR TRANSPORT of the  
one part and RAYMOND COLEGATE CBE IAN EDWARD DONOVAN  
THOMAS McMILLAN and GILLIAN MARY EVE WHITE hereinafter  
called the "Original Trustees") of the other part

WHEREAS:—

- (A) It is intended that the Secretary of State for Transport shall by order made under Section 6 of The Air Travel Reserve Fund Act 1975 (hereinafter called "the 1975 Act") transfer all the assets presently standing to the credit of The Air Travel Reserve Fund (hereinafter called "the Fund") to the Original Trustees
- (B) The Secretary of State for Transport desires that the said assets and further money investments and property to be paid or transferred to the Original Trustees should constitute a trust fund to be applied for the benefit of the persons and in the manner hereinafter described

NOW THIS DEED WITNESSETH as follows:—

1. THE Trust constituted by this Deed shall be known as the Air Travel Trust unless and until the Trustees adopt and apply to it (as they are hereby entitled to do) some other name
2. IN this Deed the following expressions have the following meanings:
  - (1) "The Trustees" means the Original Trustees or other the trustees or trustee for the time being of this Deed namely the holders for the time being of the following Offices within the Civil Aviation Authority (hereinafter called "the CAA"): Group Director Economic Regulation; Group Director Finance & Central Services; Board Member Licensing Finance; Secretary and Legal Adviser or the holder for the time being of all or any of the offices under whichever title might be certified by the Secretary or Deputy Secretary of the CAA for the time being as applicable and "Trustee" means any one of the "Trustees"



- (2) "the Trust Fund" means and includes
- (a) any sums of money and other assets transferred to the Trustees as a consequence of an Order made under Section 6 of the 1975 Act disposing of the assets of the Fund
  - (b) all other money investments or other assets hereafter paid or transferred by any person or persons to or into the control of the Trustees and accepted by them as additions to the Trust Fund
  - (c) any property the proceeds of sale whereof are required or directed to be held upon the trusts hereof
  - (d) all other capital assets including any choses in action and capital money which hereafter by any means become or are made subject to the trusts hereof
  - (e) the investments property and other assets from time to time representing the foregoing items or any part or parts thereof
- (3) "Customer" means a person (other than an air travel organiser) who has made a payment or on whose behalf a payment has been made to an air travel organiser under or with a view to entering into an air travel contract with him for the provision of accommodation for the carriage of that person
- (4) An "en route customer" means a customer who has commenced but not completed his journey by the time the air travel organiser ceases to be able to meet his obligations under the air travel contract
- (5) "Air travel contract" means any contract for the provision of accommodation for the carriage of a customer of an air travel organiser (with or without any other persons) on a flight (whether the provision of accommodation in question is the sole subject matter of the contract or is associated with the provision thereunder of any other service accommodation or facilities) where the accommodation on the flight to which the contract relates is to be made available in such circumstances that the making of it available constitutes an activity in respect of which the air travel organiser is required to hold an air travel organiser's licence

- (6) "Air travel organiser" means a person whose activities consist of or include activities in respect of which he is required by virtue of any regulations for the time being in force under Section 71 of the Civil Aviation Act 1982 (hereinafter called "the 1982 Act") to hold an air travel organiser's licence
- (7) "The Specified Period" means the period beginning at the date of this Deed and enduring for eighty years and the said number of years shall be the perpetuity period applicable to this Deed

**3.** **THE** Trustees shall stand possessed of the Trust Fund and the income thereof during the Specified Period upon the trusts and with and subject to the powers and provisions hereinafter declared and contained concerning the same respectively

**4. (1)** **THE** Trustees shall hold the Trust Fund and the income thereof upon trust to pay or apply the same (without making any distinction between capital and income) in their absolute discretion at any time or times during the Specified Period but subject to the provisions of Clause 6 hereof

- (a) in providing carriage by air or other means of transport for passengers (including the cost of providing food hotel accommodation the movement of baggage and other incidental expenses) in substitution for carriage which a defaulting air travel organiser has in the opinion of the trustees failed to provide in accordance with his obligations under any air travel contract and
  - (b) to or for the benefit of customers of a defaulting air travel organiser in respect of losses and liabilities incurred by them or on their behalf in connection with any air travel contract
- (2) a loss or liability incurred by or on behalf of a customer of an air travel organiser is a loss or liability incurred in connection with an air travel contract if
- (a) it is a loss incurred in respect of any payment made by or on behalf of the customer to the defaulting air travel organiser under or in contemplation of such a contract or
  - (b) it is a loss or (as the case may be) a liability incurred in consequence of a breach by the defaulting air travel organiser of any of his obligations towards the customer under such a contract

