

Application guidelines for authorising airline cooperation agreements

July 2025

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Introduction

Purpose of this document

- 1 The application guidelines explain the process the Ministry of Transport (the Ministry) follows when considering applications for the authorisation of cooperation airline agreements under Part 6, subpart 2 of the Civil Aviation Act 2023 (the Act).
- 2 This document should be read alongside the assessment framework that the Ministry uses to guide recommendations to the Minister of Transport (the Minister).
- 3 The assessment framework is available on the [airline cooperation agreements](#) section of the Ministry's website.
- 4 The Minister has delegated certain powers¹ under Subpart 2 of Part 6 to the Secretary of Transport, who has sub-delegated such powers to certain employees of the Ministry and this document reflects such delegations. The Ministry assesses applications received and provide advice to the Minister. The decision to grant an authorisation is at the discretion of the Minister.

Who the document is for

- 5 This document is intended for airlines and stakeholders involved in airline cooperation agreement applications.

¹ Sections 195(2), 196(1), 196(2), 197(1) and (2), 197(3), 197(4), 198(1), 198(2), 200, and 201 of the Civil Aviation Act 2023.

Overview of airline cooperation agreement authorisation

- 6 Airline cooperation agreements are a common feature of international aviation but require authorisation in many jurisdictions as they might otherwise breach competition law, and to ensure the benefits outweigh the risk of lessening competition.
- 7 Subpart 2 of Part 6 of the Act provides the statutory framework that enables a person (the applicant) to apply to the Minister for an authorisation relating to international carriage by air.
- 8 Section 199 of the Act provides the scope and statutory test upon which the Minister must be satisfied before granting that authorisation.
- 9 Airline cooperation agreements can cover a wide range of activities, including but not limited to frequency of services, the fixing of tariffs, and the conditions and benefits associated with tariffs. They may also include frequent flyer schemes, lounge access, and other preferential services, as well as revenue or profit-sharing arrangements. By allowing airlines to coordinate on these aspects, the agreements can lead to improved service quality, better resource utilisation, and enhanced customer benefits.
- 10 An agreement, once authorised by the Minister, enables airlines to collaborate on various aspects of their operations without breaching certain competition laws. Specifically, the authorisation exempts these agreements from certain provisions of the Commerce Act 1986 that prohibit arrangements substantially lessening competition.
- 11 To enable transparency, the Act provides for public consultation at the time a properly completed application is received, and when the Minister has come to a proposed decision (before a final decision is made).

When should you apply for authorisation?

- 12 Section 195 of the Act outlines when a person may apply for authorisation. This includes that the applicant must consider that without authorisation, the contract, arrangement, or understanding would or might contravene:
 - section 27² of the Commerce Act 1986; or
 - section 30³ of the Commerce Act 1986, without the exceptions provided by section 31⁴ of the Commerce Act 1986.
- 13 Applicants intending to apply for authorisation should get in touch with the Ministry as early as possible (see '[Contact Us](#)' section). Pre-application meetings are available to work through scope, requirements and expectations and to answer questions before an application is submitted.
- 14 Each application is assessed on a case-by-case basis. Authorisations can take up to 12 months to process, depending on the type and complexity of the arrangement.
- 15 The Ministry is available to answer questions about the guidance and the application process. The assessment framework linked to this guidance is available on our website.

² Contracts, arrangements, or understanding substantially lessening competition prohibited

³ Contracts, arrangement, understandings, or covenants containing cartel provisions prohibited

⁴ Exceptions for collaborative activity

What are the application requirements and expectations?

- 16 Applicants should ensure that their application is complete and meets all the requirements that are specified under the Act.
- 17 The following information and documents are expected to be included in their application:
 - Applicant information:
 - full name and contact details of the applicant
 - details of all parties involved in the proposed cooperation agreement.
 - Nature of the agreement:
 - a clear description of the proposed cooperation agreement, including the objectives and scope
 - details of the cooperation activities, such as scheduling, capacity, tariffs, frequent flyer schemes, lounge access, and revenue or profit sharing
 - assessment of how the proposed cooperation agreement might contravene sections 27 or 30 of the Commerce Act 1986
 - justification for why the proposed cooperation agreement should be authorised despite potential competition concerns.
 - Information, data and analysis outlined in the assessment framework for airline cooperation agreements
 - Supporting documentation:
 - copies of any contracts, arrangements, or understandings related to the proposed cooperation agreement
 - any relevant financial or operational data that supports the application.
 - Tariff information:
 - detailed tariffs, including fares, rates, charges, and any associated conditions
 - explanation of how these tariffs will be applied and any benefits or conditions associated with them.
- 18 If the application is incomplete, or does not meet the necessary requirements, the Ministry could decline to assess it, or request additional information.

