



# SUPPLEMENT

## TO THE

# NEW ZEALAND GAZETTE

OF

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### CIVIL AVIATION (AGENTS' COMMISSION REGIME) NOTICE 1983

PURSUANT to section 29A (6) of the Civil Aviation Act 1964, the Minister of Civil Aviation and Meteorological Services hereby gives the following notice.

#### ANALYSIS

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#### NOTICE

**1. Title and commencement**—(1) This notice may be cited as the Civil Aviation (Agents' Commission Regime) Notice 1983.

(2) This notice shall come into force on the 1st day of July 1983.

**2. Interpretation**—(1) In this notice, unless the context otherwise requires,—

“The Act” means the Civil Aviation Act 1964:

“Agent” means any person (not being a carrier) carrying on business in New Zealand, whether or not in conjunction with any other business and whether or not his or its business is accessible to members of the general public, by arranging carriage:

“Approved agent” means a person who or which is an approved cargo agent, an approved general cargo agent, an approved general sales agent, or an approved passenger agent:

“Approved cargo agent”, in relation to any person, means an agent—

(a) Whose name (whether or not it appears on any other such list) for the time being appears on a single list of agents and locations maintained by that carrier within New Zealand for the purpose; and

(b) Who or which is not an unsuitable person; and

(c) Who or which is not a carrier or an approved general cargo agent; and

(d) Who or which neither has, nor has any right to, 30 percent or more of the ownership, property, management, or profits, of a carrier or an approved general cargo agent (not being an approved general cargo agent engaged in the provision of surface transportation); and

(e) Of whose ownership, property, management, or profits, no carrier or approved general cargo agent (not being an approved general cargo agent engaged in the provision of surface transportation) has, or has a right to, 30 percent or more; and

(f) Not more than 30 percent of the cargo consigned or to be consigned through that agent is owned by that agent; and

(g) Who or which has at least one suitable cargo sales location in New Zealand at which there are employed sufficient qualified full-time employees capable of providing the facilities specified in the definition in this subclause of the expression “suitable cargo sales location”; and

(h) Who is not engaged, directly or indirectly, in the sale of carriage of cargo on charters operated under agreements, that provide for some arrangement other than the charter

by the operator of the aircraft concerned of all the capacity of that aircraft to one or more shippers for the carriage of the goods of that shipper or those shippers only; and

(i) Who or which has a current cargo agency sales agreement with that carrier;

“Approved general cargo agent”, in relation to any carrier, means an agent—

(a) Whose name (whether or not it appears on any other such list) for the time being appears (whether as a direct agent or as a subcontracted agent of a direct agent) on a single list of agents and locations maintained by that carrier within New Zealand for the purpose (in this notice referred to as an approved general cargo agents' names and locations list); and

(b) Who or which is not an unsuitable person; and

(c) Who or which is not an approved passenger agent or an approved cargo agent; and

(d) Who or which neither has, nor has any right to, 30 percent or more of the ownership, property, management, or profits of an approved passenger agent or approved cargo agent; and

(e) Of whose ownership, property, management, or profits, no approved passenger agent or approved cargo agent has, or has a right to, 30 percent or more; and

(f) Who or which is neither employed by nor associated with any other person (not being a person engaged directly in the provision of transportation of some kind) who or which is, in the opinion of the carrier concerned, likely to generate more than one quarter of the total sales of carriage of cargo in the defined territory or proposed defined territory concerned; and

(g) Who or which has a current general cargo agency agreement with that carrier;

“Approved general cargo location”, in relation to any agent whose name for the time being appears on an approved general cargo agents' names and locations list, means a suitable cargo sales location whose address for the time being appears on that list;

“Approved general sales agent”, in relation to any carrier, means an agent—

(a) Whose name (whether or not it appears on any other such list) for the time being appears (whether as a direct agent or as a subcontracted agent of a direct agent) on a single list of agents and locations maintained by that carrier within New Zealand for the purpose (in this notice referred to as an approved general sales agents' names and locations list); and

(b) Who or which is not an unsuitable person; and

(c) Who or which is not an approved passenger agent or an approved cargo agent; and

(d) Who or which neither has, nor has any right to, 30 percent or more of the ownership, property, management, or profits of an approved passenger agent or approved cargo agent; and

(e) Of whose ownership, property, management, or profits, no approved passenger agent or approved cargo agent has, or has a right to, 30 percent or more; and

