

# Licensing Airlines in the UK: the framework and criteria for granting Operating Licences, Route Licences and Air Transport Licences

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# Licensing Airlines in the UK

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## Introduction

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The CAA's Licensing of Airlines in the UK (Official Record Series 1) contains comprehensive guidance about the framework and criteria for granting Operating Licences, Route Licences and Air Transport Licences. It also contains the legal instruments that the CAA publishes in relation to the licences it grants. It does not however deal with other authorisations granted by the CAA, including the Air Operator's Certificate which relates to safety standards.

## Overview

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### Part 1: Operating Licences

As a general rule, any person or firm based in the UK who operates an aircraft and carries passengers or cargo on it for remuneration needs an Operating Licence granted by the CAA. This applies irrespective of the registration of the aircraft used, though in normal circumstances airlines licensed by the CAA are required to use UK-registered aircraft. The CAA grants two classes of Operating Licence:

- A Type A Operating Licence is required by operators of aircraft with 20 or more seats
- A Type B Operating Licence is required by operators of aircraft with 19 or fewer seats

Operating Licences do not themselves authorise air operations, but holders of Operating Licences are entitled to take advantage of Regulation (EC) 1008/2008 on common rules for the operation of air services in the Community. This enables European Union air carriers to fly on most routes within the European Union, with no further licences being required.

Operations outside the European Union will normally require a carrier to hold an additional licence (a Route Licence), which is also granted by the CAA.

### Part 2: Route Licences and Exemptions

For flights within the European Union (and slightly beyond it), an operator that holds an Operating Licence does not need any further licence or permit, either from the CAA or from any other country it serves. For flights by UK-registered aircraft outside this area, air operators may also need one or more Route Licences. Despite their name, Route Licences normally permit operations between any combination of points anywhere in the world, subject to the terms of the licence holder's Air Operator's Certificate rather than on specific routes, though they can contain exclusions; possession of the necessary Route

Licence is not necessarily sufficient authorisation to operate scheduled services on any particular route, since licence holders must also be designated under the terms of the bilateral Air Service Agreement between the UK and the State to which it is intended to operate.

### **Part 3: Air Transport Licences**

Airlines that are based or registered outside the European Union but operate UK-registered aircraft, which in practice are usually those based in the Channel Islands or the Isle of Man, are not eligible to hold either Operating Licences or Route Licences. They need to hold Air Transport Licences, which have broadly the same effect as the combination of an Operating Licence and a Route Licence.

### **Part 4: Scarce Capacity Allocation Certificates**

On some routes between the UK and countries outside the single European aviation market, the Air Services Agreement between the UK and a foreign government may limit the traffic rights available in terms of the number of carriers that each side can designate, the routes those carriers operate, and the frequency or capacity they can offer. Where there are insufficient traffic rights to accommodate the demands of all UK-designated carriers, which may include Community carriers established but not licensed in the UK, the CAA may be required to determine how those rights should be allocated, through the grant of Scarce Capacity Allocation Certificates.

### **Part 5 (Contacts) and Part 6 (Legislation)**

Part 5 sets out which departments of the CAA deal with different issues and Part 6 lists the legislation that is relevant to the CAA's licensing processes.



# Part 1: Operating Licences

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## Legal framework

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1. The basis of air operator licensing in the United Kingdom is the [Licensing Regulation 1008/2008](#)<sup>1</sup> which came into force in September 2008 and provides that an air operator based in the European Economic Area (EEA)<sup>2</sup> must hold an Operating Licence granted by the State where it has its principal place of business and (if appropriate) its place of registration.

## Scope and effect

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2. The requirement for an air operator to hold an Operating Licence granted by the State in which it is based extends to virtually all carriage by air anywhere in the world of either passengers or cargo for remuneration, irrespective of whether the sale is made to the general public or to a charterer. Corporate operations involving no remuneration, other than between companies within a group, are not affected.
3. An Operating Licence is a requirement for entry and it has to remain in force for the holder to be able to carry passengers, cargo or mail for remuneration. It does not in itself authorise flights on any route, but allows the holder to benefit from route authorisations granted separately.
4. Flights within the EEA are authorised by the Licensing Regulation which allows Operating Licence holders to operate on most routes in the EEA without needing a further licence or permit from any State. There is no restriction on flights being either scheduled or charter (that is, selling seats direct to the public or selling them to a tour operator) and they may be a mixture of the two.
5. States may limit access to routes on which “public service obligations” apply.
6. For routes which are not within the EEA, and for intra-EEA routes which are not generally available under the Licensing Regulation but where specific authorisations are possible, holders of Operating Licences also generally need to hold Route Licences. These are dealt with in Part 2.

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<sup>1</sup> Council Regulation (EEC) No 1008/2008 on Common rules for the operation of air services in the Community (Recast), referred to in this Guide as the Licensing Regulation.

<sup>2</sup> The Licensing Regulation referred to the European Community and EC Member States. Since the Regulation came into effect, its scope has been extended to the European Economic Area, which includes Iceland, Liechtenstein, Norway and Switzerland as well as EU Member States. References in this publication are to the EEA throughout, amending where necessary earlier references to the EU. The terms “States” and “EEA States” are used in this Guide to mean EU Member States plus those named above.

7. Article 4 (c) of the Licensing Regulation requires States to ensure that carriers licensed by them have one or more aircraft at their disposal, and Article 12 permits States to decide whether carriers should be required to use aircraft on their national register or aircraft registered anywhere within the EEA. In the United Kingdom the Secretary of State, has decided that holders of Operating Licences issued by the CAA must use aircraft registered in the United Kingdom. However, the Regulation permits waivers to be granted from the requirement to use UK-registered aircraft, and the Secretary of State may grant waivers in specific circumstances. In addition, Article 12 of the Regulation requires that any lease to or by the holder of an Operating Licence granted by the CAA, of a UK or foreign registered aircraft, must be approved by the CAA for the purpose of ensuring safety and liability standards. .

## Exceptions to the need to hold an operating licence

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8. There is an exclusion in Article 3 of the Licensing Regulation so that an Operating Licence is not needed for flights
- by ultra-light and non-power driven aircraft; or
  - local flights.
9. Beyond this there are no exclusions, and EEA States have no powers to grant exemptions from the need to hold an Operating Licence.

## Classes of operating licence

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10. The CAA grants two types of Operating Licence, Type A and Type B, the former being for larger operators and the latter for minor operators. “Minor operators” are mainly those which operate (or lease in) aircraft having less than 20 seats: these operators are specially recognised by Article 5 of the Licensing Regulation, which permits a simplified entry procedure for them. The CAA system allows additionally that in some instances operators of larger aircraft with a limited scope of activity (for example, air taxi work) may also be granted a Type B licence, though the Licensing Regulation does not allow the simplified entry procedure to be used for them. After grant, the difference between the two types is that a Type B licence restricts the size of aircraft that may be used or the type of activity, but it carries fewer obligations in respect of financial information, statistics and charges. These differences are dealt with in the relevant paragraphs below.

## Criteria for the grant of operating licences

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11. The criteria for grant of Operating Licences are set out in the Licensing Regulation and must be applied by all EEA States. The Regulation also states that any undertaking meeting those criteria is entitled to be granted an Operating Licence. They relate principally to the place and nature of business; nationality of

ownership and control; adequacy of financial resources; the holding of an Air Operator's Certificate; fitness; and passenger and third party insurance. The requirements in relation to each and, where appropriate, the CAA's approach to ensuring that they are met are set out below.

## **Place and Nature of Business**

12. Article 2 of the Licensing Regulation provides that EEA States may grant Operating Licences only to air operators whose principal place of business and registered office (if any) are within their territory. The CAA may therefore grant Operating Licences only to operators based and registered in the United Kingdom, which does not include the Channel Islands or the Isle of Man. There is a further requirement in the Licensing Regulation that the main occupation of the licence holder must be either air transport alone or air transport combined with other aviation activities.

## **Nationality of Ownership and Control**

13. Article 4 of the Licensing Regulation requires that holders of Operating Licences must be majority owned and effectively controlled by EEA States or nationals of EEA States.

## **Financial Resources**

14. Article 5.1 of the Licensing Regulation requires that an applicant for an Operating Licence must be able to demonstrate that it can meet its obligations, established under realistic assumptions, for the first 24 months of its operation; and that it can meet its costs for the first three months of operation without any income. Article 5.2 specifies the information which must be provided for the licensing authority to reach a decision on these criteria. Article 5.3 makes an exception for operators of aircraft with less than 20 seats or 10 tonnes maximum take-off weight, who may instead either demonstrate a minimum capitalisation or supply information to the licensing authority on being requested to do so.
15. The CAA does not regulate the finances of minor operators and does not normally seek financial information from applicants for Type B licences, except to the extent necessary to establish compliance with nationality requirements.
16. For operations using larger aircraft, the CAA requires applicants to provide a business plan for the first two years of operation and considers this to decide how much capital is necessary to meet the criteria set out in Article 5.1. It looks critically at forecast traffic, revenue and costs in the light of information on similar routes or operations, taking into account the existence of contracts and the degree of risk involved. Before reaching a final view, it discusses with the applicant any aspects where it believes the forecasts are optimistic. It then adjusts them if appropriate and indicates a figure for capitalisation which is intended to ensure that there will be a surplus of net assets and sufficient cash

resources during the first two years of operation. The CAA will grant an Operating Licence only when the necessary financial arrangements have been executed and the other criteria have been met.

## Liability and Insurance

17. Article 4 (h) of the Licensing Regulation requires that operators should be insured against their liabilities arising from accidents. A further Regulation referred to in this Guide as the [Council Air Carrier Liability Regulation](#) establishes unlimited liability on holders of Operating Licences in the event of death or injury resulting from an air accident, and requires that carriers must be insured up to at least 100,000 SDRs per passenger and at a reasonable level for third party risk.
18. Articles 3 and 5 of the Council Air Carrier Liability Regulation also requires that holders of Operating Licences must make available to passengers, in their ticket documents and conditions of carriage, information on passenger liability. Certain consequential matters from this Regulation were effected in the United Kingdom by the Air Carrier Liability Order 1998.
19. Council Regulation 785/2004 on insurance requirements for air carriers and aircraft operators establishes minimum insurance requirements for air carriers and aircraft operators in respect of passengers, baggage, cargo and third parties (including War Risk). The CAA requires airlines to provide evidence countersigned by their broker that they have obtained the required cover. The requirements vary, particularly in relation to third party cover, according to the weight and size of the aircraft used. The minimum levels are set out here - [Insurance](#). The Civil Aviation (Insurance) Regulations 2005 provide for the CAA to act as the competent authority for the purposes of the Regulation.

## Air Operator's Certificate

20. Article 9 of the Council Licensing Regulation requires that Operating Licences may be granted only to firms that hold an Air Operator's Certificate (AOC), complying with criteria laid down in the relevant [Council Regulation](#). The current requirement in the UK is contained in Article 6 of the Air Navigation Order 2005, which requires an AOC granted by the CAA's Safety Regulation Group to be held in respect of most flights by UK-registered aircraft used on public transport operations.

## Fitness

21. Article 4 (i) of the Licensing Regulation deals with evidence of "good repute" in applicants for Operating Licences, and evidence that none of the persons managing the business is an undischarged bankrupt.

## Provision of services through chartering aircraft

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22. Some prospective new entrants propose to begin by marketing air services, with the flights being operated by an existing licence holder. This does not require an Operating Licence or an AOC, provided that the licence holder has the management of the aircraft, but it will in general require an Air Travel Organiser's Licence (ATOL). In considering applications for an ATOL in these circumstances the CAA will apply the same financial and other criteria that it would for grant of an Operating Licence rather than its standard ATOL criteria. It will also be concerned to restrict such arrangements to the short term: applicants should be aware that for routes outside the EEA, receiving countries may raise objections, and this is not usually a practical long-term basis on which to manage an airline operation.

## Continuing requirements for holders of operating licences

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### Financial monitoring and regulation

23. Article 8 of the Licensing Regulation requires operators to notify licensing authorities of changes to their operation and, if requested to do so, to supply revised business plans. Article 9 gives licensing authorities the power to suspend or revoke a licence if they are no longer satisfied that the holder can meet its financial obligations for the next 12 months. In the UK, decisions by the CAA are subject to published procedures and to appeal to the Secretary of State, as set out in the [CAA Regulations](#).
24. The Licensing Regulation leaves it to the discretion of licensing authorities how far they should regulate an operator's finances after an Operating Licence has been granted, and the extent to which the CAA intervenes in the finances of licensed airlines varies according to the category of business. It does so chiefly where there is a consumer protection issue, and where it has the ability to influence events so as to benefit the operator's customers; there is also an issue of materiality, with the potential benefits set against the costs of monitoring.
25. With these criteria in mind, the CAA does not normally regulate the finances of Type B Operating Licence holders or of Type A licence holders engaged in cargo, sole use charter, or air taxi operations once licences have been granted. The CAA would usually require these operators to provide only limited information to establish continued compliance with nationality requirements.
26. The CAA monitors the financial performance and position of most other operators, and may in certain circumstances take action to revoke an Operating Licence. Its objective in doing so is primarily to secure a better outcome for the travelling public, and revocation will in many cases not have this effect: revoking a licence will turn a potential failure into an actual failure and may lead to losses on the part of ticket holders and disruption to passengers' travel plans. However,

revocation or suspension may still achieve a benefit if it minimises the effects of an inevitable failure, and this may happen where a charter operator's licence is revoked outside the peak season or a scheduled operator's licence is revoked so as to prevent planned expansion. These principles are behind the extent to which the CAA may require more detailed information from certain types of operator at particular times, such as prior to major expansions.

### Monitoring information required

27. Annex 3 (Monitoring information to be provided by Operating Licence and Air Transport Licence holders) contains basic lists of the regular information the CAA is likely to require from licence holders. The first list contains items that are required from all licence holders for the purposes of monitoring nationality of ownership and control and insurance cover, while the second contains the aircraft fleet details and the third list contains the financial information routinely required from Type A licence holders that are subject to monitoring. As noted above, it may require more or less financial information according to particular circumstances, and examples of additional items are contained in the fourth list.