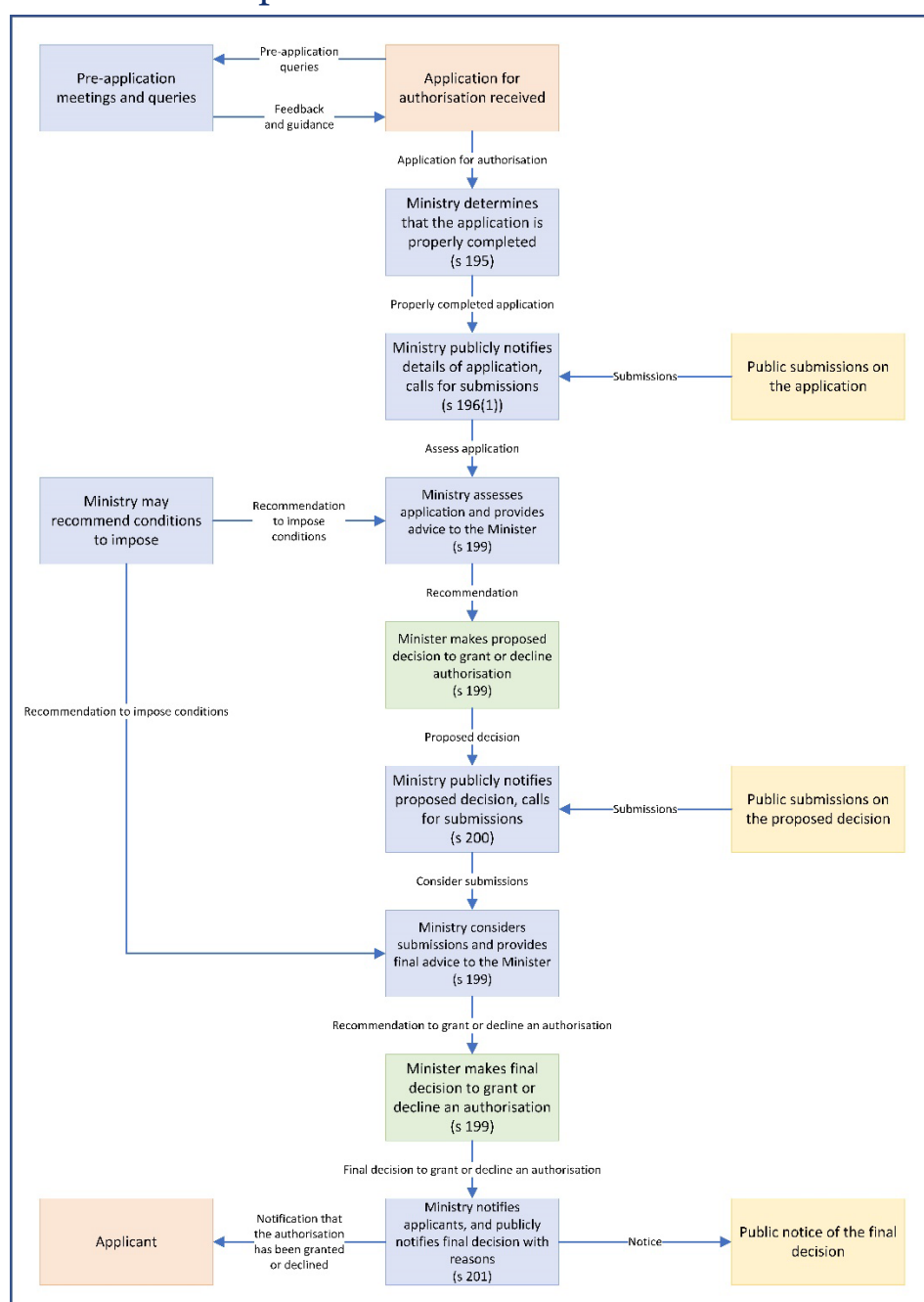
Are there any fees?

