

- (b) On any sum refunded in respect of cancelled or unused travel:
- (c) In respect of any travel arranged pursuant to a miscellaneous charges order, unless that travel is specifically described in that order:
- (d) On mail charges, excess baggage charges, or excess value charges:
- (e) In respect of any travel arranged pursuant to a credit plan recognised by the carrier on whose services that travel is arranged.

(3) In subclause (4) of this clause,—

“Carrier agent”, in relation to any carrier, means an approved general sales agent of that carrier that is also a carrier:

“Maximum commission”, in relation to any travel on the services of a carrier arranged by a carrier agent, means the greater of the following amounts:

- (a) The commission payable by that carrier to that agent in respect of the arrangement of that travel, under subclause (1) or subclause (2) or subclause (3) of clause 4 of this notice:
 - (b) The greatest commission payable by that carrier to that agent in respect of the arrangement of that travel, under subclause (1) of this clause.
- (4) No carrier shall pay to any carrier agent in respect of the arrangement of any travel on the services of that carrier any commissions under—
- (a) Subclause (1) or subclause (2) or subclause (3) of clause 4 of this notice; or
 - (b) Subclause (1) of this clause—
- that together exceed the maximum commission.

14. Beneficial services, fees, charges, etc.—(1) To the extent that the doing of any of the following things may constitute paying a commission, a principal may pay any such commission:

- (a) Furnish to any approved passenger agent any display, advertising support material, or promotional literature, relating to travel or to related services, of a kind used by the principal for its own purposes:
 - (b) Advertise, at normal commercial rates, in any trade journal published by approved passenger agents or any approved passenger agent:
 - (c) Pay not more than half the cost to an approved passenger agent of any standard telephone link between that agent and that principal:
 - (d) Provide any manual, or other instructions or guidance, to assist an approved passenger agent in his or its business:
 - (e) Provide or arrange reasonable entertainment for any approved passenger agent:
 - (f) In accordance with local custom, make any gift of congratulation or condolence to an approved passenger agent:
 - (g) Sell inclusive tours arranged by an approved passenger agent:
 - (h) Reproduce in a publication of that principal any itinerary of an inclusive tour contained in any publication of an approved passenger agent who arranged that tour, together with that agent's name, the address of any approved locations or approved tour locations of that agent, and the telephone numbers of those locations:
 - (i) Assist any approved general sales agent in the performance of his or its passenger sales and service functions.
- (2) Without limiting the generality of paragraph (i) of subclause (1) of this clause, assistance to any agent under that paragraph may include—
- (a) The provision of or assistance with any promotional or advertising campaign:
 - (b) The bearing of any extraordinary or exceptional expenses connected with such a campaign:
 - (c) The reimbursement to that agent of any expenditure that was—
 - (i) Of a kind normally passed on to principals; or
 - (ii) Of an exceptional nature, and requested or authorised by the principal.

15. Payments by carriers to officers, employees, etc.—Any carrier may pay to any person who is a director, officer, or full-time employee of that carrier, any commission it thinks fit in relation to travel arranged or sold by that person.

16. Payments in respect of subcontracted functions of carriers—Where any person has agreed with any carrier to perform on behalf of that carrier a function of a kind normally performed by carriers and not by approved agents, that carrier may pay to that person in respect of the performance of that function any commission it thinks fit.

17. Retrospective payments—After the entry of the name of any person or the address of any location on an approved passenger agents' names and locations list there may be paid to any person any commission that might have been paid to that person under this notice if that entry had been made as soon as it was applied for.

18. Transitional—(1) Where, during the month of June 1983, an agent received from a carrier, directly or indirectly, any commission relating to the arrangement at any location of the carriage of any passenger on the services of that carrier, this notice shall apply—

- (a) To that agent as if he or it were an approved passenger agent; and
 - (b) To that location as if it were an approved location or, as the case requires, an approved tour location,—
- until the 30th day of September 1983 or, where that agent has, before the 1st day of October 1983 applied to that carrier for the entry of the name of that agent and the address of that location on that carrier's approved passenger agents' names and locations list, until either—
- (c) The 31st day of March 1984; or
 - (d) The day on which that carrier informs that agent of the success or failure of the application,—
- whichever is the sooner.

(2) Where, during the month of June 1983, any agent received from a carrier pursuant to a general sales agency agreement any commission relating to the arrangement at a location within that agent's defined territory of travel on the services of that carrier, this notice shall apply—

- (a) To that agent as if he or it were an approved general sales agent; and
 - (b) To every location of that agent situated within that defined territory as if it were an approved location,—
- until the 30th day of September 1983.
- (3) For the avoidance of doubt, it is hereby declared that where, under any of the foregoing provisions of this clause, this notice applies—

- (a) To any person as if he or it were an approved agent of any category; or
 - (b) To any location as if it were an approved location or approved tour location,—
- until the 30th day of September 1983, the 31st day of March 1984, or the happening of an event specified in that provision, this notice shall, after that date or (as the case requires) after the happening of that event, apply to that person or location as if that provision had never formed part of this notice.

19. Revocation—The Civil Aviation (Agents' Commission Regime) Notice 1983* is hereby consequentially revoked.

*Gazette, 1983, p. 2607

Dated at Wellington this 8th day of September 1983.

GEORGE F. GAIR,
Minister of Civil Aviation and Meteorological Services.

EXPLANATORY NOTE

This note is not part of the notice, but is intended to indicate its general effect.

This notice revokes the Civil Aviation (Agents' Commission Regime) Notice 1983, and contains, in an amended form, those provisions of that notice that related to the international carriage by air of passengers and their baggage. A separate notice has been promulgated relating to the international carriage by air of cargo.

The amendments have 3 effects. First, some drafting simplifications have been made possible by the splitting of the original order; and some other drafting amendments have been made. Secondly, clauses 4 and 5 have been expanded so as to deal exhaustively with the payment of commission in relation to the issue of pre-paid ticket advices, and in relation to the arrangement of travel pursuant to such advices. Thirdly, the transitional provisions of the original notice have been expanded.

It is the practice of most carriers not to give formal approval to new agents until those agents have operated successfully on a trial basis. During the trial period no commission is paid; but after an agent has gained formal approval, the carrier may retrospectively pay commission in respect of that period. The original notice gave to certain existing agents a special status for a limited period. It provided that if an agent who had never been given formal approval by a particular carrier had, during June 1983 (the month before the notice came into force) received commission directly from that carrier, that agent could continue receiving commission from that carrier until at least 30 September 1983 and, if before 1 October 1983 that agent applied to that carrier for formal approval, until the application succeeded or failed.

The new transitional provision now extends to passenger agents who during June 1983 received commission from a carrier indirectly (for example through a commission-splitting arrangement of which the carrier was unaware); but the special status conferred on any agent will now expire on 1 April 1984 if the agent's application for formal approval has not earlier failed or succeeded.