### Fares

28. Fares between two points in the EEA are governed by a [Council Regulation](#) and implementing [UK regulations](#). Airlines are able to set fares freely, although Member States can invoke safeguards against an excessively high fully flexible fare or a downward spiral of fares. Member States may also choose whether to require airlines to file fares up to 24 hours before they take effect. The CAA, which performs the functions in the UK relating to fares filing, does not require fares to be filed.

### Requirement not to sell seats except in accordance with ATOL requirements

29. Regulation 11(1) of the Licensing of Air Carriers Regulations prohibits Operating Licence holders from making available flight accommodation for resale in the United Kingdom unless they are satisfied that the buyer or agent complies with the Civil Aviation ([Air Travel Organisers' Licensing](#)) [Regulations 1995](#) (the ATOL Regulations) – either by holding an Air Travel Organisers' Licence or by supplying a valid ticket in exchange for payment. Normally, only IATA accredited agents will be able to comply with the latter criterion, and the CAA expects airlines to ensure that they distribute seats only through ATOL holders or IATA agents. Further guidance on compliance with Regulation 11(1) is given in the ATOL Guidance Note at Annex 4.

## Statistics

30. The CAA collects detailed Operating Statistics monthly, quarterly or annually from all holders of Type A Operating Licences. Holders of Type B Operating Licences are required to provide less detailed quarterly figures.

## Procedures in relation to operating licences

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31. The procedures that affect applications for Operating Licences are contained partly in the Licensing Regulation itself and in the Licensing of Air Carriers Regulations.
32. Article 10 of the Licensing Regulation requires licensing authorities to deal with any application promptly and in any event not later than three months after all the necessary information has been provided; and that a decision (with reasons, in the case of a refusal) should be given to the applicant. It provides a right of appeal to the European Commission against any refusal, and requires that decisions by States to grant or revoke Operating Licences should be published in the Official Journal of the European Communities.
33. The CAA Regulations, as amended by the Licensing of Air Carriers Regulations, require that any decision to refuse an Operating Licence must normally be made by two Members of CAA and provides for an appeal to the Secretary of State (in addition to the right of appeal to the European Commission) against any decision to refuse an Operating Licence.
34. Article 10 of the Licensing Regulation also requires States to publish the procedures they adopt in dealing with Operating Licence applications. The CAA's procedures, beyond those laid down in legislation, are set out in Annex 5.

## Charges

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35. There are fixed charges for applications for Type A and Type B Operating Licence, and if an application involves a higher than normal amount of work, the CAA may at its discretion also make a similar charge for the grant of the licence.
36. After a licence is granted, there are no further charges for Type B Licences. For Type A Operating Licence holders, there are variable charges which vary according to the number of passenger kilometres (or in the case of cargo, tonne kilometres) carried on public transport flights with aircraft for which a Type A licence is required.
37. The current charges are published on the CAA website and can be found [here](#).

## Part 2: Route Licences

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### Purpose and scope

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1. Airlines based in the UK which hold Operating Licences may also need Route Licences. These are needed for services using aircraft registered in the United Kingdom on routes that are wholly or partly outside the European Economic Area and have not been exempted from Route Licensing.
2. Route Licences may be granted only to holders of Operating Licences and cease to be effective if the related Operating Licence is suspended or revoked. They are granted in two categories which differ according to the way capacity is sold. Despite their name, they do not normally cover just specific routes: most frequently, they authorise flights anywhere (except in areas already authorised by the Licensing Regulation) within the scope of the licence holder's AOC. They may however be more restricted at an applicant's request or may exclude specified routes following a decision made by the CAA.
3. An airline which holds a Route Licence will not necessarily be able to operate on any particular route covered by it; its ability to operate will depend also on the granting of traffic rights by the Government at the other end of the route. Negotiation of traffic rights is the responsibility of the Department for Transport (DfT), though for charter services airlines are required in most cases to seek permits directly from the countries concerned.
4. Flights to or from the UK using foreign-registered aircraft (whether operated by a UK licensed airline, another EEA carrier or a non-EEA airline) are not covered by Route Licences but by permits granted by the Secretary of State under Article 113 of the Air Navigation Order. Applications for permits should be made to DfT at the address given in Part 4.

### Legal framework

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5. The legal provisions for Route Licensing are contained in Sections 64-70 (including Section 69A) of the Civil Aviation Act 1982 ("the Act"), as amended by the Licensing of Air Carrier Regulations. The statutory procedures for application, grant, refusal, suspension, variation and revocation of Route Licences are laid down in Regulations referred to in this Guide as the CAA Regulations.



## Classes of route licence

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6. The CAA issues two classes of Route Licence, both of which allow the carriage of passengers, cargo or mail (or any combination of these). They are distinct from each other by virtue of the way space on the aircraft is sold, as follows:
  - Scheduled Licences authorising flights where at least some of the capacity is sold direct to the public without the involvement of a charterer.
  - Charter Licences authorising flights where all the capacity on the aircraft is sold to one or more charterers for resale.
7. As noted above, the default position is that each scheduled or charter licence will authorise services worldwide, with only the limitation that they must be within the scope of the licence holder's Air Operator's Certificate. Licences may however contain further restrictions in specific circumstances. In cases where time does not permit the full process specified in the Regulations for the grant of a standard licence, the CAA may issue a limited short term licence (usually covering only four flights) identified by the suffix "X" after the licence number.
8. The form of Route Licences and the Standard Conditions applicable to them are at [Schedule 2](#).

## Exemptions from route licensing

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9. Section 64(2)(a) of the Act (as amended by the Licensing of Air Carriers Regulations) permits the CAA to exempt services from the need to hold a Route Licence.
10. The CAA has exempted through the instrument at Schedule 3 the following categories of flights by holders of Operating Licences:
  - flights between any points both of which are within the area consisting of the EEA, the Channel Islands and the Isle of Man;
  - "sole use" flights anywhere in the world by the holder of an Operating Licence, where all the space is sold to one charterer who does not re-sell any seats or cargo space; and
  - flights servicing offshore oil or gas installations.
11. The CAA may also grant specific exemptions relating to a particular flight or series of flights.
12. Although flights between the UK and the Channel Islands, and within the Islands, do not require a Route Licence granted by the CAA, operators may need to hold permits granted by the relevant Island Government. The addresses are given in Part 4.

## Route licensing policies and procedures

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13. In deciding applications for Route Licences, the CAA must act in accordance with its general objectives set out in Section 4 of the Act and its duties in relation to Route Licensing set out in Section 68 of the Act (as amended by the Licensing of Air Carriers Regulations). It is required by Section 69 of the Act to publish the policies it will adopt within those objectives and duties. The CAA's current Statement of Policies dated 1 June 2002 is at Annex 6.
14. The CAA Regulations provide for a process whereby the CAA must normally publish details of applications for Route Licences, and applications to vary Route Licences, and interested parties may lodge objections or representations; if a person specified by the Regulations as having a right to be heard makes an objection and requests to be heard, the CAA must consider evidence from each party at a public hearing. Afterwards, and in some cases where a hearing does not take place, it must publish a written decision, with the reasons for its decision. The CAA's procedures for hearings are at Annex 7.
15. In practice, the CAA's policies on licensing set out in Annex 6 are liberal and it is normally inclined to grant worldwide licences to applicants in most circumstances; it is therefore rare for a public hearing to deal with a simple objection to the grant of a licence. Where it does receive such an objection, the procedures at Annex 7 reflect its predisposition to grant licences by requiring that the objector should provide a written submission first so that the applicant has an opportunity to respond to it.
16. The allocation of scarce bilateral capacity is governed by the grant of Scarce Capacity Allocation Certificates (Part 4).

## Other licensing criteria

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17. Most of the licensing criteria that relate specifically to the applicant's status (for example, its finances and nationality) are attached to Operating Licences. They do not therefore have any direct role in Route Licensing, but Section 69A(4) of the Act requires the CAA to refuse any application for a Route Licence if it is not satisfied that the applicant holds a valid Operating Licence. In the case of an application for which a public hearing is necessary, this is taken to mean that the applicant must hold the Operating Licence (which in turn will require the possession of an AOC and aircraft, and having financial arrangements in place) before the hearing takes place.
18. The nationality requirements that apply to Route Licences are more restrictive than those for Operator Licensing in that they refer to UK control rather than to EEA ownership and control. Section 65(3) of the Act requires the CAA to refer any application for a licence to the Secretary of State if it is not satisfied that the

applicant is controlled by United Kingdom nationals<sup>3</sup>. If the Secretary of State directs it to do so, the CAA must refuse to grant a Route Licence.

## Continuing requirements for holders of route licences

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### Standard licence conditions

19. Most of the Standard Conditions previously attached to Route Licences have now been replaced by direct legislative requirements. There remains a condition (at [Schedule 2](#)) which has the effect of requiring operators to provide information to passengers, before they contract to travel, about the operator, the type of aircraft and the destination airport.

### Regulation of fares

20. The CAA's policies on the regulation of fares outside the EEA are set out in its Statement of Policies. The holder of a Route Licence may be required to file certain fares and related conditions for approval by the CAA and the licensing authority at the other end of the route, for example in accordance with any relevant Air Services Agreement. In general, the CAA does not require filing in respect of markets where air services have been liberalised. These markets are listed in the Standard Tariff Provisions, which are set out in [Schedule 4](#). Where filing is required, the CAA will advise individual licence holders about how and what to file.

### Retention of an Operating Licence

21. Section 69A(6) of the Act provides that if an airline's Operating Licence is suspended or revoked, and the suspension or revocation takes effect after any appeal, any Route Licence held by that airline ceases automatically to have effect.

### UK control

22. Section 66(3) of the Act requires the CAA to inform the Secretary of State if it is no longer satisfied that the holder of a Route Licence is controlled by UK nationals and, if he so directs, to revoke that licence.

### Charges

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23. There are no charges attached to Route Licences. The costs of route licensing are recovered through the Operator Licensing charges scheme.

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<sup>3</sup> United Kingdom national is defined in Section 105 of the Civil Aviation Act 1982.

## Part 3: Air Transport Licences

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### Introduction

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1. Air operators which are registered or have their principal place of business in the Channel Islands or the Isle of Man, both of which are outside the EEA, are not eligible under the Council Licensing Regulation to hold Operating Licences and do not benefit from the general access to intra-EEA routes conferred by the Licensing Regulation. Channel Islands and Isle of Man-based firms which operate UK-registered aircraft generally need instead to hold Air Transport Licences (ATLs) though there are some exemptions from this need.

### Legal framework

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2. The legal provisions in relation to ATLs are contained in Sections 64-70 of the Act, which was not amended by the Licensing of Air Carriers Regulations in respect of operators based or registered in the Channel Islands or the Isle of Man.

### Types and classes of Air Transport Licence (ATL)

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3. There are two kinds of ATL:
  - the basic ATL is similar to an Operating Licence in being an entry requirement. In addition, it authorises flights, without any restriction on the type of service, within the scope of the Licensing Regulation; to and within the Channel Islands (though permits from the relevant Island may be needed); to and from the Isle of Man; and to offshore oil and gas installations.
  - for flights beyond this area, an Air Transport Route Licence, which is similar to the Route Licences granted to Operating Licence holders, is required. These are granted only to holders of basic ATLs, and like Route Licences can authorise the carriage of passengers, cargo or mail (or any combination of these) worldwide, though they may contain restrictions in specific circumstances. As with Route Licences, there are two classes –
    - Scheduled Licences authorise flights where at least some of the capacity is sold direct to the public without the involvement of a charterer.
    - Charter Licences authorise flights where all the capacity on the aircraft is sold to one or more charterers for resale.
4. The form of ATLs and the Standard Conditions applicable to them are at [Schedule 5](#).

## Exemptions from air transport licensing

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5. Section 64(2)(a) of the Act permits the CAA to exempt services from the need to hold an ATL.
6. Through the instrument at Schedule 6, the CAA has exempted the following categories of flights using aircraft registered in the UK:
  - “round trip” flights that begin and end at the same place, or to places (like the grounds of sporting events) that are not airports;
  - “sole use” charter flights anywhere in the world except to offshore oil or gas installations, where all the space is sold to one charterer who does not re-sell any seats or cargo space;
  - by a hot air balloon or airship;
  - flights operated by firms based outside the UK, the Channel Islands or the Isle of Man which take place wholly outside that area; and
  - flights operated by firms based outside the UK, the Channel Islands or the Isle of Man using aircraft registered in an overseas territory<sup>4</sup>.
7. The CAA may also grant specific exemptions for a particular flight or series of flights.

## Criteria for the grant and retention of air transport licences

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8. The CAA’s statutory objectives and duties and its policies on Route Licensing, referred to in Part 2, relate equally to ATLS. There are however additional criteria, set out below, for grant and retention of ATLS because matters such as financial resources, which are criteria for the grant of Operating Licences and do not therefore form part of Route Licences, have to be incorporated into the ATL process.

### Financial resources

9. Section 65(2)(b) of the Act requires the CAA to refuse any ATL unless it is satisfied that the applicant’s financial resources and arrangements are adequate in relation to his existing and proposed business. The CAA in general adopts the same approach to this requirement as it does to the financial criteria in relation to Operating Licences, set out in Part 1; it cannot refrain altogether from intervening in the finances of operators of small aircraft as it can with Operating Licences, but it has exempted air taxi operators (which represent the majority of small aircraft operations) from licensing. For those that are not exempt, the extent to which the CAA intervenes will depend on the scale of the operation and the objectives set out in Part 1.

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<sup>4</sup> Overseas territories are those listed in the Air Navigation (Overseas Territories) Order 2001.

## Liability and insurance

10. Operators based outside the EEA are not affected by the Council Air Carrier Liability Regulation. ATL holders are however required by a licence condition to enter into a special contract with each passenger, as provided by the Warsaw Convention of 1929 as amended at The Hague in 1955, and the Montreal Convention of 1999 to the effect that their liability in respect of each passenger is not less than the Sterling equivalent of 100,000 Special Drawing Rights, exclusive of costs. A further licence condition requires ATL holders to inform passengers before the flight about liability.
11. The CAA requires the same levels of passenger and third party insurance cover for holders of ATLs are as those for holders of Operating Licences. The levels for different categories of operation are set out at Annex 2.