- 19 Section 197 of the Act outlines further provisions relating to an application for authorisation. This section specifies that if an application is not accompanied by the prescribed fee, then the Minister may decline the application until accompanied by the prescribed fee.
- 20 There is currently no prescribed fee associated with authorisation applications. If a decision is made to introduce a fee, a consultation process will be undertaken about the fees that are applied to authorisation applications.

How is the application assessed?

- 21 The Ministry has developed an assessment framework about how it will assess applications for airline cooperation agreements. The assessment framework and standard assessment requirements enable:
- consistent assessment by the Ministry of applications
 - consistent provision of information, data and analysis in the applications.
- 22 The Ministry can request applicants to provide additional information, data and analysis that is not listed in the assessment framework, to aid the assessment of applications.

What does the process look like?



- 23 Subpart 2 of Part 6 of the Act (sections 194 to 204) sets out the process for authorising a cooperation agreement.
- 24 Once an application is received, the Ministry checks that the application has been properly completed. Next the Ministry issues a public notice with details of the application and invites submissions. The Ministry allows at least four weeks for submissions and a further two weeks for cross submissions.
- 25 The Ministry assesses the application using the [assessment framework](#) and considers submissions received on the application. The Ministry advises the Minister based on the outcome of the assessment.
- 26 Next, a proposed decision to either grant or decline the authorisation is made by the Minister. To enable transparency, the Ministry issues a public notice of the proposed decision and invites submissions.
- 27 All submissions and cross submissions received are made available on the Ministry's website. Anyone providing a submission or cross-submission on the draft proposed decision should also provide a confidential and a public-facing version.
- 28 After considering submissions on the proposed decision the Ministry may revise or update the assessment and provide final advice to the Minister. The Minister then makes a final decision to grant or decline the authorisation. The final decision is publicly notified on the Ministry's website.
- 29 Where an agreement leads to competitive detriments that outweigh public benefits for New Zealand, conditions may be applied that could sufficiently reduce the competitive detriments, while enabling the public benefits. Conditions are considered on a case-by-case basis. **Annex 1** provides examples of the types of conditions that may apply to an authorisation.
- 30 The Ministry informs the applicants of the Minister's final decision shortly before the decision is published on our website and any media release is issued.

Once the Minister has granted authorisation

- 31 The Ministry monitors each authorisation on a case-by-case basis, dependent on the type of agreement, authorisation, duration, and inclusion of specified conditions. To facilitate monitoring, the Ministry may require the applicants to provide information and data after authorisation has been granted, for the duration of the agreement.
- 32 Stakeholders and interested parties can raise concerns regarding an authorisation, and/or any conditions specified, throughout the duration of an authorisation by emailing: alliances@transport.govt.nz.

Procedures for varying or revoking authorisations

- 33 Under Section 202 of the Act, the Minister may vary the duration of an authorisation, vary or revoke the conditions that apply to an authorisation or specify new conditions, or revoke an authorisation. These actions can only be taken if the Minister is satisfied that the authorisation was granted based on false or misleading information, there has been a material change in circumstances, or the conditions of the authorisation have not been complied with.

- 34 Before taking any action to vary or revoke an authorisation, the Minister must provide the party holding the authorisation, as well as any other interested parties, with a reasonable opportunity to make submissions. The Minister must then take these submissions into account before making a final decision.

Procedures for reauthorising airline cooperation agreements

- 35 A 'reauthorisation' is a new authorisation and is assessed on a case-by-case basis specific to the application. Applicants may need to apply for a new authorisation of the agreement up to 12 months before the current authorisation expires. Subsequent authorisation will follow the same process as explained above. Applicants should engage with the Ministry as early as possible to discuss timeline expectations.

How does the Ministry treat information?