(f) Who or which is neither employed by nor associated with any other person (not being a person engaged directly in the provision of transportation of some kind) who or which is, in the opinion of the carrier concerned, likely to generate more than one quarter of the total sales of carriage of passengers in the defined territory or proposed defined territory concerned; and

(g) Who or which has a current general sales agency agreement with that carrier;

“Approved general sales location”, in relation to any agent whose name for the time being appears on an approved general sales agents' names and locations list, means a location (not being an approved passenger location or an approved cargo location) whose address for the time being appears on that list, and where there are employed at least 2 qualified persons;

“Approved location” means a location that is an approved cargo location, an approved general sales location, an approved passenger location, or an approved tour location;

“Approved passenger agent”, in relation to any carrier, means an agent—

(a) Whose name (whether or not it appears on any other such list) for the time being appears on a single list of agents and locations maintained by that carrier within New Zealand for the purpose (in this notice referred to as an approved passenger agents' names and locations list); and

(b) Who or which is not an unsuitable person; and

(c) Who or which is not an approved general sales agent; and

(d) Who or which neither has, nor has any right to, 30 percent or more of the ownership, property, management, or profits, of an approved general sales agent; and

(e) Of whose ownership, property, management, or profits, no approved passenger agent or approved cargo agent has, or has a right to, 30 percent or more; and

(f) Who or which has a current passenger sales agency agreement with that carrier;

“Approved passenger location”, in relation to any agent whose name for the time being appears on an approved passenger agents' names and locations list, means a suitable passenger sales location open to the general public during normal business hours whose address for the time being appears on that list;

“Approved tour location”, in relation to any agent whose name for the time being appears on an approved passenger agents' names and location list, means a suitable passenger sales location that is used exclusively for the sale of inclusive tours arranged by that agent and is not open to the public during normal business hours, and whose address for the time being appears on that list;

“Arrangement”, in relation to any carriage of cargo, means—

(a) The sale of that carriage; and

(b) The making of reservations relating to that carriage; and

(c) The completion of a waybill in relation to that carriage; and

(d) The delivery, or arrangement of the delivery, of that cargo to the appropriate airport when ready for carriage; and

(e) The retention of all accounting documents relating to the payment for that carriage;—

and “to arrange” has a corresponding meaning;

“Arrangement”, in relation to any carriage of passengers, means—

(a) The sale of that carriage; and

(b) The making of reservations relating to that carriage; and

(c) Either the issue of travel documents for that carriage, or the arrangement of the issue of travel documents for that carriage by the carrier on whose services it is to take place; and

(d) The retention of all accounting documents relating to the payment for that carriage;—

and “to arrange” has a corresponding meaning;

“Cargo” means any goods carried, or intended to be carried, by air that do not comprise—

(a) Mail or other goods carried under the terms of any international postal convention; or

(b) Passenger baggage; or

(c) The property of the carrier concerned;

“Carriage” means international carriage by air;

“Cargo agency sales agreement” means a sales agency agreement relating to the arrangement by the agent concerned of the carriage of cargo on the services of the principal concerned, and containing (*inter alia*) provisions to the effect that—

(a) The agent is at all times to maintain a bond, guarantee, or other such device, that, in the opinion of the principal, adequately protects the principal and the agent's customers against the insolvency of the agent; and

(b) Until any waybill forms supplied to the agent by or on behalf of the principal or the management of a standard cargo plan are issued to a customer in respect of carriage that has been sold by the agent to that customer,—

(i) Those documents are to remain the property of the principal or, as the case requires, the management of the standard cargo plan; and

(ii) The agent is to have no proprietary rights in respect of those documents; and

(c) All carrier identification plates supplied by the principal to the agent are to remain the property of the principal; and the agent is to have no proprietary rights in respect of those plates; and

(d) The agent is to take such steps as the principal specifies in respect of the safekeeping of waybill forms and carrier identification plates so supplied; and

(e) The agent is to verify every waybill issued by the agent in respect of the carriage of cargo on the services of the principal with a stamp bearing a numerical code that identifies that agent; and

(f) The agent is not to pay money received in respect of carriage of cargo arranged by the agent into any bank account into which there is at any time paid any money that is not received in respect of carriage of cargo arranged by the agent; and

(g) All money received by the agent in respect of the carriage of cargo on the services of the principal, or in respect of any related services (including any commission withheld by the agent in accordance with a manner of transacting business on behalf of the principal agreed with the principal) shall, as soon as is practicable after its receipt, be paid into a bank account, and shall—