- (3) For the avoidance of doubt it is hereby declared that the Trustees may exercise their discretion hereunder in respect of claims arising from or in connection with any defaults occurring before the date hereof

**5.** IN default of and subject to the foregoing trusts and to the extent that the same shall not validly take effect and subject to Clause 16 hereof the Trustees shall hold the capital and income of the Trust Fund upon Trust for such persons and purposes in such shares and upon such conditions as the Secretary of State for Transport shall by Order made before the end of the Specified Period direct

**6.** IN exercising the discretion as set out in Clause 4 hereof

- (1) payments may only be made where the air travel organiser has failed to meet his obligations to the customer under an air travel contract in the following circumstances:

(a) in the case of a company —

- (i) a petition has been presented to a court for its winding up by the court under the Companies Act 1985 on the grounds that it is unable to pay its debts
- (ii) a meeting of its creditors has been held in accordance with Section 588 of that Act
- (iii) a meeting of its creditors has been held otherwise than under Section 588 of that Act for the purpose of considering any compromise or arrangement with respect to the debts of the company
- (iv) a receiver or manager has been appointed over any of its property or assets
- (v) it has stopped payment of its debts or is unable to pay its debts within the meaning of Section 518 of that Act
- (vi) it has ceased to carry on its business as a result of being unable to pay its debt as they fall due

(b) In the case of an individual —

- (i) he has committed an act of bankruptcy specified in Section 1(1) of the Bankruptcy Act 1914
- (ii) he has stopped payment of his debts or is unable to pay his debts
- (iii) he has ceased to carry on business as a result of being unable to pay his debts as they fall due

- (2) Payments may only be made if the air travel organiser held an air travel organiser's licence at the time of booking by or on behalf of a customer or at any time in the three months prior to the time of booking. The time of booking means the time when a payment was first made by or on behalf of a customer to the air travel organiser under or in contemplation of an air travel contract.
- (3) Where any money is available under any bond or other security which has been provided or procured by the air travel organiser in accordance with any requirements applicable to air travel organisers by virtue of any regulations made under Section 71 of the 1982 Act payments may be made out of the Trust Fund before all that money which is available under the bond or security has been paid to or for the benefit of the customers in question or any class or description of the customers provided that no such payments shall be made by the Trustees unless and until the Trustees are satisfied that insufficient money will be available under the bond or security to satisfy all valid claims arising from or in connection with the default.
- (4) Where any money has been available under any such bond or other security as is referred to in the previous paragraph which has been provided or procured by the air travel organiser but the amount has been inadequate to enable all en route customers of the air travel organisers to travel to their destination then any payments made out of the Trust Fund for the benefit of the en route customers shall be made only to the person or body who administered the money available under the bond or other security to be used by that person or body for the benefit of the en route customers.

7. THE Trustees may during the period of 21 years from the date hereof if in their absolute discretion they think fit from time to time accumulate the whole or any part of the income of the Trust Fund by investing the same and the resulting income thereof in any investments hereby authorised and adding the accumulations to the capital of the Trust Fund

8. (1) ANY land and hereditaments situate in England or Wales which shall at any time or times hereafter become subject to the trusts hereof (and any land situated elsewhere than in England or Wales becoming so subject to which the Trustees in their discretion may decide that this provision shall apply) shall be held by the Trustees upon trust for sale with power for the Trustees in their discretion to postpone the sale of the whole or any part or parts of it for so long as they shall think fit

- (2) The Trustees shall hold the Trust Fund as to so much of it as does not consist of money and as is not held upon trust for sale Upon Trust either to retain it or any part or parts of it in its or their actual condition or state of investment for so long as the Trustees shall think fit or at any time or times in the discretion of the Trustees to sell call in and convert it or any part or parts of it into money
- (3) The Trustees shall hold the net proceeds of every sale and conversion of any part or parts of the Trust Fund and so much of the remainder of the Trust Fund as consists of money and all other capital moneys (if any) requiring investment under this Deed upon trust to lay out or invest the same in the names or under the control of the Trustees in any investments or investment of any nature authorised by this Deed with powers of any nature at any time and from time to time to vary or transpose any of such investments for or into any other investments or investment of a like nature