- 36 The Act improves the transparency and robustness of the process for authorising airline cooperation agreements. The Act requires the Ministry to:
- give public notice of details of the application, receive submissions from any person regarding the application
 - give public notice of a proposed decision and receive submissions from any person regarding the application
 - give public notice of the final decision with reasons for the decision.
- 37 The Ministry aims to be as transparent as possible to give effect to the Act. This includes publishing submissions and reports on our website.

Managing disclosure of confidential information

- 38 The Ministry may consult with, or engage, any person or entity deemed by the Ministry as able to assist in assessing the application, including persons making submissions on the application. This may require sharing information provided to us by the applicants (which may include confidential or commercially sensitive information). To enable such persons to make a more informed submission, the Ministry intends to allow access to confidential or commercially sensitive information.
- 39 The Ministry is aware that sharing confidential or commercially sensitive information could cause harm either to the persons that provided it or a third party. This may affect the willingness of such persons to share information with the Ministry in the future which may reduce the quality of information available to the Ministry and the ability to make a fully informed decision on any application. The Ministry will consider the appropriate means of ensuring the protection of confidentiality before sharing information with other persons. This may include the use of a section 198 order and/or confidentiality undertakings (including limiting access to external lawyers and advisors where appropriate).
- 40 Section 198 of the Act enables the Minister, in relation to any application for authorisation, to make orders prohibiting the disclosure of information, documents and evidence. On expiry of an order⁵, the Official Information Act 1982 (OIA) applies in respect of any information, document, or evidence that was the subject of that order.
- 41 The Ministry has developed policies on how we may use section 198 and any confidentiality undertakings as part of the authorisation processes. **Annex 3** provides an example section 198 order and **Annex 4** an example confidentiality undertaking.

Official Information Act requests

- 42 The OIA allows people to request information held by Ministers and specified agencies (including the Ministry). While the information is subject to the principle of availability, the OIA does not require the Ministry to release information in certain circumstances, including if there are good reasons for withholding it. This may include withholding all or part of the

⁵ An order may be expressed to have effect for the period specified in the order. However, an order has no effect after the expiry of 20 working days from the date the Minister makes a final determination in respect of the application, or if the application is withdrawn, then an order has no effect after the date on which the application is withdrawn.

information where the public interest in making the information available is outweighed by the fact that, in the Ministry's view, disclosure would:

- unreasonably prejudice the commercial position of the person who supplied or who is the subject of the information⁶ or
- where the Ministry received the information under an obligation of confidence, and if the Ministry were to make that information available, it would prejudice the supply of similar information to us (by any person) where it is in the public interest that such information continues to be supplied to us.⁷

What to do when providing information to the Ministry

- 43 When providing information to the Ministry, it is important that parties identify the specific information they consider to be confidential or commercially sensitive and explain the reasons, ideally before or at the time it is provided to the Ministry.
- 44 There are likely to be three types of information:
- information that can be disclosed to the public
 - information that is confidential but can be disclosed to external lawyers and advisers or can be disclosed to other persons assisting the Minister in determining the application
 - information that is confidential and should not be disclosed beyond the Ministry.
- 45 Applicants should also provide public-facing redacted versions of documents (in addition to unredacted versions) they consider confidential or commercially sensitive. However, it is ultimately for the Ministry to decide whether information provided to us should be treated as confidential or commercially sensitive.
- 46 When the Ministry receives a request for information that covers confidential or commercially sensitive material that has been provided during the authorisation process, we consult with the parties that provided, or are the subject of, the information. The Ministry does this to confirm that relevant confidential or commercially sensitive information has been identified and to obtain the parties' views before making our decision on the request. The Ministry is unlikely to accept a claim of confidentiality or commercial sensitivity for information that is already publicly or readily available or information that is unlikely to cause harm if released.
- 47 These guidelines apply to information provided by applicants and by persons making submissions.

⁶ Section 9(2)(b)(ii) of the Official Information Act 1982.

⁷ Section 9(2)(ba) of the Official Information Act 1982.

Transitional provisions

- 48 An authorisation given under the Civil Aviation Act 1990 and in force before 5 April 2025, is treated as an authorisation given under the Civil Aviation Act 2023.
- 49 Authorisations granted under the Civil Aviation Act 1990 without an expiry date are treated as having an expiry date of 5 April 2028 (three years after the Act comes into force).
- 50 If you are an airline and have any questions about the transitional provisions, please get in touch with the Ministry (see '[Contact Us](#)' section).

