

[AS REPORTED FROM THE COMMERCE AND ENERGY COMMITTEE]

House of Representatives, 14 December 1982.

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line.

Hon. Mr Gair

CIVIL AVIATION AMENDMENT (NO. 2)

ANALYSIS

Title

- 1. Short Title and commencement
 - 2. Regulation of international tariffs
-

A BILL INTITULED

An Act to amend the Civil Aviation Act 1964

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title and commencement—(1) This Act may be cited as the Civil Aviation Amendment Act (No. 2) 1982, and shall be read together with and deemed part of the Civil Aviation Act 1964* (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 1st day of *(January 1983)* July 1983, or such earlier date as is specified by the

Governor-General by Order in Council.

2. Regulation of international tariffs—(1) The principal Act is hereby amended by inserting, after section 29, the following section:

“29A.

*1964, No. 68

Amendments: 1969, No. 9; 1970, No. 52; 1971, No. 22; 1971, No. 85; 1975, No. 34; 1976, No. 153; 1977, No. 146

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(1) The Secretary may from time to time, by notice in the *Gazette*,—

“(a) Issue fare pricing rules, general tariff conditions, and specific tariffs, or any of them: 5

“(b) Amend or revoke any fare pricing rules, general tariff conditions, or specific tariff, so issued.

New

“(1) For the purpose of giving effect to—

“(a) Policies on external aviation from time to time promulgated by the Government; or 10

“(b) Any relevant international convention, agreement or arrangement to which the Government of New Zealand is a party; or

“(c) Any relevant resolution or decision of the International Civil Aviation Organisation or of the International Air Transport Association,— 15

the Governor-General may from time to time, by Order in Council, issue fare pricing rules and general tariff conditions, or either of them. 20

“(1A) For the purpose of giving effect to any of the matters specified in any of paragraphs (a) to (c) of subsection (1) of this section, the Minister may from time to time, by notice in the *Gazette*,—

“(a) Issue specific tariffs: 25

“(b) Amend or revoke any specific tariff so issued.

“(2) Subject to subsection (4) of this section, no person who is engaged (whether in conjunction with any other business or not) in the business of arranging, providing, or selling international carriage by air (whether as principal, agent, sub-agent, or otherwise howsoever) shall arrange, provide, or sell any international carriage by air otherwise than in accordance with the relevant tariff. 30

“(3) Subject to subsection (4) of this section, no person shall undertake, or advertise his ability or willingness, to arrange, provide, or sell international carriage by air that, if arranged, provided, or sold in accordance with the undertaking or advertisement concerned, would be arranged, provided, or sold otherwise than in accordance with the relevant tariff. 40

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“(4) Any person may arrange or sell, or undertake, or advertise his ability or willingness, to arrange, provide, or sell, any international carriage by air, if that carriage—

5 “(a) Is, or is to be, arranged or sold, subject to the condition that it will not be provided unless it is provided in accordance with the relevant tariff; and

10 “(b) Is not to be provided within 60 days of the arrangement, sale, undertaking, or advertisement, concerned.

New

“(4) Any person may apply to the Minister for approval to arrange or sell, and undertake and advertise his ability and 15 willingness to arrange, provide, or sell, international carriage by air in anticipation of the issue of a relevant tariff in accordance with which it is intended to be provided; and in that case, the following conditions shall apply:

20 “(a) The Minister may, in his absolute discretion, grant, or refuse to grant that approval:

“ (b) Where the Minister grants that approval, he may grant it subject to any conditions he thinks fit:

25 “(c) It shall be deemed to be a condition of every such approval that the international carriage by air concerned is, or is to be, arranged or sold subject to the condition that it will not be provided unless it is provided in accordance with the relevant tariff:

30 “(d) Subject to the condition specified in paragraph (c) of this subsection, and to the other conditions (if any) subject to which the Minister granted that approval, any person may arrange or sell, or undertake or advertise his ability or willingness to arrange, provide, or sell, international carriage by air in accordance with that approval.

35 “(5) The *(Secretary) Minister* may from time to time, by notice in the *Gazette*,—

“ (a) Issue commission regimes:

“ (b) Amend or revoke any commission regime so issued.

40 “(6) No person shall allow, charge, demand, disburse, give, offer, pay, provide, or retain, any agency commission otherwise than in accordance with every regime so issued and not revoked in its entirety.

“(7) Subject to subsection (8) of this section, every airline operator, travel agent, tour wholesaler, freight forwarder, customs agent, and other person in New Zealand engaged (whether in conjunction with any other business or not) in the arrangement or provision of international carriage by air of passengers or cargo (whether for reward or on behalf of members or employees, and whether or not that transport is intended to be provided together with any other service or form of transport) shall keep and make available for inspection, the taking of copies, or both, by the Secretary or persons authorised by him, books, documents, papers, receipts, and information stored or recorded by any computer or other device whatsoever, relating to all or any of the following matters:

“(a) The fares charged or intended to be charged for the international carriage by air of any passenger or group of passengers and the conditions subject to which those fares apply or are intended to apply:

“(b) The charges made or intended to be made for the international carriage of baggage and cargo by air, and the conditions subject to which those charges apply or are intended to apply:

“(c) The agency commissions advertised, allowed, charged, demanded, disbursed, given, offered, paid, provided, or retained in respect of the international carriage or intended international carriage by air of passengers, baggage, and cargo:

“(d) The rates, bases of calculation, circumstances, and conditions for agency commissions allowed, charged, demanded, disbursed, given, offered, paid, provided, or retained in respect of the international carriage or intended international carriage by air of passengers, baggage, and cargo:

“(e) In the case of any service comprising both international carriage by air and any other services (such as accommodation, entertainment, admission to any place or event, the provision of a guide, food, the provision of equipment, or transport of any other kind), the proportion of the total amount of any charge made or intended to be made therefor that is attributable to each other service.

