

charter), that principal may pay to that agent a commission of 5 percent of the lawful charge for that carriage.

(2) Subject to the provisions of this notice, if, and only if, any approved agent arranges any carriage by charter on the services of a principal, that principal may pay to that agent a commission of not more than 5 percent of—

- (a) The charter price; less
- (b) The sum of all taxes, demurrage, and special handling charges, applicable to that carriage.

(3) Subject to the provisions of this notice, if, and only if, any carriage on the services of a principal was arranged on the basis that the lawful charge for that carriage is to be collected upon the delivery of the cargo concerned, the approved agent who or which issued the waybill and whose name appears on it shall, for the purposes of the payment of commission by that principal under this notice, be deemed to have arranged that carriage.

(4) Subject to the provisions of this notice, if, and only if,—

(a) Any carriage on the services of a principal has been arranged by a person who or which—

- (i) Is neither a carrier nor an approved agent; but
- (ii) Was requested by an approved agent to arrange it; and

(b) Before that carriage takes place, the name of that agent has, on the written instructions of the shipper, been inserted in the appropriate box on the waybill; and

(c) That agent has a location at the destination of the cargo concerned,—

that agent shall, for the purposes of the payment of commission by that principal under this notice, be deemed to have arranged that carriage.

5. Overriding commissions—(1) Subject to the provisions of this notice, if a principal may under clause 4 (1) of this notice pay any commission to any approved general cargo agent, that principal may, in addition, pay to that agent—

(a) A commission of not more than 2½ percent of the lawful charge for the carriage concerned or, as the case requires, of the appropriate proportion of the lawful charge for some carriage of which that carriage forms part;

(b) A commission of 5 percent of the lawful charge for any carriage of the cargo concerned on a connecting through air service.

(2) Subject to the provisions of this notice, if a principal may under clause 4 (2) of this notice pay any commission to any approved general cargo agent, that principal may, in addition, pay to that agent—

(a) A commission of not more than 50 percent of that first-mentioned commission;

(b) A commission of 5 percent of the lawful charge for any carriage (not being carriage by charter) of the cargo concerned on a connecting through air service arranged by that agent;

(c) A commission of not more than 5 percent of—

- (i) The charter price of any carriage of the cargo concerned on a connecting through air charter arranged by that agent; less
- (ii) The sum of all taxes, demurrage, and special handling charges, applicable to that carriage.

(3) Subject to the provisions of this notice, if a principal may under subclause (1) or subclause (2) of clause 4 of this notice pay to any approved cargo agent any commission in respect of any carriage on the services of that principal arranged within the defined territory of an approved general cargo agent of that principal, that principal may pay to that general cargo agent a commission of not more than 50 percent of that commission or, as the case requires, of the appropriate proportion of the commission payable in respect of the arrangement of some carriage of which that carriage forms part.

(4) Subject to the provisions of this notice, if a principal may under clause 4 (3) of this notice pay to any approved agent any commission in respect of any carriage on the services of that principal arranged on the basis that the charges for it are to be collected upon delivery of the cargo concerned, that principal may—

(a) If, and only if, no commission may lawfully be paid under paragraph (b) of this subclause, pay to an approved general cargo agent in whose defined territory the lawful charge for that carriage is collected; and

(b) In every other case, pay to an approved general cargo agent in whose defined territory that waybill is issued,—

a commission of not more than 50 percent of that commission or, as the case requires, of the appropriate proportion of the commission payable in respect of the arrangement of some carriage of which that carriage forms part.

(5) Subject to the provisions of this notice, if a principal may under clause 4 (4) of this notice pay to any approved agent any commission in respect of any carriage on the services of that principal, that principal may pay to an approved general cargo agent within whose defined territory the carriage concerned was arranged and the waybill concerned was issued a commission of not more than 50 percent of that first-mentioned commission or, as the case requires, of the appropriate proportion of the commission payable in respect of the arrangement of some carriage of which that carriage forms part.

6. Commissions generally—Except as provided in this clause, no commission shall be paid under clause 4 or clause 5 of this notice unless—

(a) The person who or which arranged the carriage concerned provides a waybill relating to the cargo concerned that is completely and accurately filled out; and

(b) The name of that person (or, if that person is not an approved agent, the name of the approved agent who requested the arrangement of that carriage) is inserted in the appropriate place on that waybill; and

(c) The lawful charge or price for that carriage has been paid to the appropriate approved agent or to a carrier; and

(d) Where that charge or price has been paid to an approved agent, that charge (or that charge reduced by the amount of any commission lawfully payable to that agent) has been satisfactorily accounted for by that agent to the principal concerned.

7. Payment of commission provisional initially—No commission shall be paid under clause 4 or clause 5 of this notice unless it is paid on the basis that—

(a) Its initial payment is provisional only, until—

(i) The carriage to which it relates takes place; or

(ii) No application for a refund in respect of that carriage having been made within the time during which such an application may be made by a person entitled to such a refund, that time has expired; or

(iii) Every such application made within that time has been finally rejected,—

whichever soonest occurs; and

(b) Where a refund has been made in respect of that carriage to a person entitled to such a refund,—

(i) That commission will be recalculated; and

(ii) The agent concerned will refund (either directly or by the appropriate deduction from some other amount payable to that agent) the difference between that commission as originally calculated and the recalculated amount, unless it is not more than the equivalent (in either New Zealand currency or the appropriate local currency, as the case requires, rounded off to the nearest whole dollar or local unit) of US\$5.

8. Disbursement of commission—(1) Subject to subclause (3) of this clause, if, and only if, any commission is payable to an approved agent under clause 4 of this notice, that agent may pay all or any part of that commission to any employee who personally arranged, or personally assisted in the arrangement of, the carriage concerned on behalf of that agent.

(2) Subject to subclause (3) of this clause, if, and only if, any carriage of cargo in respect of which any commission is payable under clause 4 of this notice to an approved agent was arranged at the request of some other agent (being an approved cargo agent of the principal by which that commission is payable),—

(a) That approved agent may pay to that other agent all or any part of that commission; and

(b) That other agent may pay to any employee who personally made, or personally assisted in making, the request all or any part of the amount paid to him or it.

(3) Any approved agent may pay all or any part of any commission received under clause 4 of this notice in respect of the arrangement of the carriage of cargo to any person (not being the shipper of that cargo or the person whose name appears on the waybill for that cargo as the person to whom it is to be delivered) unless the payment would result, directly or indirectly, in the carriage of that cargo at a charge or price less than that shown in the waybill.

9. No commission payable in certain circumstances—(1) No commission shall be paid by a carrier under clause 4 or clause 5 of this notice—

(a) On or in respect of any insurance, or government tax or charge, collected by the agent concerned; or

(b) On carriage provided free, or at a charge less than that lawfully payable by members of the public for that carriage.

(2) If the lawful price for any carriage by charter has been paid to the agent concerned by cheque, no commission shall be paid to that agent under clause 4 (3) of this notice in respect of the arrangement of that carriage unless that cheque—

(a) Is made out to the principal concerned; and

(b) Is accompanied by a certificate in writing by the charterer that that agent arranged that carriage; and

(c) Has been received by that principal.

(3) No commission shall be paid to an approved agent under clause 4 or clause 5 of this notice in respect of carriage provided for or at the request of the New Zealand Government, any department of State, any agent of the New Zealand Government, any foreign government, or any agency or agent of any foreign government, unless either—

(a) Full payment for that carriage was made to that approved agent; or