Where to go for more information?

Related documents

- Assessment framework for authorising airline cooperation agreements (July 2025) is available on the [airline cooperation agreements](#) section of the Ministry's website.
- Civil Aviation Act 2023 – Part 6, subpart 2
<https://www.legislation.govt.nz/act/public/2023/0010/latest/LMS49346.html>

Contact Us

- Email alliances@transport.govt.nz

Annex 1 Conditions

Where an agreement leads to competitive detriments that outweigh public benefits for New Zealand, the applicants should propose conditions that sufficiently reduce the competitive detriments, while enabling the public benefits. The Ministry may consider proposed conditions from third parties as well as any other conditions the Ministry thinks fit. Conditions are considered on a case-by-case basis.

The Ministry may recommend to the Minister that the authorisation is subject to:

- conditions that must be satisfied before any authorisation commences (one-off conditions)
- on-going conditions apply to an authorisation (on-going conditions).

The Ministry may recommend a specified duration of the condition or circumstances where the condition no longer applies.

Conditions should be consistent with section 199 of the Act. In assessing potential conditions, we may have regard to:

- how well they achieve their objectives, while minimising the risk of unintended negative consequences
- the likely cost of monitoring and enforcement
- the likely compliance costs for the airlines involved, and airline's ability to make operable.

The Ministry may recommend conditions that remove or lessen the detriments arising from an agreement or conditions that create or enhance the benefits, to achieve a net public benefit. Conditions should sufficiently reduce the competitive detriments, while enabling the public benefits.

The table below outlines example conditions that may be recommended to the Minister for inclusion in any of authorisation. The conditions listed are not exhaustive. Conditions could apply to the whole arrangement or to certain routes and/or passenger groups.

Condition	Possible condition	Explanation
Agreement restriction	Applicants may be required to exclude the routes on which detriments arise from their agreement.	An agreement restriction is most likely to be imposed when the benefits are mostly realised on other routes (and these benefits would be unaffected by the restriction), as well as if fewer of the benefits are realised on the route in question.
Capacity commitment	Applicants may be required to maintain a minimum number of seats to avoid a contraction in supply that would put upward pressure on airfares.	The level of the commitment may vary by passenger type. The level may also evolve over time to reflect changes in market characteristics, by being benchmarked against market indicators.
Fare combinability	Applicants may be required to allow competitors to book tickets for one direction of a return journey on the applicants' flights.	Fare combinability is most likely to be required when a competitor is unable to compete on frequency for flights not from its primary airport.

Condition	Possible condition	Explanation
Frequent flyer programme sharing	Applicants may be required to provide new entrants without a frequent flyer programme access to the applicant's programme.	Access to the applicants' frequent flyer programme will typically only be granted if the entrant, or one of its global alliance partners on the route, does not already operate its own frequent flyer programme.
Feeder agreement	Applicants may be required to enter a Special Prorate Agreement with competitors at risk of foreclosure, to ensure their access to feed.	The terms of the agreement must be fair, so that the competitor does not bear an unreasonably high cost to access the required feeder traffic.
Agreement termination	Applicants may be required to terminate agreements with other airlines, to avoid coordination between the members of different agreements.	Agreement terminations will likely be required when the risk is high of coordination between other airlines via the agreement. Airlines are still subject to New Zealand competition laws.
Reporting and/or information provision	Applicants may be required to regularly report on capacity or airfares. Frequency can be on an ad hoc, quarterly, seasonal, or annual basis.	Reporting requirements will likely be required where there is some uncertainty of the stated benefits, either with or without conditions in place. Reporting enables monitoring and informing whether further conditions are required.

Annex 2 Timeline

Below is an example timeline for seeking authorisation. We have provided a reference where the timeline is informed by the Act.

