

MINISTRY OF TRANSPORT

SCHEDULED INTERNATIONAL AIR SERVICE LICENCES

Information for foreign international airlines¹

1. Introduction

1.1 In order to operate scheduled international air services to or from New Zealand (including by way of code-sharing on the aircraft of another airline)², an airline is required under Part VIII A of the Civil Aviation Act 1990 to hold a *scheduled international air service licence* or, for services between New Zealand and countries or territories that have been specifically designated by the Minister of Transport (currently Australia, Brunei, Chile, the Cook Islands, Luxembourg, Malaysia, Peru, Samoa, Singapore, Tonga, the United Arab Emirates, and the United States of America), an *open aviation market licence*.

1.2 Compliance with the relevant provisions of the Civil Aviation Act 1990 involves various licensing requirements and procedures. Those outlined in this information pamphlet relate only to *scheduled international air service licences*. An airline intending to operate scheduled services **only** between Australia and New Zealand, or between Brunei, Chile, the Cook Islands, Luxembourg, Malaysia, Peru, Samoa, Singapore, Tonga, the United Arab Emirates, or the United States of America and New Zealand, may do so with an open aviation market licence, the requirements and procedures for which are given in separate pamphlets.

1.3 For foreign international airlines, the Secretary for Transport is the licensing authority for scheduled international air service licences but the relevant powers are usually exercised under delegated authority by the Ministry's Deputy Secretary Air Services. Unless otherwise stated, the term "licensing authority" is used in this pamphlet.

2. Application for a licence

2.1 An application for a scheduled international air service licence should be lodged with the Secretary for Transport at the following address: Ministry of Transport, Level 8, Petherick Tower, 38-42 Waring Taylor Street, Wellington,

¹ As defined by Section 87A of the Civil Aviation Act 1990, *foreign international airline* means an air transport enterprise of a country or territory other than New Zealand that is offering or operating a scheduled international air service or intends to offer or operate such a service.

² As defined by Section 87A of the Civil Aviation Act 1990, *scheduled international air service* means a series of flights performed by aircraft for the transport of passengers, cargo, or mail between New Zealand and one or more points in any other country or territory, where the flights are so regular or frequent as to constitute a systematic service, whether or not in accordance with a published timetable, and which are operated in such a manner that each flight is open to use by members of the public.

New Zealand, or by post to P O Box 3175, Wellington New Zealand (FAX: + 64 - 4 - 498 0678). Alternatively, applications may be e-mailed to airservices@transport.govt.nz. There is currently no fee for a licence, nor any application form. For preliminary inquiries, intending applicants should contact the Principal Adviser in the Ministry's Air Services Team (address, e-mail or fax above, or telephone + 64 - 4 - 498 0647).

3. Requirements for a licence

3.1 As specified by the Secretary for Transport under Section 87c of the Civil Aviation Act, an application for a scheduled international air service licence must include the following information concerning each service proposed:

- (a) the route to be followed, including all points to be served;
- (b) the aircraft type to be operated and, for passenger services, its seating configuration;
- (c) the frequency of the service;
- (d) details of any code-share arrangements;
- (e) the date on which it is intended to commence the service; and
- (f) a schedule of full passenger fares

3.2 Section 87M of the Civil Aviation Act prescribes the matters which the licensing authority must take into account when considering an application for a scheduled international air service licence. These matters, relating to international agreements, and safety and security requirements, are outlined in the following paragraphs of this section, together with insurance cover against liability (Section 87ZA of the Act).

International agreements

3.3 If granting a scheduled international air service licence would be contrary to the relevant air services agreement or associated arrangements, or to any other international agreement, convention or arrangement to which New Zealand is a party, the licensing authority must refuse to grant the licence.

Designation

3.4 To qualify for a scheduled international air service licence, the applicant airline must have been designated by the Government of the country or territory in which it is based, in accordance with the relevant provisions of the air services agreement between that Government and the Government of New Zealand.

Ownership and control

3.5 An applicant may be required to supply evidence of the nationality of the control of the airline, and either evidence of the nationality of its ownership or its principal place of business and place of incorporation. (Under most bilateral air services agreements, the nationality of the ownership and control of an airline can affect its entitlement to exercise the rights accorded by the

agreement. In some agreements the principal place of business and place of incorporation of the airline may also be relevant.)

