

Thomas Cook

I am today (25 September 2019) updating the House at the earliest opportunity on the [action the government is taking to support those affected by the collapse of Thomas Cook](#), in particular the 150,000 passengers left abroad without a flight back to the UK and the 9,000 people who have lost their jobs in the UK. This situation is deeply regrettable. All parties considered options to avoid the collapse of the company. Ultimately, however, Thomas Cook's directors took the decision to place it into liquidation and it ceased trading at around 2am on Monday 23 September.

It is normal practice, when a government department proposes to undertake a contingent liability in excess of £300,000 for which there is no specific statutory authority, for the minister concerned:

- to present a departmental minute to parliament, giving particulars of the liability created and explaining the circumstances: and
- to refrain from incurring the liability until 14 parliamentary sitting days after the issue of the minute, except in the cases of special urgency.

I am making this statement to provide the House with retrospective notice of 2 contingent liabilities (both uncapped) created by my department in responding to the collapse of Thomas Cook:

- providing an indemnity created by an agreement with the CAA, under Section 16 of the Civil Aviation Act (1982), for the repatriation of non-ATOL-protected Thomas Cook passengers (the CAA Indemnity); and
- providing an indemnity to the Official Receiver (OR), in his capacity as liquidator of the failed Thomas Cook companies (in liquidation) (the OR Indemnity).

In both cases, I was unable to refrain from incurring the liabilities, or to provide the normal 14 sitting days' advance notice, due to the rapid development of the situation in the days leading up to Thomas Cook's insolvency, which occurred while the House was not sitting, and the special urgency that resulted. The terms of the contingent liabilities were also commercially sensitive at the point they were created.

The CAA Indemnity is identical to that provided in relation to the Monarch repatriation exercise in October 2017. The indemnity could be called, in respect of any claim against the CAA if there is a successful legal challenge relating to the repatriation requiring damages to be paid.

The Official Receiver (OR) was appointed liquidator of the Thomas Cook companies on Monday 23 September 2019. The OR Indemnity has 2 elements and is based on the precedent of the indemnity provided by the Department for Business, Energy, and Industrial Strategy to the OR following the insolvency of British Steel in May 2019:

- an indemnity to meet any shortfall in the OR's costs that cannot be covered by the realisation of the assets of the Thomas Cook companies. This would include any unexpected costs arising from a services agreement which the CAA has entered into with the Thomas Cook companies (in liquidation) to keep some key elements of Thomas Cook running to facilitate a smooth repatriation of UK passengers (eg key IT systems containing passenger information and flight booking details). Without this indemnity the OR would not have taken the appointment. This approach is playing an important role in achieving a smooth repatriation of all UK passengers who were overseas at the time of Thomas Cook's insolvency. In the absence of the services agreement there would have been a markedly higher risk of Thomas Cook being immediately wound up. This would have had the effect of creating an extremely disjointed insolvency process, with CAA having no meaningful ability to plan or control the provision of repatriation flights, and no means of informing affected passengers about their new flight arrangements.
- the OR also requested, and with my authorisation was provided with, an indemnity against any liabilities arising from any claims brought against him as liquidator. This is reasonable in the case of the OR, who although an office-holder, is acting in his personal capacity and, in this case, was being asked to do something which would not normally be done in a liquidation, namely to maintain part of the Thomas Cook companies running to provide services to the CAA, which is crucial to the repatriation exercise.

Authority for any expenditure required under both liabilities will be sought through the normal supply procedure. HM Treasury has approved the proposal in principle including conditions to require both CAA and OR to demonstrate reasonable endeavours in their actions.