(i) Remain the property of the principal; and

(ii) Be held in trust for the principal,—  
until it has been satisfactorily accounted for to the principal; and

(h) The agent is to notify the principal, as soon as is practicable after a location of that agent ceases to be an approved cargo location, of the fact that it has ceased to be an approved cargo location, and the date upon which it ceased to be an approved cargo location, and the reasons for its ceasing to be an approved cargo location; and

(i) The agent is, at every approved cargo location, to promote the carriage of cargo on the services of the principal; and

(j) The agent is, at every approved cargo location, to arrange the carriage of cargo on those services; and

(k) The agent is, at every approved cargo location, to retain copies of all receipts issued in respect of amounts collected in respect of the carriage of cargo on those services so arranged; and

(l) The agent is to account to the principal for all money collected in respect of the carriage of cargo on those services so arranged; and

(m) The agent is to maintain insurance cover adequate to meet any liability for loss of, or damage to, cargo for the time being under the agent's control:

"Carrier" means any person whose business it is, whether or not in conjunction with any other business, to provide carriage on its own services:

"Carrier identification plate" means a plate, or other device,—

(a) Issued by a principal to an agent; and

(b) Used, or intended to be used, by that agent for printing or otherwise indicating on travel documents issued by that agent in respect of carriage on the services of that principal the name or identity of that principal:

"Commission" means agency commission:

"Employee", in relation to any carrier or agent, means a person—

(a) Who is a director of or employed by that carrier or agent; and

(b) Who devotes all or nearly all his working time to the business of that carrier or agent; and

(c) Who (in addition to any commission) is paid a director's fees or salary or wages by that carrier or agent; and

(d) Whose name is carried continuously on the payroll or other disbursement records of that carrier or agent:

"Excess baggage", in relation to the carriage of any passenger, means the extent to which that passenger's baggage exceeds the amount that may be carried free by the carrier on whose services that carriage takes place as is intended to take place:

"Excess baggage charge" means a charge made by a carrier in respect of excess baggage:

"Excess value charge" means a charge made by a carrier in respect of the extent to which the declared value of any baggage exceeds—

(a) A sum calculated at the rate of 250 French gold francs per kilogram, in the case of checked baggage; or

(b) A sum equivalent to 5000 French gold francs per passenger in the case of unchecked baggage:

"Exchange order" means a document, issued by a carrier, requesting the issue of a passenger ticket, or the provision of any services, to a person specified in that document:

"General cargo agency agreement" means a sales agency agreement delegating to the agent concerned exclusively general authority to represent the principal concerned in a defined territory in respect of the arrangement of the carriage of cargo on the services of the principal, and containing (*inter alia*) all the provisions specified in the definition in this subclause of the expression "cargo sales agency agreement", and also provisions to the effect that—

(a) The agent is to solicit and promote the carriage of cargo on the services of the principal; and

(b) The agent is, at every approved general cargo location, to provide and maintain a suitable area to be used exclusively for, and is to use it exclusively for, the transaction of business relating to the carriage of cargo on the services of the principal; and

(c) The agent is to arrange the distribution of the principal's timetables, promotional material, and written information relating to the principal's charges for carriage of cargo, to approved cargo agents the general public, in the defined territory; and

(d) The agent is to cause or arrange the delivery of cargo to the receiving points designated by the principal; and

(e) The agent is to service and supervise, in relation to the arrangement of the carriage of cargo on the services of the principal, all approved cargo agents in New Zealand;— but that contains no provision to the effect that the agent (if the agent is a carrier) is precluded from making its services available to other carriers:

"General sales agency agreement" means a sales agency agreement delegating to the agent concerned general authority to represent the carrier concerned exclusively in a defined territory in respect of the arrangement of the carriage of passengers on the services of that carrier, and containing (*inter alia*) provisions to the effect that—

(a) The agent is to solicit and promote the carriage of passengers on the services of that carrier; and

(b) The agent is, at every approved general sales location, to provide and maintain a suitable area to be used exclusively for, and is to use it exclusively for, the transaction of business relating to the carriage of passengers on the services of that carrier; and

(c) The agent is to service and supervise, in relation to the arrangement of the carriage of passengers on the services of that carrier, all approved passenger agents who or which have an approved passenger location in that defined territory,—

and, if that agreement contains any provision to the effect that the agent is to, or is empowered to, arrange the carriage of passengers on the services of the carrier, containing also provisions to the effect specified in paragraphs (a) to (g) of the definition in this subclause of the expression "passenger sales agency agreement", and provisions to the effect that—