“(8) Nothing in subsection (7) of this section shall require any person to keep any book, document, paper, receipt, or information, after the expiration of 2 years from the date that all the international carriage by air to which it relates was completed.

“(9) For the purposes of this section, international carriage by air shall be deemed to be not in accordance with a relevant tariff if there is allowed, given, offered, paid, or provided, in connection therewith, by or to any person whomsoever, any allowance, bonus, discount, gift, payment, prize, rebate, reward, service, or other benefit whatsoever,—

“(a) Not specified in that tariff; or

“(b) Otherwise than subject to the conditions, and in the circumstances, specified in that tariff in that behalf.

“(10) Every person who acts in contravention of or fails to comply with any provision of this section commits an offence against this Act, and shall be liable on summary conviction to a fine not exceeding \$5,000.

“(11) In this section, unless the context otherwise requires,—

“ ‘Agency commission’, in relation to any international carriage by air (whether provided or to be provided) means any allowance, bonus, discount, gift, payment, prize, rebate, reward, service, or other benefit whatsoever (however described), allowed, given, offered, paid, or provided to any person for or in respect of the arrangement, provision, or sale of that carriage:

“ ‘Commission regime’ means a statement, expressed to apply to any specified international carriage by air, specifying the rates and bases of calculation of agency commissions to be allowed, charged, disbursed, given, offered, paid, provided, or retained, in relation to the international carriage by air to which it is expressed to apply, and the circumstances and conditions under and subject to which any such commission is to be so allowed, charged, disbursed, given, offered, paid, provided, or retained; and different rates, bases, circumstances, and conditions, may be specified in respect of all or any of the following:

“(a) International carriage by air provided by different airlines:

“(b) International carriage by air arranged by persons of different classes:

“(c) International carriage by air provided for persons of different classes:

- “ ‘Fare pricing rules’ means a statement of rules for calculating or ascertaining fares, rates, and charges, for international carriage by air that are not capable of being ascertained by reference only to the general tariff conditions and specific tariffs: 5
- “ ‘General tariff conditions’ means a statement of the conditions subject to which fares, rates, and charges, specified in specific tariffs are generally to be payable for international carriage by air:
- “ ‘International carriage by air’ means the carriage by 10
air of persons, baggage, or cargo,—
- “ (a) Between New Zealand and any place outside New Zealand; or
- “ (b) Where that carriage is purchased, sold, or arranged in New Zealand, between places outside 15
New Zealand:
- “ ‘Relevant tariff’—
- “ (a) In relation to international carriage by air between points specified in a specific tariff (being carriage provided by an airline to which that 20
specific tariff is expressed to apply) means—
- “ (i) That specified tariff; and
- “ (ii) To the extent (if any) to which the application to international carriage by 25
air between those points of the fares, rates, and charges, or any of them, specified in that specific tariff is specified in that specific tariff to be subject to the conditions specified in the general tariff conditions, the general 30
tariff conditions,—
- read together as one statement; and
- “ (b) In every other case, means fares, rates, and charges, calculated in accordance with, or ascertained from, the fare pricing rules: 35
- “ ‘Specific tariff’ means a statement, expressed to apply to one or more specified airlines, or to all airlines other than one or more specified airlines, or to all airlines, specifying—
- “ (a) The fares, rates, and charges, applicable to 40
international carriage by air between specified points (whether direct or indirect, and whether or not including any stopovers), that may at any time be provided by the airlines to which it is expressed to apply; and 45

5 “(b) Any conditions (not being conditions specified in the general tariff conditions) subject to which any such fares, rates, and charges, or any of them, are to apply to international carriage by air between those points; and

10 “(c) The extent (if any) to which the application to international carriage by air between those points of any such fares, rates, and charges, or any of them, is to be subject to the conditions specified in the general tariff conditions.”

(2) Section 29 (3) of the principal Act (as amended by section 7 (1) of the Civil Aviation Amendment Act 1975) is hereby consequentially amended by omitting the words “Subject to subsection (3A) of this section,” (as inserted by

15 section 5 (2) of the Civil Aviation Amendment Act 1976).
(3) The following enactments are hereby consequentially repealed:

(a) Paragraphs (ea) and (eb) of section 29 (2) of the principal Act:

20 (b) Section 29 (3A) of the principal Act:

(c) Subsections (2) and (3) of section 5 of the Civil Aviation Amendment Act 1976:

(d) Section 3 of the Civil Aviation Amendment Act 1977.

25 (4) The International Air Tariff Regulations 1978* are hereby consequentially revoked.

*S.R. 1978/2