## Fitness

12. The CAA is required by Section 65(2)(a) of the Act to be satisfied before granting an ATL that the applicant is a fit person. It must revoke any licence if it ceases to be satisfied in this respect.

## Nationality of control

13. The CAA is required by Section 65(3) of the Act to be satisfied before granting an ATL that the applicant is controlled by United Kingdom nationals, and to refer an application to the Secretary of State if it is not satisfied. It is required to inform the Secretary of State if it ceases to be satisfied that any licence holder is UK controlled.

## Air Operator's Certificate

14. The CAA's normal practice is not to grant an ATL unless the applicant holds an AOC, and to suspend a licence if the licence holder ceases to hold an AOC.

## Standard conditions and provisions in air transport licences

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15. [Schedule 5](#) sets out the Standard Conditions applicable to ATLs, which are summarised below:
  - Condition A has the effect of requiring operators to provide information to passengers, before they contract to travel, about the operator, the type of aircraft and the destination airport.
  - Condition B replicates the provision in Regulation 11(1) of the Licensing of Air Carriers Regulations which prohibits Operating Licence holders from making available flight accommodation for resale in the United Kingdom unless they are satisfied that the buyer or agent complies with the ATOL Regulations.

- Condition C requires ATL holders to enter into special contracts for higher liability to passengers, as set out in the section on Liability and Insurance;
  - Condition D requires them to inform passengers about liability limits.
  - Condition E replicates the provision in Regulation 11(1) of the Licensing of Air Carriers Regulations which requires Operating Licence holders to ensure that on football charter flights each passenger holds a ticket for admission to the match.
16. The Standard Tariff Provisions relating to ATLs are the same as those for Route Licences at [Schedule 4](#).

## Continuing requirements for air transport licence holders

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### Monitoring Information

17. The CAA requires holders of ATLs to provide to it similar information to that provided by Operating Licence holders, described in Part 1 and listed in Annex 3.

### Fares Regulation

18. The CAA's policies on the regulation of fares are set out in its Statement of Policies. The holder of an ATL may be required to file certain fares and related conditions for approval by the CAA and the licensing authority at the other end of the route, for example in accordance with any relevant Air Services Agreement. In general, the CAA does not require the filing of fares between points within the area comprising the EEA, Channel Islands and Isle of Man, or other markets where air services have been liberalised. These markets are listed in the Standard Tariff Provisions set out in [Schedule 4](#). Where filing is required, the CAA will advise individual licence holders about how and what to file.

### Statistics

19. The CAA collects operating statistics from all holders of ATLs on the same basis as for Type A Operating Licences. Exempted firms do not need to provide statistics.

## Policies and procedures in relation to air transport licensing

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20. The provisions of the CAA Regulations govern the procedures in relation to ATLs. The detailed procedures relating to Air Transport Licensing are the same as those for Route Licensing set out in Annex 7.

### Charges

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21. CAA charges for ATL holders are the same as those for holders of Operating Licences. The current charges are in the Scheme of Charges at Schedule 1. There is no application charge.

## Part 4: Scarce Capacity Allocation Certificates

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### Introduction

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1. An air carrier's ability to operate between the UK and another country outside the single European aviation market can in some cases be constrained by government-imposed restrictions in the bilateral Air Services Agreement. These restrictions may limit the traffic rights available in terms of the number of carriers that each side can designate, the routes those carriers can operate, and the frequency or capacity they can offer. Where there are competing bids from qualifying European Community air carriers for the traffic rights available to UK-designated carriers, and those rights are insufficient to meet the demands of all carriers that want to serve the route, the CAA must decide how to allocate the scarce capacity.
2. In the UK, a system of scarce capacity allocation certificates (SCACs) administered by the CAA determines which airlines are permitted to operate services on a capacity-constrained route. For this purpose, a capacity-constrained route is one where the Secretary of State has notified the CAA that the relevant traffic rights are insufficient to enable all qualifying carriers who would wish to operate services on the route to provide all the services they would wish to provide.

### Legal framework

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3. The provisions relating to the grant, refusal, revocation and variation of SCACs are contained in The Civil Aviation (Allocation of Scarce Capacity) Regulations 2007 ("the Regulations").
4. The Regulations make provision to comply with Article 5 of Regulation 847/2004 of the European Parliament and Council on the negotiation and implementation of Air Services Agreements between Member States and third countries. Article 5 provides that a Member State shall ensure a distribution of traffic rights among eligible Community air carriers on the basis of a non-discriminatory and transparent procedure.
5. The CAA is required to allocate scarce capacity in accordance with Regulation 9 of the Regulations. Section 4 (general objectives of the CAA) of the Civil Aviation Act 1982 does not apply to the allocation of scarce capacity.

### Procedures

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6. A route becomes a capacity-constrained route for the purposes of the Regulations when the Secretary of State notifies the CAA under Regulation 4



that within six months the traffic rights on a particular route or to a particular country will be insufficient to meet the demands of qualifying carriers. The CAA will invite applications from qualifying carriers for the allocation of that scarce capacity.

7. A carrier may also apply to the CAA for the grant of a SCAC (or variation of its SCAC) in order to operate all or some of the services already operated on a capacity constrained route by another qualifying carrier (ie challenging an incumbent operator).
8. The CAA will publish applications and, where applicants, objectors and others have exercised a right to be heard, the CAA will hold a hearing to determine how the available capacity can best be allocated between the applicant airlines. Procedures relating to SCACs are set out in more detail in Annex 8 to this document.

## Allocation policy

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9. The CAA must allocate scarce capacity in accordance with Regulation 9 of the Regulations (reproduced below). The manner in which the CAA will set about allocating scarce capacity in accordance with Regulation 9 is to assess how best to maximise economic efficiency. The most comprehensive approach would be to conduct a full economic analysis of the costs and benefits that would accrue to airlines and users, with capacity being awarded to the airline that provided the highest level of net benefit. In conducting this analysis, the CAA will take into account the effect on competition of the proposed services. This will include considering to what extent an award of scarce capacity would affect rivalry in all the relevant markets, using standard competition analysis and having regard to the Office of Fair Trading's relevant published guidance and guidelines. Any detrimental impact on competition will then be weighed against the benefits which would arise from awarding the scarce capacity to the relevant carrier.
10. In a limited number of cases competition may be precluded, or unattainable on acceptable terms, because of bilateral constraints. In these circumstances, the CAA will be ready to consider substituting one carrier for another, in whole or in part, so as to safeguard or further the interests of users. It will expect to do so sparingly, and only when to do so would manifestly enhance the achievement of the objectives of the Regulations. It will take into account the length of time the incumbent has had to establish itself on the route and the degree of commitment it has shown in serving it. It will pay particular attention to the quality of service (capacity, seat availability, frequency, timings and price) offered by the newcomer relative to the incumbent's established standard.
11. The CAA will reach its decisions on the basis of the facts and circumstances of each particular case. It may need occasionally to depart from its policies in unforeseen circumstances or where the Regulations require.

## Charges

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12. With effect from 1 April 2009 the CAA has introduced a charge of £15,000 for SCAC applications. This charge forms part of the CAA [Scheme of Charges](#) and the CAA expects to review it annually.

## Extract from the Civil Aviation (allocation of scarce capacity) Regulations 2007

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### Regulation 9

1. The CAA must allocate scarce capacity in accordance with this regulation.
2. Section 4 of the Act (general objectives of the CAA) does not apply to the allocation of scarce capacity.
3. The CAA must allocate scarce capacity in a manner which it considers is best calculated —
  - a) to secure that qualifying carriers provide air transport services which satisfy all substantial categories of public demand at the lowest charges consistent with a high standard of safety in operating the services, whilst giving an economic return to efficient qualifying carriers on the sums invested in providing the services;
  - b) to further the reasonable interests of users of air transport services;
  - c) to secure the effective provision of civil air transport to and from the United Kingdom;
  - d) to ensure that qualifying carriers compete as effectively as possible with other airlines in providing air transport services on international routes; and
  - e) to ensure the most effective use of airports within the United Kingdom.
4. When allocating scarce capacity the CAA must have regard:
  - a) to the effect on existing air transport services provided by qualifying carriers; and
  - b) in any case:
    - i. where the existing services are similar (in terms of route) to the proposed new service; or
    - ii. where two or more applicants have applied for a scarce capacity allocation certificate, indicating that they propose to provide a new but similar service, to any benefits which may arise from enabling two or more airlines to provide the service in question.

5. (In exercising its functions under paragraphs (3) and (4), the CAA must have regard to the need to minimise so far as reasonably practicable:
  - a) any adverse effects on the environment; and
  - b) any disturbance to the public; from noise, vibration, atmospheric pollution or any other cause attributable to the use of the aircraft for the purposes of civil aviation.
6. In performing the function of allocating scarce capacity, the CAA must have regard to any advice received from the Secretary of State.

See also Annex 9: CAA Guidance on the Economic Framework for Considering Cases Relating to the Allocation of Scarce Bilateral Capacity

## Part 5: Contact information

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### CAA Addresses

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The address for submitting applications for Operating Licences, Route Licences and Air Transport Licences is:

Civil Aviation Authority  
Consumer Protection Group  
Airline Licensing & Consumer Issues  
Room K3  
CAA House  
45-59 Kingsway  
London, WC2B 6TE

The CAA's Regulatory Policy Group is on the Fourth Floor at the above address.

The Safety Regulation Group is located at:

Civil Aviation Authority  
Safety Regulation Group  
Aviation House  
South Area  
Gatwick Airport  
West Sussex, RH6 OYR

### Telephone Enquiries and Websites

#### Consumer Protection Group

Airline Licensing & Consumer Issues: Tel: 020 7453 6330  
Licensing procedures, applications Fax: 020 7453 6322  
and public hearings E-mail: [airlinelicensing@caa.co.uk](mailto:airlinelicensing@caa.co.uk)

Risk Analysis: Tel: 020 7453 6317  
Financial resources Fax: 010 7453 6322

Information on these issues can also be found through "Airline Licensing" on the Consumer Protection Group pages of the CAA Website at [www.caa.co.uk](http://www.caa.co.uk).

Air Travel Organisers' Licensing: Tel: 020 7453 6424

Information can also be found on the ATOL Website at [www.atol.org.uk](http://www.atol.org.uk)

**Regulatory Policy Group**

Bilateral issues

Tel: 020 7453 6274

Fax: 020 7453 6236

Applications to DfT to lease foreign registered aircraft

Tel: 020 7453 6241

Fax: 020 7453 6236

Airports issues

Tel: 020 7453 6225

Fax: 020 7453 6244

Fares issues

Tel: 020 7453 6230

Fax: 020 7453 6236

E-mail [fares@caa.co.uk](mailto:fares@caa.co.uk)

Statistics

Tel: 020 7453 6258

Information can also be found on the RPGG pages of the CAA website at [www.caa.co.uk](http://www.caa.co.uk)

**Safety Regulation Group**

Air Operators' Certificates

Tel: 01293 573402

Aircraft leases

Tel: 01293 573422

Other safety matters

Tel: 01293 567171

Information can also be found on the SRG pages of the CAA website at [www.caa.co.uk](http://www.caa.co.uk)

**Other bodies**

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**Department for Transport**

Appeals against licensing decisions and submissions in relation to appeals should be sent to the Multilateral Division (MLD1) at the Department for Transport (DfT).

Requests for permits under Article 113 of the Air Navigation Order 2000 and queries in relation to bilateral negotiations should be addressed to International Aviation Negotiations at the same Department.

The address of the DfT is:

Department for Transport  
Great Minster House  
76 Marsham Street  
London  
SW1P 4DR  
Tel: 020 7944 8300  
Fax: 020 7944 2192

## **Channel Islands Authorities**

Requests for permits to operate to the Channel Islands should be made to the appropriate authority, as follows:

The Chief Officer  
Guernsey Commerce and Employment Department  
Raymond Falla House  
PO Box 459  
Longue Rue  
St Martin  
Guernsey  
GY1 6AF

Tel: 01481 234567  
Fax: 01481 235015

Economic Development Committee, States of Jersey  
26/28 Bath Street  
St Helier  
Jersey  
JE2 4ST

Tel: 01534 705532  
Fax: 01534 705570

Policy & Finance Committee  
States of Alderney  
PO Box 1  
Alderney  
Channel Islands  
GY9 3AA

Tel: 01481 822816  
Fax: 01481 822447

## **Isle of Man and Gibraltar**

For flights to and from the Isle of Man and Gibraltar you should contact:

The Secretary  
Airports Committee  
Department of Highways, Ports and Properties  
Isle of Man (Ronaldsway) Airport  
Ballasalla  
Isle of Man  
IM9 2AS  
Tel: 01624 821600  
Fax: 01624 821611

The Government of Gibraltar  
The Office of the Deputy Governor  
Government Secretariat  
No 6 Convent Place  
Gibraltar  
Tel: 00 350 78500  
Fax: 00 350 78589

## Part 6: Legislation relating to licensing

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### European Legislation

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The legal framework for the grant and maintenance of licences is contained in a number of separate aviation-related items of legislation, regulations and other sources. The following documents are available from [HMSO](#).

Treaties establishing the European Communities. Treaties amending these Treaties. Single European Act 1987 (published in a single document).

Official Journal of the European Communities - Legislation - L240 Volume 35 dated 24 August 1992. The contents of this include:

Council Regulation (EC) No [1008/2008](#) on common rules for the operation of air services in the Community (Recast)

Council Regulation (EC) No [2410/92](#) of 23 July 1992 amending Regulation (EC) No 3975/87 laying down the procedure for the application of the rules on competition to undertakings in the air transport sector.

Council Regulation (EC) No [2411/92](#) of 23 July 1992 amending Regulation (EC) No 3976/87 on the application of Article 85 (3) of the Treaty to certain categories of agreements and concerted practices in the air transport sector.