(d) The agent is, at every approved general sales location, to arrange the carriage of passengers on the services of the principal; and

(e) The agent is, at every approved general sales location, to retain copies of all receipts issued in respect of fares collected in respect of the carriage of passengers on those services so arranged; and

(f) The agent is to account to the principal for all money collected in respect of the carriage of passengers on those services so arranged:

"Inclusive tour" means a combination of the carriage of passengers and some other service or services (not comprising solely surface transportation on a public transport service):

"Interline agreement" means an agreement between 2 or more carriers authorising each of them to arrange carriage over the services of the other:

"Involuntary change of routing", in relation to any carriage of a passenger, means the failure of the carrier on whose services that carriage was arranged to provide that carriage in accordance with that passenger's ticket if, and only if, there is substituted for that carriage on those services—

(a) Carriage on the services of some other carrier; or

(b) Some other carriage; or

(c) Some form of surface transportation:

"Miscellaneous charges order" means a document, issued by a carrier or an agent of a carrier, requesting the issue of a passenger ticket or the provision of some other service, to a person named in that document:

"Overriding cargo commission" means commission paid under clause 15 (1) (a) or clause 15 (2) of this notice:

"Overriding commission" means commission paid under clause 5 (1) (b) or clause 5 (2) of this notice:

"Passenger sales agency agreement" means a sales agency agreement relating to the arrangement by the agent concerned of the carriage of passengers on the services of the principal concerned, and containing (*inter alia*) provisions to the effect that—

(a) The agent is at all times to maintain a bond, guarantee, or other such device, that, in the opinion of the principal, adequately protects the principal and the agent's customers against the insolvency of the agent; and

(b) Until any traffic documents supplied to the agent by or on behalf of the principal or the management of a standard bank plan are issued to a customer in respect of carriage that has been sold by the agent to that customer,—

(i) Those documents are to remain the property of the principal or, as the case requires, the management of the standard bank plan; and

(ii) The agent is to have no proprietary rights in respect of those documents; and

(c) All carrier identification plates supplied by the principal to the agent are to remain the property of the principal; and the agent is to have no proprietary rights in respect of those plates; and

(d) The agent is to take such steps as the principal specifies in respect of the safekeeping of traffic documents and carrier identification plates so supplied; and

(e) The agent is to verify every ticket issued by the agent in respect of the carriage of passengers on the services of the principal with a stamp bearing a numerical code that identifies both that agent and the location at which that carriage was arranged; and

(f) The agent is not to pay money received in respect of carriage of passengers arranged by the agent into any bank account into which there is at any time paid any money that is not received in respect of carriage of passengers arranged by the agent; and

(g) All money received by the agent in respect of the carriage of passengers on the services of the principal, or in respect of any related services (including any commission withheld by the agent in accordance with a manner of transacting business on behalf of the principal agreed with

the principal) shall, as soon as is practicable after its receipt, be paid into a bank account, and shall—

- (i) Remain the property of the principal; and
- (ii) Be held in trust for the principal,—

until it has been satisfactorily accounted for to the principal; and

(h) The agent is to notify the principal, as soon as is practicable after a location of that agent ceases to be an approved passenger location, of the fact that it has ceased to be an approved passenger location, and the date upon which it ceased to be an approved passenger location, and the reasons for its ceasing to be an approved passenger location; and

(i) The agent is, at every approved passenger location, to promote the carriage of passengers on the services of the principal; and

(j) The agent is, at every approved passenger location, to arrange the carriage of passengers on those services; and

(k) The agent is, at every approved passenger location, to retain copies of all receipts issued in respect of fares collected in respect of the carriage of passengers on those services so arranged; and

(l) The agent is to account to the principal for all money collected in respect of the carriage of passengers on those services so arranged:

“Person” includes a body of persons and a body corporate:

“Prepaid ticket advice” means a notification to a carrier or an agent in one place that the lawful fare or other payment for the arrangement by that carrier or agent of some carriage specified in that advice has been paid at some other place:

“Prepaid transportation” means carriage arranged pursuant to a prepaid ticket advice that was issued in a country other than that where the ticket for that carriage is delivered to a customer:

“Principal”, in relation to any agent who arranges any carriage on the services of a carrier with which that agent has a sales agency agreement, means that carrier:

“Qualified person” means a person who—

(a) Is qualified under the New Zealand Aviation and Travel Industry Training Board Structured Travel Industry Training Programme to level 2 (Advanced Certificate of Travel Competency); or

(b) Is a member of the New Zealand Institute of Travel:

“Qualifying inclusive tour” means an inclusive tour that includes (for the entire duration of the tour) sleeping accommodation of a kind provided to the public at commercial rates, and that—

(a) Is intended to encourage air travel; and

(b) Covers a route that returns to the point at which it started; and

(c) Includes one or more additional attractions or facilities, such as sightseeing, coach trips, entertainment, admission to any place or event, the provision of a guide or equipment; and

(d) Is described in literature, published by the person who arranged the tour, that is available to the public generally; and

(e) Is sold as an indivisible product to members of the public generally:

“Sales agency agreement” means a written agreement between a carrier and any other person (whether prepared and executed by that carrier or by some other person on that carrier’s behalf) providing for that other person to act as an agent in relation to the arrangement of carriage on the services of that carrier:

“Shipper” means a person who consigns cargo; and, in relation to any cargo, means the shipper who consigns or proposes to consign it:

“Standard bank plan” means an agreement between one or more agents and one or more principals to appoint and authorise a bank or other organisation, for the purpose of facilitating the provision and issue of traffic documents to agents, and the accounting for and settlement of debts between principal and agent, to perform (*inter alia*) all or any of the following functions in relation to the carriage of passengers and baggage:

(a) The receipt of sales transmittals from agents and the extraction and processing of information from those transmittals:

(b) The rendering of billings to agents:

(c) The receipt of remittances from agents:

(d) The disbursement of money to principals:

“Standard cargo plan” means an agreement between one or more agents and one or more principals to appoint and authorise a bank or other organisation, for the purpose of facilitating the provision and issue of waybill forms to agents, and the accounting for and settlement of debts between principal and agent, to perform (*inter alia*) all or any of the following functions in relation to the carriage of cargo:

(a) The receipt of sales transmittals from agents and the extraction and processing of information from those transmittals:

(b) The rendering of billings to agents:

(c) The receipt of remittances from agents:

(d) The disbursement of money to principals:

“Suitable cargo sales location” means a location (being a location where the agent concerned is actively and principally engaged, and has for at least 6 months been so engaged, in the promotion and sale of the carriage of cargo) where (*inter alia*) the following facilities are provided by that agent:

(a) The quotation of rates and charges for carriage of cargo, and the specification of the conditions subject to which such rates and charges apply:

(b) The assistance of customers in completing the required formalities (including reservations) for the carriage of cargo:

(c) The delivery, or arrangement of the delivery, of cargo ready for carriage to the appropriate airport:

(d) The acceptance (and delivery as aforesaid) of cargo that comprises or includes any restricted item:

(e) The collection of money from customers, and its remittance to carriers or a standard cargo plan:

“Suitable passenger sales location” means a location (not situated at an airport or in office premises shared by an agent and one or more other agents or by an agent and a carrier)—

(a) Where there are employed, or for a period of 3 months ending within the previous 60 days there were continuously employed,—

(i) At least 2 qualified persons; or

(ii) One qualified person and at least one student member of the New Zealand Institute of Travel; or

(b) Where there is employed at least one person who has demonstrated (in the opinion of the principal concerned) a satisfactory ability to arrange carriage of passengers, if that principal is satisfied that—

(i) That location is in a small community; and

(ii) At no time during the previous 3 years was there in that community any other suitable passenger sales location:

“Traffic document” means any passenger ticket form, baggage check form, miscellaneous charges order form, on-line ticket form, or other accountable form, (being a form for the carriage of passengers or for other carriage or services connected with the carriage of passengers) whether issued manually, mechanically, or electronically, and whether or not bearing the preprinted identification of an individual carrier, supplied to approved general sales agents or approved passenger agents, for issue to their customers,—

(a) By a principal; or

(b) Under a standard bank plan:

“Transportation order” means a form approved by a principal against which (when completed by an approved passenger agent with the names of the passengers concerned, the routing itinerary, the class of travel, and the fare) that principal has agreed with that agent to issue tickets for the carriage of those passengers:

“Unsuitable person” means a person who or which—

(a) Being an individual person (and not being a person who, in the opinion of the principal concerned, either was not responsible for any of the acts and omissions leading to the indebtedness concerned or can now be relied upon to act properly as an agent)—

(i) Is (or is or was a director, shareholder, or person involved in the general management of a person that is) in default under a sales agency agreement with any carrier and owes it money; or

(ii) Was (or is or was a director, shareholder, or person involved in the general management of a person that was) at any time in default under a sales agency agreement with any carrier and met any of his or its debts to that carrier by recourse to a financial bond or guarantee; or

(b) Not being an individual person—

(i) Is in default under a sales agency agreement with any carrier and owes it money; or

(ii) Was at any time in default under a sales agency agreement with any carrier and met any of its debts to that carrier by recourse to a financial bond or guarantee; or

(iii) Has a director, shareholder, or person involved in its management, who is an unsuitable person:

“Waybill” means a document, with a title in any language to the effect that that document is an air consignment note or air waybill, made out by or on behalf of a shipper as evidence of a contract between that shipper and a carrier for the carriage of goods on the services of that carrier:

“Waybill form” means a document that, when completed by a shipper, is capable of constituting a waybill.

(2) Every expression defined in section 2 or section 29A (12) of the Act shall have the meaning assigned to it by that section.

(3) Where any provision of this notice provides that any person may pay any commission to any other person, that provision shall be construed as providing that—

- (a) That first-mentioned person may allow, disburse, give, pay, or provide, that commission to that other person; and
  - (b) That other person may charge, demand, or retain, that commission from that first-mentioned person.
- (4) Where a principal of any approved passenger agent or approved cargo agent has for the time being an interline agreement with any other carrier, this notice shall apply to that agent, and to the payment of commission to that agent, as if that other carrier were a part of that principal.

**3. Application**—This notice applies to all carriage.

#### PART I PASSENGERS

##### **4. Payment of commission to approved passenger agents**—

(1) Subject to the provisions of this notice, if, and only if, any approved passenger agent arranges at an approved passenger location any carriage of passengers on the services of a principal (not being carriage that forms part of an inclusive tour or carriage by charter), that principal may pay to that agent a commission of 9 percent of the lawful fare for that carriage.

(2) Subject to the provisions of this notice, if, and only if, any approved passenger agent arranges at an approved passenger location or approved tour location any carriage of passengers on the services of a principal (being carriage that forms part of an inclusive tour and not carriage by charter), that principal may pay to that agent a commission of 9 percent of the lawful fare for that carriage.

(3) Subject to the provisions of this notice, if, and only if, any approved passenger agent arranges the carriage of passengers by charter under a written agreement with a single charterer and a principal for the entire capacity of an aircraft of that 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.

##### **5. Payment of commission to approved general sales agents**—

(1) Subject to the provisions of this notice, if, and only if, any approved general sales agent arranges at an approved general sales location any carriage of passengers on the services of his or its principal, that principal may pay to that agent—

- (a) A commission of 9 percent of the lawful fare for that carriage;
- (b) A commission of not more than 3 percent of the lawful fare for that carriage;
- (c) A commission of 9 percent of the lawful fare for any carriage of the passengers concerned arranged at that location on a connecting through air service.

(2) Subject to the provisions of this notice, if a principal may pay to any approved passenger agent any commission in respect of any carriage of passengers on the services of that principal arranged and sold at a location that is within the assigned area of an approved general sales agent, that principal may pay to that general sales agent a commission of not more than 3 percent of the lawful fare for that carriage.

**6. Inclusive tour support**—If, and only if, a carrier and any person who is not a carrier (whether or not that person is an approved passenger agent) have entered into a written agreement relating to the costs of developing, or advertising or promoting to the general public, an inclusive tour arranged or to be arranged by that person (being a tour that includes the carriage of passengers on the services of that carrier), that carrier may pay to that operator any amount that does not exceed the total amount of those costs.

**7. Passenger commissions generally**—(1) Except as provided in subclause (2) of this clause, no commission shall be paid to any person under this Part of this notice unless—

- (a) The lawful fare for the carriage concerned has been paid to the appropriate agent; and
- (b) That fare (or that fare reduced by the amount of any commission lawfully payable to that agent) has been paid by that agent to the principal concerned.

(2) Commission may be paid to any person under this Part of this notice, notwithstanding that the lawful fare for the carriage concerned has not been paid to the agent concerned, if that carriage has been arranged—

- (a) Pursuant to a credit plan recognised by the principal concerned for the purpose; or
- (b) Pursuant to a prepaid ticket advice, and the fare for that carriage has been paid directly to a principal or to a general sales agent of a principal.