**9.** ANY money for the time being subject to the trusts hereof may be invested by the Trustees in any part of the world in any way in which they in their discretion think fit (whether or not money so invested will produce income) as if they were a sole absolute beneficial owner of the money and for the purpose of this clause the lending of money to any person with or without interest and with or without security shall contribute investment and the provisions of section 6(1) of the Trustee Investment Act 1961 shall not apply to this Deed

**10.** THE Trustees shall have and may exercise at any time or times the following additional powers —

- (1) Power to effect or concur in effecting any transaction concerning or affecting any part of the Trust Fund or any other property whatsoever if the Trustees think the transaction is for the benefit of the Trust Fund or the persons interested in it as if the Trustees were a sole absolute beneficial owner of the Trust Fund and for the purpose of this paragraph “transaction” includes any sale exchange assurance grant lease surrender reconveyance release reservation or other disposition and any purchase or other acquisition and any covenant contract licence option or right pre-exemption and any compromise partition insurance or other dealing or arrangement and “effect” has the meaning appropriate to the particular transaction and references to property include references to restrictions and burdens affecting property;

- (2) Power to make improvements to or to develop any land or building or other structure which forms part or the proceeds of sale of which form part of the Trust Fund and in particular to erect enlarge improve or rebuild any building or other structure on such land if the Trustees think it will be for the benefit whether permanent or temporary of the Trust Fund and to pay the cost of such improvement and development and all incidental costs out of the capital of the Trust Fund;
- (3) (In addition to the powers of improving land and maintaining and repairing property conferred by law upon trustees holding land and property upon trust for sale) power to pay as they in their discretion think fit out of income or capital the cost of improving maintaining and repairing (including decorative repair) any land or property which or the proceeds of sale of which form part of the Trust Fund;
- (4) Power to keep any property whether real or personal movable or immovable forming part of the Trust Fund insured against such risks and for such amount as they think fit with an insurance office of repute and to arrange for the installation improvement repair maintenance and servicing of any system designed to protect any such property against theft or any other risk and to pay all premiums installation maintenance servicing and other charges and any other moneys which may be required for these purposes out of income or capital and to apply any money received in respect of any such insurance as if it were proceeds of sale of the property insured;
- (5) Power to borrow money for any purpose connected with the trusts hereof (including the making of investments to be held as part of the Trust Fund) and to mortgage charge assign or pledge the whole or any part of the Trust Fund by way of security for the repayment of any money borrowed in the same unrestricted manner as if the Trustees were absolute beneficial owners thereof;
- (6) Power to purchase any additional property to be held subject to the trusts hereof and for that purpose to enter into contracts and to bind themselves by promissory notes or by any other security for the purchase price and generally to acquire such additional property as fully and as freely as a beneficial owner might do;
- (7) Power in respect of any buildings or any chattel or other assets forming part of the Trust Fund;
  - (a) to grant such leases or tenancies thereof or to let or lend or hire out the same to any person or persons on such terms as the Trustees think fit;

- (b) to sell or grant options to purchase the same on terms under which the price is payable to the Trustees by instalments;

and otherwise to exploit manage and deal with the same in the same unrestricted manner as if the Trustees were the absolute beneficial owners thereof;

- (8) Power to carry on any business and for that purpose to employ in the business (as working capital or otherwise) any trust money or other trust assets and to raise money by overdraft and to make any outlay out of the capital or income of the Trust Fund;
- (9) Power at the expense of the Trust Fund to promote and incorporate or join in promoting and incorporating in any part of the world any company or companies for the purpose of conducting any business or of acquiring (with or without other property) any property comprised in the Trust Fund and of holding or developing or otherwise dealing with any such property and so that the Trustees or any of them may act as directors or director of any such company or may appoint nominees or a nominee to act as directors or director thereof on their behalf;
- (10) Power to cause or permit any company the shares or securities whereof are comprised in the Trust Fund to retain the whole or any part of its income undistributed and so that (whether or not the Trustees have a controlling interest in any such company) the Trustees shall not be under any obligation to take any step to remove directors of any such company who recommend such retention of the company's income and if any Trustee is a director thereof he may recommend such retention;
- (11) Power to permit any investments or property forming part of the Trust Fund to be held in any part of the world by or in the name or names of any nominee or nominees of the Trustees on such terms (if any) as to execution of blank transfers or declarations of trust and as to custody of the documents of title relating to such investments or property and otherwise as the Trustees may think fit and so that (but without prejudice to the generality of the foregoing) this power may be exercised for the purpose of qualifying any nominee (including any Trustee) to act as a director of any company;
- (12) Power to apply trust capital in purchasing effecting or acquiring by any other means policies of insurance (whether life policies or endowment or sinking fund policies or policies of any other kind) and annuities perpetual or terminable and for lives or any other periods and power in relation to any insurance policy effected by the Trustees to surrender exchange sell charge or otherwise deal with the same in the same unrestricted manner as if they were the absolute beneficial owners thereof;