Official Journal of the European Communities - Decision - L239/ dated 7 October 1995. The contents of this include:

[Commission Decision of 19 July 1995](#) on a procedure relating to the application of Council Regulation (EC) No 2407/92 (Swissair/Sabena).

Council Regulation (EC) No [2027/97](#) of 9 October 1997 on air carrier liability in the event of accidents.

Council Regulation (EC) No [889/2002](#) of 13 May 2002 amending Regulation (EC) No 2027/97 on air carrier liability in the event of accidents.

Council Regulation (EC) No [261/2004](#) of 26 January 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights.

Council Regulation (EC) No [785/2004](#) of 21 April 2004 on insurance requirements for air carriers and aircraft operators.

Commission Regulation (EU) No [285/2010](#) of 6 April 2010 amending Regulation (EC) No 785/2004 of the European Parliament and of the Council on insurance requirements for air carriers and aircraft operators



Council Regulation (EC) [No 847/2004](#) of 30 April 2004 on the negotiation and implementation of air service agreements between Member States and third countries.

Council Regulation (EC) [No 2006/2004](#) of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws.

Council Regulation (EC) [No 2111/2005](#) of 14 December 2005 on the establishment of a Community list of air carriers subject to an operating ban within the Community and on informing air transport passengers of the identity of the operating air carrier, and repealing Article 9 of Directive 2004/36/EC

Council Regulation (EC) [No 1107/2006](#) of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air

## UK Legislation

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The legal framework for the grant and maintenance of licences is contained in a number of separate aviation-related items of legislation, regulations and other sources.

The following documents are available from [HMSO](#).

Civil Aviation Act 1982.

The Civil Aviation Authority Regulations 1991 - Statutory Instrument [No 1672 1991](#).

The Operation of Air Services in the Community Regulations 2009 - Statutory Instrument [No 41 2009](#).

The Air Carrier Liability (No.2) Regulations 2004 - Statutory Instrument [No 1974 2004](#).

Community Air Carrier Liability Order 2004 - Statutory Instrument [No 1418 2004](#).

Civil Aviation (Denied Boarding, Compensation and Assistance) Regulations 2005 - Statutory Instrument [No 975 2005](#).

Civil Aviation (Insurance) Regulations 2005 - Statutory Instrument [No 1089 2005](#).

Civil Aviation Act 2006 - [Chapter 34](#)

Civil Aviation (Provision of Information to Passengers) Regulations 2006 - Statutory Instrument [No 3303 2006](#).

Civil Aviation (Access to Air Travel for Disabled Persons and Persons of Reduced Mobility) Regulations 2007 - Statutory Instrument [No 1895 2007](#).

Civil Aviation (Allocation of Scarce Capacity) Regulations 2007 - Statutory Instrument [No 3556 2007](#)

## List of Annexes

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### **Annexes Relating to Operating Licensing**

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- Annex 1: Guidance on criteria for judging nationality of ownership and control
- Annex 2: Minimum levels of insurance for holders of UK Operating Licences and Air Transport Licences
- Annex 3: Monitoring information to be provided by Operating Licence and Air Transport Licence holders
- Annex 4: Guidance on ATOL requirements
- Annex 5: Procedures for Operator Licensing

### **Annexes Relating to Route Licensing & Air Transport Licensing**

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- Annex 6: Statement of Policies on Route Licensing and Air Transport Licensing
- Annex 7: Procedures for Route Licensing and Air Transport Licensing
- Annex 8: Procedures relating to Scarce Capacity Allocation Certificates
- Annex 9: CAA guidance on the economic framework for considering cases relating to the allocation of scarce bilateral capacity
- Annex 10: Tariff filings by UK airlines in accordance with Standard Provisions I and II – fare conditions and format of tariff filings

# Annex 1: Guidance on criteria for judging nationality of ownership and control

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## Introduction

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1. Article 4 of the Licensing Regulation (EC Regulation 1008/2008) sets nationality requirements for the undertakings which may hold Operating Licences. The granting of Operating Licences in the United Kingdom is delegated to the CAA, which has to make a first assessment in relation to nationality matters, though any decision to refuse or revoke a licence on such grounds may be taken only by the Secretary of State.
2. This statement gives guidance on the approaches and criteria that the CAA adopts in ensuring compliance with Article 4. It draws on cases that have been decided since the Council Licensing Regulation became effective, though the detail of those cases is protected by confidentiality provisions, and on views given by the European Commission, informally as well as in its published decision [95/404/EC](#)<sup>5</sup>. It must be emphasised that most aspects of the CAA's interpretation set out in the statement have not been judged by any UK court or in the European Court of Justice, nor have they been the subject of any formal opinion by the Commission.

## Legal Framework

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3. Article 4 of the Licensing Regulation sets requirements on ownership and control. Its main provisions relating to nationality may be summarised as:-
  - Article 4 (a) allows EEA States to grant Operating Licences only to undertakings whose principal place of business and registered office (if any) are in that State;
  - Article 4 (f) sets a requirement that licensed airlines must be owned, wholly or by majority ownership, and effectively controlled by EEA States and/or nationals of EEA States;
  - Companies with a controlling shareholding in an Operating Licence holder must also be owned and effectively controlled as envisaged by Article 4 (f) although there is no requirement that such companies have their principal place of business or place of registration in the Member State.

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<sup>5</sup> Commission Decision of 19 July 1995 on a procedure relating to the application of Council Regulation (EEC) No 2407/92 (Swissair/Sabena)

- Article 8 obliges air carriers to be able at all times to demonstrate to the State (or, in the UK, the CAA) that it meets the requirements of Article 4. It also provides that the European Commission may, at the request of a State, examine and determine the compliance of any carrier.
4. Article 2 contains definitions of terms used in the Regulation, and Article 2 (9) (which is quoted in the section below on Control Issues) defines what is meant by “effective control”. There is however no definition of “ownership”.
  5. The decision as to whether any applicant does or does not comply with Article 4 rests with the Secretary of State. The CAA is required by the CAA Regulations to inform the Secretary of State if it has reason to believe that any applicant or licence holder does not comply with the requirement of Article 4, though it may grant or maintain a licence without further reference if it is satisfied as to compliance. Neither the CAA nor the Secretary of State has powers to allow a period of grace to achieve compliance in a case where the holder of an Operating Licence ceases to comply.

## **Aspects of Judgement on Compliance with Nationality Criteria**

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### **General**

6. The factors involved in individual instances vary widely from case to case. However, the following sections highlight some of the issues that frequently arise in the application of Article 4.
7. The tests of ownership and control are separate and both have to be met to achieve compliance. Experience has shown that it is possible for ownership to be considered satisfactory while control is not, and also for the reverse to be possible.
8. One issue that affects both ownership and control is how nationality is defined. The CAA’s view is that the term “nationals of EEA States” means persons who hold citizenship of a State, irrespective of their place of residence or of whether those persons also hold citizenship of a non-EEA state. For individuals, it will regard the possession of an appropriate passport as evidence of citizenship. In the event that it faces intermediate companies in the corporate chain, it will look at the nationality of the individuals owning and controlling the entity on the same basis.
9. The CAA will look with particular care at complex structures which appear to have been devised for no purpose other than compliance with Article 4. A structure which has been devised for that purpose may in reality achieve compliance, but the CAA will be concerned to ensure that it complies in substance as well as form.

10. There may be different implications for ownership and for control where an airline is part of a wider group and there are minority interests at one or more levels. If, for example, EEA nationals own 60% of a company which in turn owns 70% of an airline, it may be concluded, subject to all other factors which may influence control, that the EEA nationals are in a position to control the airline. However, in examining ownership the CAA will look at the diluted shareholding of the EEA investor through the intermediate company having a controlling shareholding in the airline.

## Ownership Issues

11. The CAA's interpretation of the "majority" ownership criterion is that 50% of the relevant shares in an airline, plus one share, must be in EEA hands at all times. The number of shareholders which make up the majority is not a relevant issue, though this may have implications for control. The issue may therefore be relatively straightforward where only one class of share exists. However, particular issues arise where different classes of shares with different values and characteristics exist, and the CAA has to consider which shares are relevant for the purposes of assessing ownership.
12. Essentially, the CAA will expect shares which qualify for ownership purposes to be subject to the risks and rewards that are normally associated with ordinary shares in English law. The European Commission has an interpretative role in relation to Article 4, and the CAA is guided in this context by the criteria of "equity capital" set out in the Commission's decision already noted at footnote 1. In considering ownership, the decision commented:  
  
*"The Commission further considers that Article 4(2) [of Council Regulation 2407/92 which preceded the Licensing Regulation 1008/2008] refers to a concept of ownership of an undertaking which is essentially based on the notion of equity capital. Holders of such capital normally have the right to participate in decisions affecting the management of the undertaking as well as to share in the residual profits or, in the event of liquidation, in the residual assets of the undertaking after all other obligations have been met. ....If capital does not confer upon its holders any of the two above mentioned rights to an appreciable extent, it must generally be disregarded in determining the ownership situation of an undertaking."*
13. The CAA considers it reasonable to extrapolate from this view and to conclude that, if two classes of share are to be considered *pari passu* for the purposes of calculating shares of ownership, they should both have broadly comparable attributes. It does not however follow that they need have (for example) precisely the same voting entitlement to qualify as equity capital, though in assessing control the CAA will normally attribute different weightings to shares with different voting rights.

14. The CAA will also examine the value of shares in different classes, and will normally take into account the nominal or par values of shares as well as the number held; in a simple example, the possession of 1,000 shares with a nominal value of 10 pence may confer the same proportion of ownership as 100 shares with a nominal value of £1. The approach may however need to vary where shares have been issued at different times and the nominal values reflect differences. In other cases, it may be appropriate to take into account conversion ratios for convertible shares.
15. The CAA takes the view that fluctuations in prices cannot normally affect the proportion of ownership pertaining to a class of share, but it will be concerned to ensure that shares which are counted with others for the purposes of ownership have a substantial value. If shares have only a trivial value, as indicated either by the price paid for them or the price that might be obtained for them on the open market, it may be right to disregard them even if they appear to conform with the criteria for equity capital set out above. In other cases where values may be clearly attributed, the value of one class of shares may be clearly greater than the value of others, and in such a case it may be right to apply weighting to the share of ownership thereby conferred.
16. As a general rule, the existence of options or warrants that may alter the balance of shareholdings at some point in the future will not be relevant to the issue of ownership in the present. However, there may be certain complex structures where the existence of options will risk rendering ineffective the “equity capital” attributes of a class of share, and these will merit close examination. In any event, options may be an immediate issue in relation to control if their existence confers on a minority shareholder an ability to impose its demands on the airline.

### **Ownership Issues in Publicly Quoted Companies and Institutional Investments**

17. Particular issues arise in relation to licence holders which are (directly or indirectly) publicly quoted or owned by investment institutions, where shareholdings may vary from day to day and the true beneficial owners are likely to be several stages removed from the investment in the airline, being beneficiaries of pension funds or unit trust holders. In the absence of particular mechanisms there may be no clear information as to the nationality of the beneficial shareholders, or any ability on the part of the company to control the level of non-EEA shareholdings.
18. The CAA’s approach to such companies incorporates the following approaches and presumptions:

- where shares are held by a nominee or trust, it bases its judgement as to ownership on the nationality of the beneficial shareholder or beneficiary; if a trust is involved, it will however look at practical constraints to determine whether control lies with the trustees or with the beneficiaries.
- where shares are held by an investment fund, the CAA adopts a broad presumption that the beneficial shareholders will be citizens of the country where the fund manager is domiciled. This presumption will not be true in absolute terms, and it would expect to maintain a reasonable margin in favour of total EEA shareholdings in order to allow for the fact that it cannot rely absolutely on the presumption. In cases where a fund manager domiciled in an EEA State is in a larger group owned in a non-EEA state, it may also be appropriate to question further how funds are used within the group.
- where an investment fund is based in the Channel Islands or the Isle of Man, the presumption in the absence of evidence to the contrary will be that it represents non-EEA investors.
- it will monitor regularly the shareholdings of companies which are publicly quoted or have a publicly quoted parent if there is a significant identified non-EEA holding. This may be on a monthly or quarterly basis – or even more frequently – depending on the proportion of non-EEA ownership.
- it may in some cases require provisions in a company’s Articles which permit the directors to control nationality of shareholdings, and to require both nationality declarations by shareholders and divestment in certain cases. It may in any event be prudent for directors to have such powers where the company’s shares are traded.

19. The monitoring requirements for publicly quoted companies may in some cases be considerable. However, the CAA regards this as inevitable in the light of the obligation in Article for carriers to be able at all times to demonstrate that they meet the requirements of the Licensing Regulation.

## Control Issues

20. The definition in Article 2(9) of the Council Licensing Regulation is:-

*(9) “effective control” means a relationship constituted by rights, contracts or any other means which, either separately or jointly and having regard to the considerations of fact or law involved, confer the possibility of directly or indirectly exercising a decisive influence on an undertaking, in particular by:*

*the right to use all or part of the assets of an undertaking;*

*rights or contracts which confer a decisive influence on the composition, voting or decisions of the bodies of an undertaking or otherwise confer a decisive influence on the running of the business of the undertaking.”*

21. In determining control, the CAA is concerned to establish the practical reality of who is actually making a company's decisions as well as positions which derive from legal powers and agreements. The relative strength of the parties may be an issue, as may the personalities involved. In borderline cases, it requires statements from both principals and legal representatives that there are no undeclared agreements which confer powers outside the disclosed legal documents.
22. The definition in the Licensing Regulation appears to the CAA to preclude any concept of control being exercised together with another (non-EEA) party. In any circumstance where non-EEA nationals have significant influence, the CAA will wish to ensure that the ultimate decision-making power is with the EEA investors.
23. The CAA's starting point in determining from a company's circumstances where control lies is ownership rather than management, the premise being that management may be controlled or eventually replaced by a company's Board, and the Board may likewise be replaced by shareholders. In the absence of any other factors, therefore, it might be assumed that control would follow ownership.
24. There are however many variations that can alter this presumption. Some of the factors are:
  - Control may not be in direct proportion to ownership if some shares have more votes attached to them than others. Equally, however, the CAA would examine with care any proposal where it was asserted that control depended solely on a disproportionate share of votes.
  - The motives of investors, and consequently their wish or otherwise to exercise control, will vary. As a general presumption, a fund manager may be expected merely to require a return on investment, whereas an individual or a company that is not an investment institution will normally want to influence the company's decisions in return for holding a majority of the shares. The CAA looks particularly carefully at any proposal for an investment in a UK licence holder by a non-EEA airline, which might be expected to do so for strategic purposes rather than as a venture capitalist.
  - The largest single shareholder may have particular influence, especially if other shareholders are thinly spread, are professional or small investors or if there is no device to ensure that they exercise their voting powers in concert. There may however be particular "stapling" agreements to ensure that minority shareholders vote in unison so as to maintain a majority over the largest single shareholder.