**8. Payment of passenger commission provisional initially**—No commission shall be paid by any carrier under this Part 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, and the failure of that carriage to take place did not result from an involuntary change of routing involving the substitution of surface transportation for confirmed air carriage,—
  - (i) That commission will be recalculated; and
  - (ii) That agent 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 up to the next whole dollar or local unit) of US\$6.

**9. Disbursement of passenger commissions**—(1) Where any carriage of passengers in respect of which any commission is payable to an approved agent was arranged at an approved location, that agent may pay all or any part of that commission to any employee who, at that location, personally arranged, or assisted in the arrangement of, that carriage on behalf of that agent.

(2) Where any carriage of passengers in respect of which any commission is payable to an approved agent was arranged at the request of some other agent (being an approved passenger agent),—

- (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 assisted in making, that request all or any part of the amount paid to him or it.

##### **10. Involuntary changes of routing**—Where—

- (a) An approved passenger agent has refunded to a principal any commission paid in respect of any carriage of passengers; and
- (b) That carriage failed to take place as a result of an involuntary change of routing,—

that principal may pay to that agent all or any part of any commission received by that principal from any new transporting carrier on whose services equivalent carriage took place.

#### PART II CARGO

**11. Payment of commission to general cargo agents and approved cargo agents**—Subject to the provisions of this notice, if, and only if, any general cargo agent or approved cargo agent arranges,—

- (a) Otherwise than by charter, the carriage of cargo on the services of a principal, that principal may pay to that agent a commission of 5 percent of the lawful charge for that carriage;
- (b) By charter, the carriage of cargo on the services of a principal, that principal may pay to that agent a commission of 5 percent of—
  - (i) The charter price; less
  - (ii) The sum of all taxes, demurrage, and special handling charges, applicable to that carriage.

**12. Payment of commission to general cargo agents**—(1) Subject to the provisions of this notice, if a principal may under clause 14 of this notice pay to any general cargo agent any commission in respect of the carriage of cargo on the services of that principal, that principal may, in addition, pay to that agent—

- (a) A commission of not more than 2½ percent of the lawful charge for that carriage;
- (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 14 of this notice pay to any approved cargo agent any commission in respect of the carriage of cargo on the services of that principal, that principal may pay to the appropriate general cargo agent a commission not exceeding 2½ percent of that portion of the lawful charge for that carriage specified in paragraph (a) or paragraph (b) of that clause (as the case requires) that relates to the carriage of that cargo on the services of that principal but not the services of any other carrier with whom that carrier has an interline agreement.

**13. Cargo commissions generally**—No commission shall be paid to any person under this Part of this notice unless—

- (a) The agent who or which arranged the carriage concerned provides a waybill relating to the cargo concerned that was completely and accurately filled out; and
- (b) The name of that agent is inserted in the appropriate place on that waybill.

**14. Payment of cargo commission to be provisional initially**—No commission shall be paid by any carrier under this Part of this notice unless it is paid on the basis that its initial payment is provisional only, until—

- (a) The carriage to which it relates takes place; or
- (b) 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
- (c) Every such application made within that time has been finally rejected,—
- whichever soonest occurs.

**15. Disbursement of cargo commissions**—(1) Subject to subclause (3) of this clause, if, and only if, any commission is payable to an approved agent in respect of the carriage of cargo, that agent may pay all or any part of that commission to any employee who personally arranged, or assisted in the arrangement of, that carriage 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 to an approved agent was arranged at the request of some other agent (being an approved cargo agent),—

- (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 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 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 less than shown in the waybill.

### PART III GENERAL

**16. No commission payable in certain circumstances**—

- (1) No commission shall be paid by a carrier under this notice—
- (a) On carriage arranged pursuant to a miscellaneous charges order or transportation order, unless that carriage is specifically described in that order; or
- (b) In respect of any excess baggage charge or excess value charge; or
- (c) On or in respect of any insurance, government tax or charge collected by the agent concerned; or
- (d) On carriage provided free, or at a charge or fare less than that lawfully payable by members of the public for that carriage.
- (2) No commission shall be paid by a carrier to an agent under this notice in respect of carriage provided for or at the request of the New Zealand Government, or 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 agent; or
- (b) That carriage is paid for by a government transportation request drawn in favour of that agent; or
- (c) That carriage was arranged by a general cargo agent or a general sales agent and paid for directly to his or its principal.