Safety and security certification

3.6 In order to meet aviation safety and security requirements, an applicant airline must also hold a foreign air operator certificate (unless the application is only for code-sharing on the aircraft of another carrier that has the relevant operating authorisation). An application for this certificate should be lodged with the Director of Civil Aviation at the following address: Civil Aviation Authority, Aviation House, Cnr. Market Grove & Woburn Road, Lower Hutt, New Zealand, or by post to P O Box 31-441, Lower Hutt, New Zealand (FAX: + 64 - 4 - 569 2024). There is both an application form and a fee for an air operator certificate. Initial contact may be made with the Manager Flight Operations - Airlines at the above address or fax, or Tel. + 64 - 4 - 560 9400.

3.7 An application for a scheduled international air service licence may be made in anticipation of the issuing of an air operator certificate, but the licence can be granted only after the certificate has been issued.

Insurance

3.8 An applicant must also supply proof of insurance covering liability that may arise from or in connection with the operation of the service(s) in respect of death or bodily injury, or of property damage.

4. Granting of licence

4.1 After taking into account the requirements set out above, the licensing authority may refuse a licence application, or grant it wholly or in part, and subject to such conditions as the authority thinks fit. If an applicant airline has met all the requirements, a decision on the granting of a licence can normally be made within one week of receipt of the application. However, a licence can not be granted until all these requirements have been met.

Public notice that licence granted

4.2 When a scheduled international air service licence has been granted to a foreign airline, notice of this is given in *The New Zealand Gazette*.

Duration of licence

4.3 A scheduled international air service licence for a foreign airline takes effect from the date stated in the licence and may be of indefinite duration. However, in some circumstances, a licence is granted for a specified period.

5. Commencement of services

5.1 It is a condition of a scheduled international air service licence that the licensee must commence the service(s) authorised by the licence not more than 12 months from the date on which the licence is granted.

Insurance

5.2 The licensee may be called upon at any time to supply proof of the insurance specified in paragraph 3.8 above.

Nature of service filings

5.3 Under a scheduled international air service licence, an airline is required to file a statement of the nature of its services for **each** IATA schedule period, and any subsequent amendments.

6. Variation of terms and conditions of a licence

6.1 The licensing authority may, of the authority's own motion or on the application of the licensee, amend or revoke any of the terms and conditions of a scheduled international air service licence or add any new terms or conditions that in the authority's opinion are necessary or desirable in the public interest, provided that:

- (a) where it is proposed that this power be exercised on the authority's own motion, the authority must give the licensee not less than 21 clear days' notice in writing of this intention; and
- (b) where the licensee seeks approval for a change or addition in the route(s) to be operated or point(s) to be served, the licensing authority must apply the same criteria relating to international agreements and safety/security certification as are applied at the time an application is made for a new licence (see Section 3 above).

6.2 When the terms or conditions of a licence have been varied, notice of the variation, including its terms, is given in *The New Zealand Gazette*.

7. Renewal of licence

7.1 If a scheduled international air service licence has been granted for a specified term, an application for its renewal must be lodged with the Secretary for Transport (at the address given in paragraph 2.1 above) not less than three months before the date on which the licence expires.

7.2 Where an application has been made for the renewal of a licence, the licensing authority must apply the same criteria relating to international agreements and safety/security certification as are applied at the time an application is made for a new licence (see Section 3).

7.3 The renewal of a licence takes effect from the date of expiry of the licence for which renewal is granted. The licence may be renewed for an indefinite or specified term.

8. Suspension and revocation of a licence

8.1 A scheduled international air service licence may be suspended or revoked in the circumstances prescribed in Sections 87ZC and 87ZD, respectively, of the Civil Aviation Act 1990.

NOTE

The information in this pamphlet is correct at the time of publication (see date below) but may be amended in future editions. If in doubt, a check should be made with the Ministry (see Section 2 for contact details) to ascertain whether this edition of the pamphlet is still current. Changes since the May 2002 edition of this pamphlet have been made to reflect the designation of Chile and Peru as open aviation markets. It also refers to circumstances when “principal place of business” and “place of incorporation” criteria, rather than the nationality “substantial ownership”, are relevant.

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