- Conditions may be included in loan or lease agreements that confer on the lender or lessor unusual powers; this would not normally occur in a secured loan or a normal commercial lease, but situations can arise where the lender or lessor has other links with the airline. The CAA also examines with particular care any proposal for a non-EEA investor to hold a minority of the shares but to provide a majority of the finance through loan stock.
- Where an airline has a non-EEA associated company, particularly an airline or one in a related travel business, the CAA looks carefully at the nature of any services supplied to the airline by the associate. Aspects that merit particular attention might include, for example, key operational areas such as schedule planning and pricing, and strategic financial services such as budgeting and control of treasury.
- The CAA examines with care the key legal documents associated with any non-EEA investment, including at least the Memorandum and Articles and the shareholders' agreement. It pays particular attention to powers of approval reserved to a non-EEA investor which may effectively give it a right of veto on matters which would normally be within the powers of a company's Board to decide, such as approval of budgets. It is however acceptable for a significant minority investor to have a power of veto in relation to matters which essentially serve to protect the investment, such as the sale of major assets or investments, the disposal of subsidiaries or changes in the company's constitution or capital structure.
- Occasionally, a power of control may be in the hands of a single customer or supplier if the nature of the relationship is such that the airline could not in practice continue to trade without that company's co-operation.

25. Although the composition of the Board of directors is not in itself regarded as sufficient evidence of control, in the short term strategic decisions will be made by a company's Board. The CAA will normally therefore require there to be a majority of EEA citizens on the Board, and will take into account both the nationality of the individuals and the nationality of the investors they represent. It will also take into account any particular requirements for a Board quorum which may restrict the extent to which decisions may be taken in the absence of an EEA majority.

## Annex 2: Minimum levels of insurance for holders of UK Operating Licences and Air Transport Licences

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### **Aircraft Insurance: Minimum insurance requirements for aircraft operators and carriers**

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1. Regulation (EC) No 785/2004 (as amended by Regulation (EU) No 285/2010) applies to all air carriers and to all aircraft operators flying within, into, out of or over the territory of an EC Member State to which the Treaty applies (aircraft in this context includes balloons, gliders, gyroplanes and helicopters). Its objective is to establish minimum insurance requirements for air carriers and aircraft operators in respect of passengers, baggage, cargo and third parties including cover for risks of war and terrorism. This EC Regulation and the UK Regulations supporting its implementation (The Civil Aviation (Insurance) Regulations 2005) came into force on 30 April 2005.

#### **What is excluded?**

2. The EC Regulation does not apply to:
  - State aircraft;
  - Model aircraft less than 20kg;
  - Foot launched flying machines;
  - Captive balloons;
  - Kites;
  - Parachutes, including parascending parachutes.

#### **Minimum Levels of Insurance Cover**

3. The minimum levels of insurance cover required is dependent upon the number of passengers carried and in relation to third party cover the MTOM (Maximum Take Off Mass) of the aircraft concerned. There is also a requirement for cover in respect of baggage and cargo and in certain cases to insure against war and terrorism (the latter generally known as war risk cover).

### Third Party Insurance

4. The Regulation identifies 10 categories of aircraft dependent upon MTOM:

#### Article 7 requirements

Category	MTOM (kg)	Minimum Insurance (Million SDRs)	Minimum Insurance (Million Sterling <sup>*1</sup> ) Approximate only
1	Up to 499 <sup>*2</sup>	0.75	0.7
2	500 - 999	1.5	1.3
3	1,000 – 2,699	3	2.7
4	2,700 – 5,999	7	6.2
5	6,000 – 11,999	18	16.0
6	12,000 – 24,999	80	71.3
7	25,000 – 49,999	150	133.7
8	50,000 – 199,999	300	267.4
9	200,000 – 499,999	500	445.7
10	500,000 plus	700	624.0

<sup>\*1</sup> Special Drawing Right, international currency unit defined by the International Monetary Fund - As at 17 June 2015, £1 =1.1167 SDRs.

<sup>\*2</sup> Pursuant to Article 2.2 (g) aircraft and micro lights with a MTOM of less than 500 kg used for non commercial purposes.

5. In addition to the Third Party requirements of Article 7, Article 6 requires the following minimum insurance cover:
- Passengers at 250,000 SDRs per passenger, or in respect of non-commercial operations with MTOM of less than 2,700kg, not less than 100,000 per passenger
  - Baggage at 1,000 SDRs per passenger
  - Cargo at 17 SDRs per kg
6. Therefore the minimum CSL liability cover for each aircraft will be calculated as follows:
- Third party for relevant category (see table above)

- PLUS 250,000 SDRs x maximum number of passengers carried on that aircraft, or in respect of non-commercial operations with MTOM of less than 2,700kg, not less than 100,000 per passenger
- PLUS 1,000 SDRs x maximum number of passengers
- PLUS 17 SDRs x kilograms of cargo carried

### War Risk

7. With the exception of aircraft, including gliders, with a MTOM less than 500kg used solely for a non-commercial purpose or local instruction which does not entail crossing international borders, War Risk insurance is required for all aircraft and is set at the same levels as those set for Third Party insurance.

### Passenger Liability

8. The minimum level of insurance cover required is 250,000 Special Drawing Rights (SDRs)<sup>6</sup> per passenger, apart from aircraft of less than 2700kgs engaged in non commercial operations where a minimum of 100,000 SDRs per passenger has been agreed by the Department for Transport. Whilst most aircraft will have a generic passenger capacity, aircraft operators may declare the maximum number of passengers that they will carry and insure accordingly. If more than that declared number of passengers is later found being carried it will be a breach of the Regulations and may result in prosecution.

### Baggage Liability

9. The minimum insurance cover shall be 1,131 SDRs per passenger.

### Cargo Liability

10. The minimum insurance cover shall be 19 SDRs per kilogram of cargo.

### Combined Single Limit

11. Many operators choose to buy insurance on a combined single limit basis. When doing so they should ensure that the amount covers the different categories identified above.

### How do I calculate the level required?

12. A calculator to assist in assessing the level of cover you require is available on the CAA website - [Calculator](#). Note it is for the air carrier and aircraft operator to satisfy itself that the level of cover it has in place is sufficient to meet the requirements Council Regulation 785/2004.

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<sup>6</sup> A Special Drawing Right is an international currency unit defined by the International Monetary Fund. Exchange rates are published daily in the Financial Times and can be found on the IMF website.

13. It should be noted that the estimate is based on a calculation that takes into account the following variable items:
  - The maximum take-off mass of the aircraft – taken from the details held by the CAA from the aircraft’s flight manual or from another CAA derived source (see below).
  - The number of passengers carried - either the number declared by the operator or air carrier (if supplied), or the design maximum number of passengers for the aircraft.
  - The exchange rate from SDR’s (Special Drawing Rights) to Pounds Sterling taken from the IMF website on the date given.
14. It should be noted that no estimate of the minimum requirements in respect of cargo is given as no centrally held data concerning cargo capacity is held. It should also be noted that as the estimates given are based on a number of variable items, if any of the items used in the calculation are incorrect then this will affect the amounts quoted.
15. The following link will take you to [G-INFO](#) which is the CAA’s aircraft register and which will provide details of all current aircraft on the UK register including the weight of a specific aircraft.

## Exchange Rate

16. The CAA has agreed that operators that cannot buy cover in SDRs may buy a currency equivalent (e.g. Sterling or Dollars) and that the exchange rate prevailing at inception will be considered sufficient during the period of the policy. Operators are reminded however it is for the air carrier and aircraft operator to satisfy itself that the level of cover it has in place is sufficient to meet the requirements of Council Regulation 785/2004.

## Enforcement

17. The Civil Aviation Authority has been designated as the enforcement body for this Regulation within the United Kingdom by the Department for Transport. A copy of the [Statement of Agreed Practice](#) between the parties can be seen here.

## Further Information

18. Your broker should be aware of the requirements of this Regulation and initial queries should be directed to them. However additional information and FAQs on insurance can be found on the Aircraft Registration [website](#).
19. Brokers and insurers may wish to note that there is a model certificate that the CAA can provide which they may find helpful. Brokers or insurers certifying insurance cover for either UK Air Transport or Operating Licence holders (i.e.

Commercial Operators) will still need to complete an [ATL28](#) on such operators behalf.

Further information or guidance is available from:

**Non Commercial Operators**

Aircraft Registration Section  
Civil Aviation Authority  
45-59 Kingsway  
London  
WC2B 6TE

Telephone: (020) 7453 6666  
Fax: (020) 7453 6670  
Email: [aircraft.reg@caa.co.uk](mailto:aircraft.reg@caa.co.uk)

**Commercial Operators**

Airline Licensing & Consumer Issues  
K3  
Civil Aviation Authority  
45-59 Kingsway  
London  
WC2B 6TE

Telephone: (020) 7453 6330  
Fax: (020) 7453 6322  
Email: [airlinelicensing@caa.co.uk](mailto:airlinelicensing@caa.co.uk)

## Annex 3: Monitoring information to be provided by Operating Licence and Air Transport Licence holders

The following table lists the CAA's requirements for monitoring information to be provided by holders of Operating Licences and Air Transport Licences.

Information required from all Operating Licence and Air Transport Licence holders	Additional information required from all Type A Operating Licence and ATL holders	Additional information required from all financially monitored licence holders	Examples of Ad Hoc Requirements
Annual confirmation of insurance arrangements. Six-monthly confirmation of corporate details (for example, directors, management and shareholders). <sup>*1</sup>	Quarterly information on aircraft fleet and fleet financing.  Quarterly details of future fleet commitments.	Annual audited accounts.  Annual budget and cash flow forecast and supporting assumptions. <sup>*2</sup>  Monthly management accounts, including cash flow statement and balance sheet. <sup>*3</sup>  Notification of any significant changes to the nature or scale of operations.	A revised business plan reflecting significant changes to the nature or scale of operations.  Copies of key documents such as major financing instruments, leases and other contracts.  Information on covenants attached to major financing instruments.

<sup>\*1</sup> If changes have occurred which might affect the CAA's view of an airline's control, it needs to be notified of such changes as soon as possible; in particular, the Council Licensing Regulation provides that changes in significant shareholdings (those which constitute more than 10% of the total) must be notified within 14 days of their occurring.

<sup>\*2</sup> In general, CAA accepts this information in the format used by the licence holder. In some cases more detail will be required.

## Annex 4: Air Travel Organisers' Licensing Guidance

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### Advice for scheduled airlines about dealing with tour operators, consolidators, travel agents and groups

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1. The sale of air travel in the UK is restricted by law to protect customers, through the [Civil Aviation \(Air Travel Organisers' Licensing\) Regulations 1995](#) ("the ATOL Regulations"). These affect all air travel sales in the UK, whether they are for air tickets - at a discounted or at a full fare - or for packages.
2. Airlines do not themselves have to comply with the ATOL Regulations to sell seats on their own flights, but they are required by other legal conditions (the Licensing of Air Carriers Regulations 1992, and, for foreign airlines, permit conditions) to ensure that they do not sell seats to an unlicensed travel firm when an ATOL is needed.
3. This Guidance Note sets out the legal framework and gives advice on how different types of sales are affected by the ATOL Regulations.

### The Legal Requirements

4. With limited exceptions, firms selling air travel must hold an Air Travel Organiser's Licence (ATOL) granted by the CAA. The exceptions are:
  - airline ticketing agents or "ticket providers" - firms who immediately issue a valid scheduled airline ticket in exchange for any payment. This will normally apply only to IATA agents selling published fares.
  - agents who are authorised to act as the agent of an ATOL holder, provided that they state their agency capacity in their sales material and give the customer specified documents showing that they have accepted money on behalf of a particular ATOL holder.

### Published or Commissionable Fares

5. IATA agents who issue scheduled tickets as soon as they take any payment, and business account agents who are paid after the flight, do not need to hold an ATOL. Additionally, an IATA agent may take a payment for a published fare without issuing a ticket provided that it issues a Miscellaneous Charges Order (MCO) or a Multi Purpose Document (MPD) for the amount accepted. Where either a ticket or an MCO/MPD is issued, the airline will be responsible to provide either travel or a refund to the customer if the agent fails.



## Whom can an airline accept published fare bookings from?

- **IATA accredited travel agents.**

You should not accept bookings from non-IATA agents unless you are satisfied that they can and will issue tickets as soon as they take any payment - most non-IATA agents will not be able to do so.

- **ATOL holders with the appropriate licence**

You can find the names and ATOL numbers of all licence holders, and the number of seats covered by their licences, on our website ([www.atol.org.uk](http://www.atol.org.uk))

- **End users**

This description includes individuals and family groups, and also organisations - companies, schools, clubs, and charities - provided that they do not re-sell tickets.

## Discounted or Net Fares for Seat-Only Sales

6. In most cases, travel agents who sell discounted scheduled tickets obtain them from consolidators, though some deal direct with airlines. In either case, an agent will not usually issue tickets as soon as it takes money, so the sale has to be covered by an ATOL. The types of ATOL are covered later in this leaflet.
7. Where a wholesale consolidator sells through travel agents, the ATOL will normally be held by the consolidator, who will authorise agents to sell on its behalf. The agent must issue documents when it accepts payment showing that the customer is being booked with the ATOL holder.
8. You must **not** sell to agents who claim to be authorised agents of ATOL holders - you must deal with the ATOL holders direct, whether the ATOL holders distribute tickets through travel agents or sell to the public themselves.