**17. Payments pursuant to interline agreements**—(1) Subject to the provisions of this notice, any carrier may pay any fee it thinks fit to any other carrier with which that first-mentioned carrier has an interline agreement, in respect of carriage on the services of that first-mentioned carrier arranged by that other carrier.

- (2) No payment shall be made under subclause (1) of this clause—
- (a) Unless—
- (i) The lawful charge or fare for the carriage concerned; or
- (ii) That charge or fare reduced by the amount of that payment,—
- has been paid to the carrier on whose services the carriage is arranged;
- (b) On any sum refunded in respect of cancelled or unused carriage;
- (c) In respect of any carriage arranged pursuant to an exchange order or miscellaneous charges order, unless that carriage is specifically described in that order;
- (d) On mail charges, excess baggage charges, or excess value charges;
- (e) In respect of any carriage arranged pursuant to a credit plan recognised by the carrier on whose services that carriage is arranged.

**18. Beneficial services, and fees, charges, etc.**—(1) A principal may do all or any of the following things:

- (a) Furnish to any approved agent any display, advertising support material, or promotional literature, relating to the carriage of passengers 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 agents or any approved agent;
- (c) Pay not more than half the cost to an approved agent of any standard telephone link between that agent and the principal;
- (d) Provide any manual, or other instructions or guidance, to assist an approved agent in his or its business;
- (e) Provide or arrange reasonable entertainment for any approved agent;
- (f) In accordance with local custom, make any gift of congratulation or condolence to an approved agent;
- (g) Sell inclusive tours arranged by an approved 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 of that agent, and the telephone numbers of those locations;
- (i) Assist that 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 the 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.

(3) Subject to the provisions of this notice, a principal may pay to an approved passenger sales agent who or which issues a prepaid ticket advice relating to carriage of passengers on the services of that principal a commission of 9 percent of the lawful fare for that carriage.

(4) Subject to the provisions of this notice, a principal may pay to an approved passenger agent who or which arranges any carriage of passengers pursuant to a prepaid ticket advice—

- (a) A commission of 9 percent of the lawful fare for that carriage if, and only if, no commission has been paid in respect of that carriage under subclause (3) of this clause; or
- (b) A handling fee equivalent to US\$5, in any other case.
- (5) No commission or fee shall be paid under subclause (3) or subclause (4) of this notice—
- (a) If the carriage concerned is arranged by the agent who or which issued the prepaid ticket advice concerned; or
- (b) In respect of the presentation of a return or continuing portion of a round trip or circle trip ticket, or an exchange order; or
- (c) Until the carriage concerned has commenced.

**19. 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 carriage arranged or sold by that person.

**20. Payments in respect of subcontracted functions of principals**—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 general sales agents or approved agents, that carrier may make to that person in respect of the performance of that function any payment it thinks fit.

**21. Retrospective payments**—After the entry of the name of any person or the address of any location on an approved general sales agents' names and locations list, an approved passenger agents' names and locations list, or an approved cargo 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.

**22. Transitional**—(1) Where, during the month of June 1983, an agent received from a carrier pursuant to a passenger sales agency agreement 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 passenger location,—
- either until the 30th day of September 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 that carrier informs that agent of the success or failure of the application.

(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 carriage 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) Every location of that agent situated within that defined territory,—

either until the 30th day of September 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 general sales agents' names and locations list, until that carrier informs that agent of the success or failure of the application.

(3) Where, during the month of June 1983, a tour operator received from a carrier pursuant to a tour operator's agreement any commission relating to any carriage of the services of that carrier forming part of a tour sold by that operator at any location, this notice shall apply—

(a) To that operator as if he or it were an approved tour operator; and

(b) To that location as if it were an approved tour location,— either until the 30th day of September or, where that operator has before the 1st day of October 1983 applied to that carrier for the entry of the name of that operator and the address of that location on that carrier's approved tour operators' names and locations list, until that carrier informs that operator of the success or failure of the application.

(4) 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 a category; or

(b) To any location as if it were an approved location of any category,—

until the 30th day of September 1983 or the happening of an event specified in that provision, this notice shall, after that day 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.

Dated at Wellington this 30th day of June 1983.

HON. G. F. GAIR,  
Minister of Civil Aviation and Meteorological Services.

