

(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—