## Whom can an airline provide Net fares to?

- ATOL holders with the appropriate licence
- End users - individuals and family groups, and organisations - companies, schools, clubs, and charities - provided that they do not re-sell tickets.

## Whom can an airline not provide Net fares to?

- travel organisers, consolidators and agents that do not hold ATOLs, or do not hold appropriate ATOLs for their category of business;
- travel agents and organisers who claim to be the authorised agent of an ATOL holder. You must deal with the ATOL holder direct;

- clubs, groups and other organisations that are not “end users” because they will sell tickets to third parties.

## Group sales

9. The same principles apply to “group” bookings made with airlines. Anyone who places a group booking direct with a scheduled airline, and will sell tickets to third parties, must **either** issue tickets (or MCOs or MPDs for published fares) when they take payment, **or** they must hold an ATOL.
10. You must not sell to agencies that do not hold ATOLs and cannot issue tickets in exchange for payment. Agencies who ask about group bookings should be told to seek advice from the CAA, or to place the booking with an ATOL holder who is willing to appoint the agent to act on its behalf. If it does so, you must deal direct with the ATOL holder.

## Inclusive packages

11. Travel organisers who want to buy seats for use in inclusive packages must hold an ATOL with a four-figure licence number.

## Types of ATOLs: Bonding and Deeds of Undertaking

12. There are four kinds of business covered by ATOLs. Two kinds are supported by bonds - **Fully Bonded** for all packages and for charter sales, and **Scheduled Bonded** for discounted scheduled seat-only tickets. The third kind - **Agency** - also covers discounted scheduled seat-only tickets but it requires only a minimum bond and is supported mainly by **Deeds of Undertaking** from airlines. The fourth kind is sales between ATOL holders, or “ATOL to ATOL” sales.
13. The difference between bonded and Agency ATOLs is that a bonded ATOL holder is a principal and is fully responsible to customers for the sales it makes; if it fails, its bond will be used to refund customers and a scheduled airline will not be liable to carry passengers or to give refunds except where it has issued tickets.
14. For Agency sales, the ATOL holder is the scheduled airline’s agent, and if it fails the airline will be responsible for **all** bookings and payments that it or its sub-agents have accepted for that airline’s flights, even though tickets have not been issued and the airline has not collected payment.
15. If you want to sell net or discounted seat-only fares through a firm that does not yet hold an ATOL, you can provide a Deed of Undertaking (provided that you operate in the UK and have a UK office) and this will usually enable the firm to obtain a licence; you cannot deal with it until a licence has been granted. You should however provide Deeds of Undertaking **only** if you recognise and are willing to accept the risks and responsibilities attached to them. If you are not, you must insist that the firm obtains a bonded ATOL before you deal with it.

16. When ATOL holders approach you for seats, you can distinguish between them by their licence numbers as follows:
- If an ATOL holder has a licence for Agency business only, it will have a five-figure licence beginning with “8”, like ATOL 80000. You must not sell discounted seats to an “8” licence holder unless you have given it a Deed of Undertaking.
  - If an ATOL holder is licensed for scheduled seat-only sales, at least some of which is covered by a bond, it will have a five-figure licence beginning with “7”, like ATOL 70000. You can sell discounted seats to it for seat-only sales without giving a Deed, but you must not sell seats to it for packaging.
  - If an ATOL holder has a licence which authorises packages, it will have a four-figure licence number like ATOL 0000. You can sell discounted seats to it without giving it a Deed of Undertaking, either for seat-only or package sales. An ATOL holder with a four-figure licence number can also charter aircraft, subject to its having sufficient seats authorised by its licence.
  - ATOL holders with licence numbers in the format TRA970000 can sell only to other ATOL holders, not to the public.
17. You can find the names and ATOL numbers of all licence holders, and the number of seats covered by their licences, on our website ([www.atol.org.uk](http://www.atol.org.uk)) if you access the ATOL Database under the Trade Information heading. The Database also allows you to set up and run your own reports on a selected list of ATOL holders.
18. If you are asked for a number of seats which seems large in relation to the seats covered by a particular licence, you should check with the CAA whether the sale is in order.

## Further Information

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19. We'll be glad to help with queries. If you want advice, to check an ATOL number or to find out whether a firm holds a licence, call 020 7453 6430 or 020 7453 6360.

Civil Aviation Authority  
Air Travel Organisers' Licensing  
Revised October 2001

## Annex 5: Procedures for the grant, suspension and revocation of operating licences

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1. Article 10 of the Licensing Regulation requires States to publish their procedures for granting Operating Licences. This Annex contains the CAA's detailed procedures. It extends to the refusal, suspension and revocation of licences as well as to their grant, and covers aspects such as appeals and publication of decisions which are laid down in either the Licensing Regulation or in UK Regulations.

### **Applications for Operating Licences**

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2. Applications must be made in writing, stating whether a Type A or a Type B licence is applied for, and must be accompanied by the fee specified in the Schedule of Charges at Part 4.
3. Within two weeks of receiving any application, the CAA will inform the applicant of the information it needs in order to be satisfied that the applicant complies with Article 4 of the Licensing Regulation.
4. If the CAA reaches a preliminary view that an applicant for an Operating Licence may not meet the nationality requirements of Article 4 of the Licensing Regulation it will serve on the applicant notice of a proposal, with reasons, to inform the Secretary of State as required by Part 1 of the The Operation of Air Services in the Community Regulations 2009. Before informing the Secretary of State it will consider any representations the applicant may make within 21 days of the date of service of the notice.
5. If the CAA proposes to refuse an application for an Operating Licence (except on nationality grounds) it will serve on the applicant notice of its proposal and of the reasons for the proposal. Before making a decision it will consider any representations the applicant may make within 21 days of the date of service of the notice.

### **Procedures where the CAA Proposes to Inform the Secretary of State that the Holder of an Operating Licence no longer meets the Nationality Requirements of the Licensing Regulation, or to Suspend or Revoke an Operating Licence**

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6. Where the CAA believes that the holder of an Operating Licence may no longer meet the nationality requirements of paragraphs of Article 4 of the Licensing Regulation, it will serve on the licence holder notice of a proposal to inform the

Secretary of State. It will consider any representations the licence holder may make within 21 days of the date of the notice.

7. If the CAA proposes to suspend or revoke an Operating Licence except on grounds of nationality, it will serve on the licence holder notice of its proposal and of the reasons for it. Before making a decision to suspend the Licence, it will consider any representations the licence holder may make within six working days of the date of service of the notice; and before making any decision to revoke the Licence, it will consider any representations the licence holder may make within 21 days of service of the notice.

## **Decisions to be made by Board Members of the CAA**

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8. The Licensing of Air Carriers Regulations provide that any decision to refuse to grant an Operating Licence or to revoke or suspend an Operating Licence otherwise than at the request of the licence holder must normally be made by two Board Members of the CAA.
9. In addition, any decision to inform the Secretary of State that the CAA has reason to believe that any applicant for or holder of an Operating Licence does not meet the requirements of Article 4 of the Licensing Regulation will be taken by a Board Member of the CAA.

## **Reasons for Decision**

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10. Article 10 of the Licensing Regulation requires that licensing authorities must give their reasons for refusing an Operating Licence. In addition, if the CAA revokes or suspends an Operating Licence, or informs the Secretary of State in the context of the Licensing of Air Carriers Regulations that in the CAA's view an applicant or licence holder does not meet the requirements of Article 4 of the Licensing Regulation, it will give the applicant or licence holder written reasons for its decision.

## **Appeals**

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11. Regulation 19 of the Licensing of Air Carriers Regulations provides for an appeal to the Secretary of State against a decision of the CAA to refuse, revoke or suspend an Operating Licence, and Schedule 1 to the Licensing of Air Carriers Regulations sets out the procedure for appeals to the Secretary of State.

## **Publication**

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12. The Licensing Regulation requires that any decision to grant or revoke Operating Licences must be published in the Official Journal of the European Communities. The CAA also publishes in its Official Record Series 2 the names and addresses of applicants for each class of Operating Licence; and information on Operating Licences granted, refused, suspended or revoked.

# Annex 6: Statement of policies on Route and Air Transport Licensing

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## Part 1

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### General principles, objectives and approach

1. The CAA's general objectives are set out in Section 4(1) of the Civil Aviation Act 1982, as amended, ("the Act") and its general duties in relation to air transport and route licensing functions are set out in Section 68 of the Act.
2. The CAA believes that the interests of users will be best served if airlines are free to operate air services in competition with one another according to their commercial judgement, subject only to the application of normal competition policy. To this end, it believes that the long term interests of users would be best served by a full liberalisation of international aviation markets, involving the removal of all bilateral restrictions so that the airline industry can compete on the same footing as other industries. The CAA will aim to make the UK's international aviation markets as contestable as possible by eliminating all unnecessary restrictions within its licensing and other regulatory processes.

### Licensing Policy

3. Consistent with its aim of making the UK's international aviation markets as contestable as possible, the CAA sees no good grounds for constraining competition through the licensing process. This points towards a fully liberal approach to the grant of licences to serve points outside the EU, just as now applies to routes within the EU. The CAA will therefore be prepared to grant global Route Licences for scheduled or charter services which permit the combination of any points world-wide.
4. Many international routes are subject to bilateral restrictions on designation, frequency or capacity which would prevent a British airline from exercising its licence freely. However, the CAA would not regard the absence of the necessary bilateral rights as good grounds for refusing to grant a licence application. If a problem of scarce bilateral capacity should arise as a consequence of the CAA granting an application, then this would be addressed through the Scarce Capacity Allocation Certificate procedures specifically established to allocate such scarce rights.

## Abuse of a Dominant Position

### Anti-competitive behaviour

5. The CAA believes that allegations of anti-competitive behaviour are best addressed through the application of normal competition law. With the entry into force of the Competition Act 1998, UK competition law now applies to the UK aviation market, including routes to and from points outside the European Union.
6. However, in the event that the CAA is called upon to apply its regulatory powers to a case involving allegations of anti-competitive behaviour, it will adopt the principles of UK competition law. It will therefore seek first to establish whether the airline whose behaviour is the subject of the complaint is dominant in a relevant market. If so, it will then seek to establish whether its behaviour constitutes an abuse of that dominant position.

### Tariffs

7. The CAA believes that the interests of users will be best served if airlines are free to set their own prices without regulatory intervention, subject only to the application of normal competition policy.

## Part 2

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### Other policies

#### Leasing of foreign-registered aircraft

8. The CAA believes that airlines should be free to choose the aircraft they employ and, subject to Article 12 of the Licensing Regulation will advocate a liberal policy when advising the Department for Transport on applications for the use of aircraft not registered in the United Kingdom. If, however, the applicant fails to demonstrate a genuine commercial requirement for the aircraft within its own operations the CAA will advise that the application would be more appropriately dealt with under the Department's policies on fifth freedom flights.

## Part 3

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### Application of policy

9. The CAA will reach its decisions on the basis of the facts and circumstances of each particular case. It may need occasionally to depart from its policies in unforeseen circumstances or where the Act requires.

## Part 4

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### Coming into effect

10. This Statement of Policies will take effect on 8 August 2008 and the Statement of Policies established by the CAA on 7 August 2007 will cease to have effect on the same day.



# Annex 7: Procedures for applications for the grant of Route Licences and Air Transport Licences and for revocation, suspension or variation of Route Licences and Air transport Licences

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## General

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1. The procedures set out in this annex apply equally to Route Licensing and Air Transport Licensing. For the procedures relating to Scarce Capacity Allocation Certificates, see Annex 8.

## Applications

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2. Applications should be made to the Consumer Protection Group, Airline Licensing and Consumer Issues, at the address at Part 4. All applications should be made on the appropriate form, which may be obtained from the above address or through the Consumer Protection Group pages of the CAA Website.

## Applications to vary licences

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3. Applications may be made to vary licences, either by the licence holder or by another licence holder. In the case of applications to vary a licence held by someone other than the applicant, the applicant is required by the CAA Regulations to serve a copy of the application on the licence holder within twenty-four hours after it has been served on the CAA. If he does not do so, the CAA is unable to consider the application.

## Notice required and publication

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4. Regulation 16(1)(a) of the [CAA Regulations](#) provides that the CAA may refuse to consider an application for the grant of a licence unless it has been made not less than six months before it is proposed to be in effect. The CAA will normally accept applications with less notice, though they will in most cases be subject to a minimum period of publication as set out below.
5. Except in cases to which one of the provisos to Regulation 16(3) of the CAA Regulations applies (cases of particular urgency, where the interests of others are not prejudiced, and certain other circumstances), details of applications will be published by the CAA in its Official Record, Licensing Notices, Series 2, which appears weekly on the CAA's website. An "objection period" will be allowed after publication of any application during which objections or

representations may be served on the CAA; the normal objection period is 21 days.

6. The length of time taken to reach a decision will depend on the circumstances of each application. Unopposed applications may be dealt with very quickly after the end of the objection period. If the application attracts objections, the CAA will aim to deliver decisions as quickly as possible consistent with ensuring natural justice. However, the process is likely to take at least a month in the event that a public hearing is required.
7. Applications for or relating to a licence must be re-published at 12-monthly intervals if the CAA has neither made a decision on it nor set the case down for hearing. Further objections and representations may be made on re-publication.

## **Objections and Representations**

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8. The procedure for making objections and representations in respect of licence applications is set out in Regulation 20 of the CAA Regulations. Anyone making the objection or representation should state whether he wishes to be heard by the CAA: if he does not do so, he loses any right to be heard by the CAA. He must also, within twenty-four hours after serving the objection or representation on the CAA, serve a copy of it on:
  1. the applicant;
  2. any person with a right to be heard (see paragraph 9);
  3. any body which the CAA is obliged by Regulation 21 to consult in respect of the application. These bodies are the Isle of Man and Gibraltar. Contact details can be found at Part 4.