- (13) Power in connection with the investment and changing of investments of trust money

  - (a) to obtain and pay for the advice of such broker or other persons as the Trustees may think fit and
  - (b) to employ any banking or merchant banking company or firm or other person or persons to manage such investments and to delegate to such manager or managers all or any of the duties or powers of the Trustees in respect of the investments or changing of investments of trust money;
- (14) Power in respect of any trust capital or income which becomes the property of or payable or applicable to or for the benefit of any person who is for the time being under the age of eighteen years to apply the same in any manner which the Trustees consider to be for the benefit of that person;
- (15) Power to appoint any one or more of the Trustees to be the agents of the Trustees for the purpose of operating any bank or building society account of the Trustees or for the purpose of collecting any rents or income of or managing or administering any property (in any part of the world) comprised in the Trust Fund or for any other purpose for which the Trustees may appoint agents;
- (16) Power (without prejudice to the jurisdiction of the Court) to decide what money or property represents income and what represents capital and how as between the capital and income of the Trust Fund any expenses or costs shall be borne or provided;
- (17) Power to agree to any scheme for amalgamation or reconstruction of any company in which shares stocks or securities are held by the Trustees or any other scheme relating to any such company
- (18) Power for the purpose of the trusts hereof to enter into any arrangement or contract notwithstanding that the person or persons with whom or on whose behalf the arrangement or contract is made are or include one or more of the Trustees;
- (19) Power to make rules and regulations for the management and administration of the Trust Fund or any part thereof and for matters connected therewith as the Trustees from time to time may think fit and from time to time revoke and replace all or any such rules or regulations;



- (20) Power to appoint such persons as the Trustees may think fit or convenient to act in connection with such management or administration and (pursuant to the general power for that purpose conferred by sub-clause (19) of this clause) to make amend revoke and replace rules and regulations for the purpose of defining the functions and powers of any such persons and power also (if the Trustees think fit) to pay an honorarium fee or salary to and the expenses of any persons;
- (21) Power to delegate from time to time to any such persons all or any of the powers and duties of the Trustees hereunder;
- (22) Power to insure the Trust Fund against claims for payments arising as a result of the inability of one or more air travel organisers to meet their financial commitments or for sharing with insurers the burden of payment of such claims;
- (23) Power to pay the expenses incurred by the Air Travel Reserve Fund Agency ("the Agency") between 28th February and 30th June 1986 in performing their duty under paragraph 9 of the Schedule to the 1975 Act in preparing a statement of accounts in respect of the period of account ending with 31st March 1986 and in making a report to the Secretary of State on the performance of their functions during that period and to pay any remuneration or allowances to the members of the Agency between 28th February and 30th June 1986.

**11.** THE statutory provisions about the appointment retirement and discharge of trustees shall apply to the trusts hereof subject to the following provisions of this clause

- (1) Upon retiring from or otherwise vacating any of the offices of the CAA referred to in clause 2(1) hereof and subject to the provisions of that clause the Trustee who until retirement or otherwise held the relevant offices in the CAA shall automatically cease to be a Trustee hereof and the vacant office of Trustee shall devolve on the person appointed to fill the vacant office in the CAA provided that in the event of a delay in the appointment of person to the vacant office of the CAA the remaining Trustees can act notwithstanding a vacancy in their number
- (2) The remaining Trustees shall have power to vest the Trust Fund in the new Trustee so that thereafter
  - (a) the new Trustee shall have all the same powers and discretions as are hereby conferred on the Trustees in relation to the Trust Fund and the income thereof;

- (b) subject to paragraph (a) of this sub-clause all property held by such new Trustees and all property retained by the Trustees shall remain subject to the same trusts powers and provisions as if no new trustees had been appointed

**12.** ANY act or decision by two of the Trustees shall have the same force and effect as if it were the act or decision of all of them

**13.** THE Trustees may in the execution of any of the trusts of this Deed or in the exercise of any of the powers given to them by this Deed or by law sell property or lend money to or buy property or borrow money from or carry out any other transaction with the trustees of any other trust or the executors or administrators of any estate notwithstanding that the Trustees or any of them are or is the same person as those trustees executors or administrators or any of them and where the Trustees are the same persons as those trustees executors or administrators the transaction shall be binding on all persons then or thereafter interested under this Deed though effected and evidenced only by an entry in the accounts of the Trustees