## **Hearings and Decisions of the CAA**

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9. Regulation 25(1) of the CAA Regulations, as amended, defines the persons who have a right to be heard by the CAA before any decision (other than a decision to vary a licence provisionally) on an application is made. The CAA also has discretion to hear any person not specified as having a right to be heard, provided that he has made an objection or representation within the stated period and requested to be heard.
10. The statutory procedures in connection with hearings and decisions by the CAA are set out in Regulations 25 and 26. The CAA will aim to arrange hearings as quickly as possible, consistent with ensuring natural justice and allowing all parties to prepare evidence. For a case where there is no urgent need for an immediate decision, the CAA will normally give two months notice of a hearing date. Once a hearing date has been announced it will be changed only for the most compelling reasons.

11. Written evidence must be provided to the CAA and to the other parties in advance of a hearing. Once the CAA has received all the written submissions, it will issue a Statement of Key Issues, which it will expect the parties to address at the hearing.
12. The following procedures and timescales apply to different types of hearing:
  - In the case of a hearing arising from an objection to an application for a new licence, the CAA will normally expect to fix the date for the hearing around one month before the hearing itself. The objector will be required to deliver his written submission first, within 5 working days of notification of the hearing, so that the applicant may respond to it. The applicants' evidence is required 10 working days before the hearing.
  - In a case where one licence holder proposes to vary the licence of another, the hearing date will normally (in the absence of a case being made that the CAA finds persuasive) be fixed and announced not less than two months before the hearing itself. The applicant will be expected to deliver its written evidence 25 working days before the start of the hearing. Objectors will be expected to deliver their written evidence 15 working days before the start of the hearing.
13. In the event that one party fails to deliver its evidence on time the CAA will consult the other parties as to whether the hearing should be postponed.
14. The CAA will expect to issue its written decision as quickly as possible after the hearing and will aim to achieve this within 15 working days of the end of the hearing.
15. Regulation 26(7) requires the CAA to record the proceedings at hearing and to make a transcript generally available at a reasonable price. Requests for a transcript should be made to the CAA as soon as possible after the hearing.

## **Appeals to the Secretary of State against Decisions of the CAA**

16. Regulation 27(1) of the CAA Regulations, as amended by Schedule 2 of the Licensing of Air Carriers Regulations 1992, provides that every party to a case shall have a right of appeal to the Secretary of State against any licensing decision of the CAA. Notices of appeals to the Secretary of State and submissions relating to such appeals should be sent to the address in Part 4.
17. The time limit for serving appeals in most circumstances is prescribed in Regulation 27(4). It is modified, as are other time limits in connection with submissions, by Regulation 27(9) in cases relating to scarce bilateral capacity and by Regulation 28 in cases involving preliminary hearings of allegations of behaviour damaging to a competitor.

18. Regulation 27(3) provides that a copy of the notice of appeal must be served on the CAA and on each of the persons specified. Regulation 27(6) permits any party to the appeal, or any person or body consulted by the CAA under Regulation 21, to serve a written submission on the Secretary of State, but prohibits the submission of evidence not before the CAA when it decided the case.

## **Publication by the CAA of Information on Licence Applications and Decisions**

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19. Information on applications, decisions, forthcoming public hearings, appeals, orders by the Secretary of State and other notices will appear in the CAA's Official Record, Series 2, Licensing Notices, which are published on the CAA's website. Copies of recent decisions are also available from the CAA website.

## Annex 8: Procedures relating to scarce capacity allocation certificates

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### Introduction

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1. The procedures relating to Scarce Capacity Allocation Certificates (SCACs) are set out in full in [The Civil Aviation \(Allocation of Scarce Capacity\) Regulations 2007](#).

### Notifications by the Secretary of State that a route is capacity constrained (Regulations 4 and 5)

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2. Where the CAA has been notified by the Secretary of State that there will be scarce capacity on a route, the CAA will publish a notice in its Official Record Series 2, which is issued weekly and is available on the CAA's website. The notice will state the date from which the CAA considers that it will be necessary to allocate scarce capacity on the route, and that it proposes to invite applications for the allocation of scarce capacity and, if necessary, hold a hearing for the purpose of determining those applications. The notice will specify what information the CAA will require in connection with the application, and the closing date. The CAA will also publish any notification that there is no longer scarce capacity on a route. The CAA will take reasonable measures to draw such notices to the attention of organisations representing Community carriers licensed outside the UK that are unlikely to monitor or be subscribers to the Official Record.

### Applications by qualifying carriers (Regulation 10)

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3. Applications for a SCAC can be made by any qualifying carrier . This will include both UK-licensed carriers and Community carriers which are not UK-licensed but which are established in the UK.
4. Applications for the grant, revocation or variation of a SCAC should be made to Airline Licensing and Consumer Issues at the CAA's Consumer Protection Group, at the address in Part 5. All applications should be made on the appropriate form, which may be obtained from the same address or from the Consumer Protection Group pages of the CAA website. The CAA will publish any applications in its Official Record Series 2. With effect from 1 April 2009 the CAA has introduced a charge of £15,000 for SCAC applications. This charge forms part of the CAA [Scheme of Charges](#) and the CAA expects to review it annually.
5. The CAA may refuse to consider an application for the grant, revocation or variation of a SCAC if it has been made less than four months before the SCAC

(or variation) is proposed to take effect. The CAA may accept applications on shorter notice, although they will in most cases be subject to a minimum period to allow for the publication process as set out below. The CAA may also refuse to consider applications where the applicant has failed to provide all the information and documents required or failed to pay the applicable charge.

## **Revocation or variation of a SCAC without application being made (Regulation 11)**

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6. There will be routes where the conditions of scarce capacity cease to exist or change, or where there are SCAC applications from carriers on an existing capacity-constrained route. In such cases it may be appropriate for the CAA to propose to revoke or vary any relevant SCAC. The CAA will publish any such proposal in the Official Record Series 2.

## **Objections and representations (Regulation 12)**

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7. An “objection period” will be allowed after publication of any application or proposal, during which objections or representations may be served on the CAA. The normal objection period is 21 days, unless the CAA is satisfied that for reasons of urgency it is desirable to specify a shorter period. Any objection or representation must state whether the person making it wishes to be heard. A qualifying carrier making an objection or representation must serve a copy on every applicant within 24 hours, and can require the applicant to provide a copy of the application. The CAA will serve a copy of other objections and representations on applicants within seven days indicating whether the person wishes to be heard.

## **Hearings (Regulations 13 to 16)**

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8. The Regulations specify who has a right to be heard and can therefore oblige the CAA to hold a hearing. It is highly likely that a hearing will be necessary where the Secretary of State has determined that there is a need for the CAA to allocate scarce capacity, or where there is an objection to an application for grant or variation of a SCAC. The CAA has discretion to hear any person not specified as having a right to be heard.
9. The CAA will aim to arrange hearings as quickly as possible, consistent with ensuring natural justice and allowing all parties to prepare evidence. As most scarce capacity cases will be relatively urgent, the CAA will endeavour to announce the date of the hearing within one month of being notified by the Secretary of State, and will aim for the date itself to be within a month of that announcement, but at least 14 days’ notice will be given. Once a hearing date has been announced it will be changed only for compelling reasons.

10. The hearings will normally be held in public although in some circumstances the CAA can decide otherwise. The CAA will record the proceedings in writing and will normally make a transcript generally available for a reasonable fee. Requests for a transcript should be made to the CAA as soon as possible after the hearing.
11. The timetable for the submission of written evidence may need to be determined on a case-by-case basis, but the CAA will normally expect to receive written evidence from applicants no less than 10 working days before the hearing date, and from objectors no less than five working days before the hearing date. Once the CAA has received all written submissions, it will normally issue a Statement of Key Issues, if possible at least three working days before the hearing, to which it will expect the parties to have regard at the hearing. In the event that one party fails to deliver its evidence on time, the CAA will consult the other parties as to whether the hearing should be postponed.
12. The CAA has a discretionary power to hold a preliminary meeting to discuss the conduct of the hearing, although this may not be considered necessary in all cases.

### **Decisions of the CAA (Regulation 17)**

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13. The length of time taken to reach a decision will depend on the circumstances of each application. The CAA will aim to issue its written decision and SCAC authorisation (see Schedule 8) within 15 working days of the end of the hearing, or as quickly as possible thereafter. The CAA will publish its decision with reasons in the Official Record Series 2.

### **Enforcement (Regulations 20 to 24)**

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14. The Regulations make it an offence to operate for reward any service on a capacity-constrained route without an appropriate SCAC, and they permit the CAA if necessary to detain the aircraft.

### **Appeals**

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15. There is no further appeal from the decision of the CAA. The CAA procedure is however subject to the jurisdiction of the Court by way of judicial review.

See also Annex 9: CAA Guidance on the Economic Framework for Considering Cases Relating to the Allocation of Scarce Bilateral Capacity

# Annex 9: CAA guidance on the economic framework for considering cases relating to the allocation of scarce bilateral capacity

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## Introduction

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1. The CAA's decisions regarding the grant of scarce bilateral capacity are based on all the evidence presented by the parties concerned after it has been tested at a Public Hearing. The evidence an applicant airline uses to support its case is a matter for its commercial judgement. This annex is intended to inform that judgement by offering guidance on that part of the evidence that would be most helpful in the CAA's consideration of the likely benefits to users of the competing proposed uses of scarce bilateral capacity.
2. This guidance can only be set out in broad terms since experience has shown that detailed and precise guidelines are unlikely to be useful: circumstances differ from case to case and airlines differ in their views of market definition and other issues.

## Passenger Benefits

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3. The CAA's Statement of Policies indicates that it is concerned that scarce capacity be used in a way that sustainably produces the most benefit to passengers. So, the CAA will expect each applicant to have a section as part of its written submission, which sets out the passenger benefits it intends to generate from its proposal.
4. An air route will often serve a number of different types of demand, such as point-to-point and connecting passengers. For example, a new service between London and Johannesburg may affect not only those passengers just travelling between the two cities but also passengers who want to fly from Edinburgh to Johannesburg for whom a connection over London is an attractive option. The passengers may be further divided by journey purpose (business, VFR<sup>7</sup>, leisure) and by residence (UK-originating or foreign-originating). The benefits to passengers of a new service might stem from lower prices and/or from a more convenient and higher quality product<sup>8</sup>. In some cases the benefits may be

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<sup>7</sup> A VFR passenger is one making an air journey in order to visit friends and relatives.

<sup>8</sup> For example, the non-fare costs experienced by a passenger might fall because: a greater flight frequency provides a more convenient departure time; a more direct flight reduces the inconvenience of changing aircraft and possibly airlines; a new service leaves from a nearby airport; and a new service offers greater in-flight comfort or a better chance of getting a seat on the passenger's preferred flight.



restricted to those enjoyed by passengers who travel on the proposed service but in other cases benefits may be enjoyed by all the passengers on the route, for example because of increased competition. In addition to the existing passengers travelling directly or indirectly, other passengers who may benefit are those who might otherwise have travelled but to another destination (“diverted” passengers) or those who would not have travelled at all without the new service (“generated” passengers).

5. So, the CAA expects each applicant to set out what the benefit to passengers of its proposals will be, with supporting evidence on how this benefit is distributed among the different traffic flows and the different passenger types, distinguishing between fare and non-fare benefits.
6. This supporting evidence, quantified to the maximum extent possible, should indicate:
  - the main traffic flows affected by an applicant’s proposals;
  - the current size of those flows and their expected growth rate in the near future;
  - the current passenger mix in these flows;
  - the pricing and service proposals for each of the affected flows;
  - the extent to which traffic from these existing flows will use the proposed services;
  - the degree to which demand is stimulated;
  - the price and other benefits that the applicant’s proposals will bring compared with the existing situation; and
  - the way in which the benefits of these proposals split between UK and foreign residents.
7. The applicant should state what assumptions have been made not only about its own proposal but also about the expected commercial responses of other airlines.
8. Airlines are required to submit a three-year cost/revenue forecast to CAA hearings (a pro forma table is set out below). The evidence on passenger benefits should reflect this forecast and indicate how the level of benefits may change over the forecast period.
9. It should be noted that the CAA will consider all information presented to it that is made available to all other parties to the hearing. This means that the CAA will exclude from consideration any information presented by any party on a

confidential basis. The CAA has adopted this policy in order to maximise the fair and transparent nature of the hearing process.

10. Finally, it must be stressed again that it is the decision of each party to present the factors it considers most important and to put forward factors other than those described here if it believes them to be of relevance.

## Annex 10: Tariff filings by UK airlines in accordance with standard provisions I and II – fare conditions and format of tariff filings

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### Fare conditions to be filed

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1. The fare conditions (whether in the form of rules or footnotes) to be filed are those specifically supporting those fares that themselves require filing. Where the fare rule is silent in a particular rule category, it will be assumed that there is no restriction in that category.
2. There is no requirement to file general tariff conditions that are not specific to a fare type. These include generalised fare construction rules, even those that potentially affect the fare level on more complicated journeys, for example mileage system or higher intermediate fare rules. They also include charges for excess baggage. However, Provision II does still require the filing of commission rates and related conditions.

### Format of tariff filings

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3. Tariff filings should conform to the format requirements below. The CAA may refuse to accept filings unless they conform with these requirements, although in certain cases the CAA may decide to waive some of them.
4. Tariff filings must be submitted by post, fax, e-mail, or by a filing agent for electronic tariffs to the address at Part 4.
5. An airline may appoint an agent to file on its behalf. Filings by that agent must clearly identify the airline(s) on behalf of which it is filing. An appropriate authorisation must be lodged with and agreed by the CAA before any such arrangements take effect.
6. The format of filings made electronically shall be agreed between the CAA and the filing agent concerned before filing commences.
7. Fares filed by post, fax or e-mail must include fare codes and levels in the currency of sale, together with supporting conditions (see "fare conditions to be filed" above) including any relevant add-on amounts. Each page should show the date of issue, the proposed date of effect, the expiry date and a sequential filing reference number. Further guidance can be provided to airlines on request.
8. All filings must be clear and unambiguous. References to IATA Resolutions will not be accepted. Filings must be accompanied by a clear summary of the changes being proposed. Filings of fares in the UK–US and UK–Canada markets

may require more detailed justification, the guidelines for which will be provided separately to the airline by the CAA.