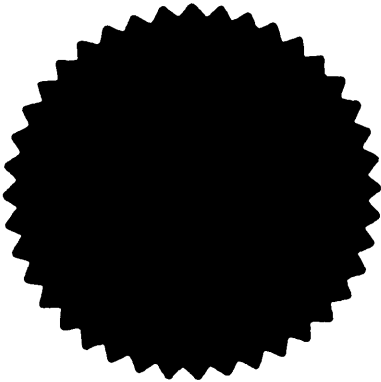
**14.** IN the professed execution of the trusts and powers hereof no Trustee shall be liable for any loss to the Trust Fund arising by reason of the failure depreciation or loss of any investments made in good faith or for the negligence or fraud of any agent employed by him or by any other Trustee hereof although the employment of such agent was not strictly necessary or expedient or by reason of any mistake or omission made in good faith by any Trustee hereof or by reason of any other matter or thing except wilful and individual fraud or wrongdoing on the part of the Trustee who is sought to be made liable

**15.** THE Trustees shall keep proper accounts and proper records in relation to accounts and shall prepare in respect of each period of account a statement of accounts in such form as the Secretary of State may direct and shall arrange for the accounts to be audited in such manner as the Secretary of State for Transport may direct and shall make to the Secretary of State within a period to be specified by him at the end of each period of account a report on the performance of their functions during that period and to include in that report a copy of the Statement of accounts prepared in respect of that period in accordance with this clause and any report made by the auditors on the statement or on the accounts: and in this clause "period of account" means the period beginning with 28th February 1986 and ending with 31st March 1987 and any subsequent period of twelve months ending with the 31st March in any year

**16. THE** Trusts of this Deed shall be varied or terminate upon an Order to that effect being made during the Specified Period by the Secretary of State for Transport who may in his complete discretion direct the Trustees to dispose of the Trust Fund as he thinks fit

**IN WITNESS** whereof the Original Trustees have caused their Corporate and Common Seals to be hereunto affixed and The Corporate Seal of The Secretary of State for Transport has been hereunto affixed the day and year first above written

THE CORPORATE SEAL of  
THE SECRETARY OF STATE FOR  
TRANSPORT hereunto affixed is  
authenticated by:--

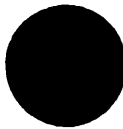


*David Rowlands*  
*An Assistant Secretary*

Authorised by The Secretary of State  
for Transport

SIGNED SEALED AND DELIVERED  
by the said RAYMOND COLEGATE CBE  
in the presence of:--

*Raymond Colegate*



*Helen Lydon*

SIGNED SEALED AND DELIVERED  
by the said IAN EDWARD DONOVAN  
in the presence of:--

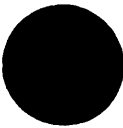
*I. Edwards*



*Helen Lydon*

SIGNED SEALED AND DELIVERED  
by the said THOMAS McMILLAN  
in the presence of:--

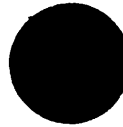
*Thomas McMillan*



*Helen Lydon*

SIGNED SEALED AND DELIVERED  
by the said GILLIAN MARY EVE WHITE  
in the presence of:--

*Gillian McE White*



*Helen Lydon*

## Appendix 2 Details of Bond Calls and their effects,

<i>Licence Holder</i>	<i>Date Bond Called</i>	<i>Licensed Passengers</i>	<i>Licensed Revenue  £'000</i>
Galaxy Air Holidays Ltd	27 Jun 00	6,233	2,090
Sun & City Holidays Ltd	04 Jul 00	2,038	495
Hamilton Travel Ltd	16 Aug 00	117,544	27,068
Grenadier Safaris Ltd	22 Sep 00	165	435
Dolunay Holidays Ltd	22 Sep 00	1,200	520
Christian Tours (UK) Ltd	23 Jan 01	1,124	930
Californian Holidays Ltd	01 Feb 01	1,697	1,253
Sundial Travel Ltd	23 Feb 01	3,503	2,368
Sun Modilex Ltd	02 Mar 01	3,000	2,025
Trinity Travel & Tours Ltd	06 Mar 01	1,765	600
Riddle B J	22 Mar 01	200	100
Lindsay P J, Ahmad R	26 Mar 01	3,826	1,045
<b>Total (12)</b>		<b>142,295</b>	<b>38,927</b>

### NOTES

- 1 The administration of all cases above may not have been completed. Administration costs which were incurred in paying passengers' refunds have been included in the Cost of Refunds.
- 2 The figures for Total Expenditure and any call on the Air Travel Trust reflect amounts already spent and estimated further expenditure.
- 3 Where a call on the Air Travel Trust is indicated, this is the difference between expected total expenditure and available bond monies.  
The call on the Air Travel Trust may include the expenditure of accrued interest.
- 4 The above totals may not agree to the sum of the figures shown in the table due to rounding differences.