## Schedules: Legal instruments

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- Schedule 1: Scheme of Charges for Operating Licences and Air Transport Licences
- Schedule 2: Form of Route Licences and Standard Conditions applicable to them
- Schedule 3: Instrument made under Section 64(2)(a) of the Civil Aviation Act 1982 (as amended) – Exemption from Route Licensing
- Schedule 4: Standard Tariff Provisions in Route Licences and Air Transport Licences
- Schedule 5: Form of Air Transport Licences and Standard Conditions applicable to them
- Schedule 6: Instrument made under Section 64(2)(a) of the Civil Aviation Act 1982 – Exemption from Air Transport Licensing
- Schedule 7: Notice of aircraft registration option selected by the Secretary of State for the purposes of Article 12(1) of Regulation (EC) No 1008/2008
- Schedule 8: Form of Scarce Capacity Allocation Certificate

## Schedule 1: Scheme of charges for Operating Licences, Air Transport Licences and scarce capacity allocation certificates

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CAA Scheme of Charges for Operating and Air Transport Licences, Foreign Registered Aircraft Operating Permits and Scarce Capacity Allocation Certificates is available online:

[ORS5 No. 293.](#)

## Schedule 2: Form of Route Licences and standard conditions applicable to them

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### Form of Scheduled Licence

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**ROUTE LICENCE Licence No S/** \_\_\_\_\_

1. The Civil Aviation Authority, in exercise of its powers under Section 65 of the Civil Aviation Act 1982 (as amended), hereby grants a Route Licence to  
  
.....  
  
authorising it to operate aircraft on scheduled flights for the carriage of passengers and/or cargo and/or mail between any combination of points anywhere in the world.
2. A scheduled flight for the purposes of paragraph 1 above is defined as a flight on which at least some of the capacity of the aircraft is made available to the public without the intervention of a charterer.
3. This licence is subject to Standard Condition A and to the Standard Tariff Provisions set out respectively in Schedule 2 and Schedule 4 of the CAA's Official Record, Series 1.
4. Nothing in this licence authorises the operation of any flight
  - a) which the licence holder is already permitted to operate by virtue of Article 3 of Regulation (EC) No 1008/2008;
  - b) otherwise than in accordance with the licence holder's Air Operator's Certificate;
  - c) that is prohibited as a result of a direction to the CAA by the Secretary of State or by any Rules that may have been published by the Secretary of State; or
  - d) that is prohibited by any Schedule of Limitations to this licence.
5. Subject to Section 69A(5) of the Civil Aviation Act 1982, as amended, this licence shall have effect from until it is revoked.

Signed:

Date:

**for the Civil Aviation Authority**

## Form of Charter Licence

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ROUTE LICENCE

Licence No C/

1. The Civil Aviation Authority, in exercise of its powers under Section 65 of the Civil Aviation Act 1982 (as amended), hereby grants a Route Licence to  

.....

 authorising it to operate aircraft on charter flights for the carriage of passengers and/or cargo and/or mail between any combination of points anywhere in the world.
2. A charter flight for the purposes of paragraph 1 above is defined as a flight on which all the capacity of the aircraft is made available to the public through one or more charterers.
3. This licence is subject to Standard Condition A set out in Schedule 2 of the CAA's Official Record, Series 1.
4. Nothing in this licence authorises the operation of any flight
  - a) which the licence holder is already permitted to operate by virtue of Article 3 of Regulation (EC) No 1008/2008;;
  - b) otherwise than in accordance with the licence holder's Air Operator's Certificate;
  - c) that is prohibited as a result of a direction to the CAA by the Secretary of State or by any Rules that may have been published by the Secretary of State; or
  - d) that is prohibited by any Schedule of Limitations to this licence.
5. Subject to Section 69A(5) of the Civil Aviation Act 1982 as amended by the Licensing of Air Carriers Regulations 1992, this licence shall have effect from until it is revoked.

Signed:      Date:

**for the Civil Aviation Authority**



## **Standard Conditions Applicable to Route Licences**

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### **Condition A**

Passengers shall be informed before entering into a contract for carriage on any flight made pursuant to this licence of:

1. the name of the holder of the licence and of the fact that he is intended to be the operator of the aircraft on which the passenger is to be carried,
2. the type of aircraft that he intends to operate; and
3. the airport of destination.

## Schedule 3: Instrument for the purposes of section 64(2)(a) of the Civil Aviation Act 1982 (as amended by the Licensing of Air Carriers Regulations 1992)

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The CAA hereby specifies for the purposes of Section 64(2)(a) of the Civil Aviation Act 1982 (as amended by the Licensing of Air Carriers Regulations 1992) the following classes of flight as not requiring a Route Licence:

Flights operated by the holder of a valid Operating Licence using aircraft registered in the United Kingdom

- a) between any points both of which are within the area consisting of the European Economic Area, the Channel Islands and the Isle of Man;
- b) where a person has exclusive right to use the carrying capacity of the aircraft and where
  - (i) all the cargo to be carried on the flight is consigned by that person;
  - (ii) none of the passengers on the flight is carried for a separate fare;
- c) to or from a vessel or installation to be used in connection with oil or gas exploration or production under the sea; and
- d) on behalf of and pursuant to an agreement with an operator ("the contracting carrier") which is authorised by a Route Licence to operate the services, provided that the number of flights made by the actual carrier during any calendar year does not exceed 20% of those offered by the contracting carrier during that period.

Nothing in this instrument permits any flight that is

- a) already authorised by Council Regulation (EEC) No 2408/92 on Access for Community Air Carriers to Intra-Community Air Routes;
- b) prohibited as a result of a direction to the CAA by the Secretary of State or by any Rules that may have been published by the Secretary of State; or
- c) otherwise than in accordance with the licence holder's Air Operator's Certificate.

## Schedule 4: Standard tariff provisions in Route Licences and Air Transport Licences

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### **Provision II (Carriage to or from the United States of America)**

This Schedule has been withdrawn with effect from 7 August 2007.

## Schedule 5: Form of Air Transport Licences and standard conditions applicable to them

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### Form of Basic Air Transport Licence

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#### AIR TRANSPORT LICENCE Licence No ATL/ \_\_\_\_\_

1. The Civil Aviation Authority, in exercise of its powers under Section 65 of the Civil Aviation Act 1982, hereby grants an Air Transport Licence to  

.....

authorising it to operate aircraft

  - a) between any points both of which are in the European Economic Area, the Channel Islands or the Isle of Man; and
  - b) to offshore oil and gas installations.
2. This licence is subject to Standard Conditions A, B, C, D and E set out in Schedule 5 of the CAA's Official Record, Series 1.
3. Nothing in this licence authorises the operation of any flight
  - a) otherwise than in accordance with the licence holder's Air Operator's Certificate; or
  - b) that is prohibited as a result of a direction to the CAA by the Secretary of State or by any Rules that may have been published by the Secretary of State.
4. This licence shall have effect from until it is revoked.

Signed:

Date:

**for the Civil Aviation Authority**

## **Form of Air Transport Route Licence (Scheduled)**

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### **AIR TRANSPORT LICENCE Licence No ATL/ \_\_\_\_\_**

1. The Civil Aviation Authority, in exercise of its powers under Section 65 of the Civil Aviation Act 1982 hereby grants an Air Transport Licence to

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authorising it to operate aircraft on scheduled flights for the carriage of passengers and/or cargo and/or mail between any combination of points anywhere in the world.

2. A scheduled flight for the purposes of paragraph 1 above is defined as a flight on which at least some of the capacity of the aircraft is made available to the public without the intervention of a charterer.
3. This licence is subject to the Standard Tariff Provisions set out in Schedule 4 of the CAA's Official Record, Series 1.
4. Nothing in this licence authorises the operation of any flight
- a) otherwise than in accordance with the licence holder's Air Operator's Certificate;
  - b) that is prohibited as a result of a direction to the CAA by the Secretary of State or by any Rules that may have been published by the Secretary of State; or
  - c) that is prohibited by any Schedule of Limitations to this licence.
5. This licence shall have effect from until it is revoked.

Signed: Date:

**for the Civil Aviation Authority**

## Form of Air Transport Route Licence (Charter)

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### AIR TRANSPORT ROUTE LICENCE Licence No ATLC/

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1. The Civil Aviation Authority, in exercise of its powers under Section 65 of the Civil Aviation Act 1982 hereby grants a Route Licence to  
  
.....  
  
authorising it to operate aircraft on charter flights for the carriage of passengers and/or cargo and/or mail between any combination of points anywhere in the world.
2. A charter flight for the purposes of paragraph 1 above is defined as a flight on which all the capacity of the aircraft is made available to the public through one or more charterers.
3. Nothing in this licence authorises the operation of any flight
  - a) otherwise than in accordance with the licence holder's Air Operator's Certificate;
  - b) that is prohibited as a result of a direction to the CAA by the Secretary of State or by any Rules that may have been published by the Secretary of State; or
  - c) that is prohibited by any Schedule of Limitations to this licence.
4. This licence shall have effect from until it is revoked.

Signed: Date:

**for the Civil Aviation Authority**

## **Standard Conditions Applicable to Basic Air Transport Licences**

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**(There are no Standard Conditions Applicable to Air Transport Route Licences)**

### **Condition A**

Passengers shall be informed before entering into a contract for carriage on any flight made pursuant to this licence of:

- a) the name of the holder of the licence and of the fact that he is intended to be the operator of the aircraft on which the passenger is to be carried,
- b) the type of aircraft that he intends to operate; and
- c) the airport of destination.

### **Condition B**

The holder of the licence shall not carry on any flight made pursuant to the licence any passenger to whom accommodation for carriage on the flight has been made available by any person required by the Civil Aviation (Air Travel Organiser's Licensing) Regulations 1995 to hold an Air Travel Organiser's Licence, unless that person holds an Air Travel Organiser's Licence authorising him to make available accommodation for the carriage of persons on that flight.

### **Condition C**

The licence holder shall enter into a special contract with every passenger to be carried under this licence on or after 1 April 1981, or with a person acting on behalf of such a passenger, for the increase to not less than the Sterling equivalent of 100,000 Special Drawing Rights, exclusive of costs, of the limit of the carrier's liability under Article 17 of the Warsaw Convention of 1929 and under Article 17 of that Convention as amended at The Hague in 1955.

### **Condition D**

The licence holder shall make available to passengers before carriage, in ticket documents and in conditions of carriage, information on the liability of the licence holder for death or injury in the event of an accident.

### **Condition E**

Where passengers are carried pursuant to this licence for the common purpose of attending an association football match, each passenger shall, before the beginning of the flight, be in possession of a valid ticket of admission to the match.

## Schedule 6: instrument for the purposes of section 64(2)(a) of the Civil Aviation Act 1982

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The CAA hereby specifies for the purposes of Section 64(2)(a) of the Civil Aviation Act 1982 the following classes of flight as not requiring an Air Transport Licence:

Flights operated using aircraft registered in the United Kingdom

- a) which do not provide transport between different airports;
- b) where a person has exclusive right to use the carrying capacity of the aircraft and where
  - i. all the cargo to be carried on the flight is consigned by that person;
  - ii. none of the passengers on the flight is carried for a separate fare;
- c) by a hot air balloon or airship;
- d) which take place wholly outside the UK, the Channel Islands or the Isle of Man and are operated by firms not having their principal place of business in the UK, the Channel Islands or the Isle of Man;
- e) which are operated by firms not having their principal place of business in the UK, the Channel Islands or the Isle of Man using aircraft registered in an overseas dependent territory as defined by the British Nationality Act; and
- f) on behalf of and pursuant to an agreement with an operator ("the contracting carrier") which is authorised by an Air Transport Licence to operate the services, provided that the number of flights made by the actual carrier during any calendar year does not exceed 20% of those offered by the contracting carrier during that period.

Nothing in this instrument permits any flight that is

- a) prohibited as a result of a direction to the CAA by the Secretary of State or by any Rules that may have been published by the Secretary of State; or
- b) otherwise than in accordance with the licence holder's Air Operator's Certificate.



## Schedule 7: Notice of Aircraft Registration option selected by the Secretary of State for the purposes of Article 12(1) of Regulation (EC) no 1008/2008

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The Secretary of State, pursuant to Regulation 14(2) of The Operation of Air Services in the Community Regulations 2009, has asked the CAA to publish his decision for the purposes of Article 12(1) of Regulation (EC) No 1008/2008 of the European Parliament and of the Council on Common Rules for the Operation of Air Services in the Community (Recast).

The Secretary of State has decided that aircraft used by an air carrier that holds an operating licence issued by the CAA are to be registered in the UK national register.

For information about the use of foreign-registered aircraft under lease arrangements please see the Safety Regulation Group webpage on aircraft leasing at <http://www.caa.co.uk/default.aspx?catid=1434&pagetype=90>

# Schedule 8: Form of Scarce Capacity Allocation Certificate

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## SCARCE CAPACITY ALLOCATION CERTIFICATE SCAC No XXXXX

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1. The Civil Aviation Authority, in exercise of its powers under The Civil Aviation (Allocation of Scarce Capacity) Regulations 2007 hereby grants a Scarce Capacity Allocation Certificate to

.....  
authorising it to operate aircraft on flights for the carriage of passengers and/or cargo and/or mail in accordance with the attached schedule.

2. Nothing in this certificate authorises the operation of any flight other than by the certificate holder named in paragraph 1

- a) otherwise than in accordance with any Operating Licence, Route Licence or Air Transport Licence held by the certificate holder; or
- b) that is prohibited as a result of a direction to the CAA by the Secretary of State or by any Rules that may have been published by the Secretary of State.

3. This certificate shall have effect from [date] until it is revoked.

Signed: Date:

**for the Civil Aviation Authority**

Attached will be a schedule specifying, in accordance with Regulation 19(2):

- (a) the routes to which the SCAC relates;
- (b) the services it authorises; and
- (c) any conditions or restrictions to which a route or service is subject