## April 2000 to March 2001

<i>Bond Amount</i>	<i>Number Repatriated</i>	<i>Cost of Repatriation</i>	<i>Number Refunded</i>	<i>Cost of Refunds</i>	<i>Total Expenditure</i>	<i>Call on Air Travel Trust</i>
<i>£'000</i>		<i>£'000</i>		<i>£'000</i>	<i>£'000</i>	<i>£'000</i>
314	16	2	1,050	158	160	0
67	0	0	1,973	313	314	247
107	0	0	245	48	48	0
58	8	6	10	19	25	0
78	100	14	130	31	45	0
140	0	0	505	105	105	0
187	20	1	28	22	23	0
355	43	30	120	79	109	0
313	0	0	191	174	174	0
60	0	0	5	1	1	0
10	0	0	9	20	20	10
142	0	0	509	142	142	0
<b>1,829</b>	<b>187</b>	<b>54</b>	<b>4,775</b>	<b>1,111</b>	<b>1,166</b>	<b>257</b>

### Appendix 3 Historical Movement of Reserve Fund Against Industry Turnover

Year ended 31 March	Turnover £'m	Passengers '000	Bonds Called During Year	Calls on Reserve Fund During Year £'m	Total Fund at Year End £'m	Calls as % of Turnover	Calls as % of Fund at Start of Year	Fund as % of Turnover
1979	574	4,173	2	0.08	14.78	0.01		2.57
1980	813	5,304	2	0.02	16.10	0.00	0.14	1.98
1981	1,200	6,165	2	0.00	18.05	0.00	0.00	1.50
1982	1,488	6,662	9	3.02	15.64	0.20	16.73	1.05
1983	1,595	7,067	11	3.10	16.61	0.19	19.82	1.04
1984	1,893	7,938	9	0.58	19.44	0.03	3.49	1.03
1985	2,004	8,623	20	1.91	19.52	0.10	9.83	0.97
1986	2,123	8,662	18	1.36	22.10	0.06	6.97	1.04
1987	2,406	9,849	8	2.20	22.75	0.09	9.95	0.95
1988	3,118	12,598	16	1.23	23.18	0.04	5.40	0.74
1989	3,629	14,490	9	0.28	23.44	0.01	1.21	0.65
1990	3,704	13,982	21	0.40	23.71	0.01		0.64
1991	3,807	13,083	22	11.61	26.70	0.30	48.95	0.70
1992	3,253	10,110	16	0.73	5.01	0.02	2.75	0.15
1993	4,436	13,575	24	6.66	9.84	0.15	132.83	0.22
1994	5,180	14,528	20	1.58	8.82	0.03	16.07	0.17
1995	5,966	16,678	23	3.51	5.65	0.06	39.77	0.09
1996	6,874	18,812	31	4.10	1.87	0.06	72.65	0.03
1997	8,318	22,176	26	7.60	(5.26)	0.09	405.69	(0.06)
1998	9,426	25,673	21	0.36	(5.30)	0.004	(6.76)	(0.06)
1999	11,211	26,284	20	2.01	(7.39)	0.018	(37.98)	(0.07)
2000	11,982	27,824	17	0.33	(8.03)	0.003	(4.40)	(0.07)
2001	13,155	29,675	12	0.26	(8.96)	0.002	(3.20)	(0.07)
2002	14,233	31,348						

Note

1. Turnover and Passenger figures represent the total value and number of holidays/flights authorised by all Air Travel Organiser Licences at the start of the year. The figures exclude all trade sales between ATOL Holders
2. Calls on Reserve Fund are retrospectively adjusted figures indicating the cost of failures occurring during each year. The figure for Total Fund at year end is taken from the Air Travel Trust accounts and thus incorporates provisions based on estimates at the time of audit; figures are not adjusted retrospectively to show actual expenditure.
3. Calls as % of turnover uses the base of turnover in the same year as the calls. Fund as % of turnover applies the Fund at each year end to the turnover/licensed for the year following.