Activity	Time	Legislative reference
Pre-application meeting (if required).		
Properly completed application received Public notification of intent to consider authorisation and details of application	1 week	Section 196(1)(a)
Public consultation on application	at least 4 weeks	Section 196(1)(b)
Cross submissions	2 weeks	
Ministry analysis	12-16 weeks	
Draft advice to Minister	3-4 weeks	
Proposed decision to grant or decline (decision by Minister)	2-3 weeks	Section 200(a)
Publication of proposed decision		
Public consultation on proposed decision	at least 4 weeks	Section 200(b)
Cross submissions	2 weeks	
Ministry analysis (continues)	6-8 weeks	
Final advice to Minister	3-4 weeks	
Final decision to grant or decline authorisation (decision by Minister)	2-3 weeks	Section 199
Applicants informed Public notice of decision		Section 201

Each assessment is undertaken on a case-by-case basis. The Ministry will work with applicants to provide a detailed timetable specific to their application.

The Ministry encourages applicants to discuss timeline expectations as early as possible. Pre-application meetings are available to work through scope, requirements and expectations and any questions before an application is submitted.

Consideration of Ministry advice by the Minister is subject to other priorities and demands or unforeseen circumstances. These are outside the control of Ministry officials.

Annex 3 Example section 198 order

Order of the Minister of Transport under section 198 of the Civil Aviation Act 2023

Background

1. The Ministry of Transport (**Ministry**) is in the process of assessing an application by [Applicant] (**Applicants**) to authorise an airline cooperation agreement under subpart 2 of Part 6 of the Civil Aviation Act 2023 (**Act**).
2. As part of this process, the Ministry required [Applicant] to supply documents and information to support its application.
3. When [Applicant] submitted the application and supporting documents and information to the Ministry, it identified the information that it considered should not be published on the grounds that it was confidential.
4. The Ministry published a public version of [Applicant]' information on its website on [date] with the information that it had determined to be confidential redacted.
5. This section 198 order provides for the Minister to make an order to protect the [Applicant]'s confidential information where the Ministry makes a confidential version of [Applicant]'s information available to interested persons' external advisers as part of its consultation processes.
6. The power of the Minister to make an order under section 198 of the Act has been delegated to the Secretary of Transport and further delegated to the following employees of the Ministry:
 - the Deputy Chief Executive, Policy
 - Director Aviation; and/or
 - Manager Aviation.

General conditions for access to a confidential version of [Applicant]'s information

7. Where an interested person appoints external adviser(s) other than external legal adviser(s), it must nominate a person who has a current certificate to practice as a barrister and solicitor of the High Court of New Zealand as its nominated counsel.
8. Nominated counsels will be required to sign a Deed of Undertaking in the form set out in Schedule 1.
9. External advisers will be required to sign a Deed of Undertaking in the form set out in Schedule 2.
10. The Ministry will identify all nominated counsel and external advisers who have signed a Deed of Undertaking in the form set out in Schedule 1 or Schedule 2 (as relevant) and have been provided with a confidential version of [Applicant]' information, by publishing the names of such persons in the form set out in Schedule 3 on its website.

The Order

Scope of the Order

11. Pursuant to section 198 of the Civil Aviation Act 2023, the Minister prohibits the publication, communication, or giving in evidence of the information marked as confidential contained within the documents listed in Schedule 4 **(the Information)**.
12. Public versions of the documents listed in Schedule 4 are available on the Ministry's website at [website URL and description].

Application of the Order

13. Subject to clauses 14, 15, and 16, this order applies to the Information except where it is already in the public domain or comes into the public domain otherwise than through a breach of this or any similar or related order.
14. This order does not apply to [Applicant] or any of its employees, agents, officers, or contractors.
15. This order does not apply to the Ministry or any of its employees, agents, officers, or contractors.
16. This order does not apply to the communication of the Information to [Applicant], the Ministry, or any person listed in Schedule 3 as published on the Ministry's website at the time of the communication.
17. The Minister may, at any time, vary or revoke this order.
18. This order takes effect from the date it was made and, unless the Minister revokes it earlier, has effect until the Minister issues a final determination under section 199 of the Act.

DATED this [date] **day** of [Month] [Year]

First name Last Name

Title

SCHEDULE 1

DEED OF UNDERTAKING FOR NOMINATED COUNSEL

1. This Deed of Undertaking (**Deed**) is given in relation to the section 198 order (**Order**) made by the Minister of Transport (**Minister**) on [date] relating to the assessment of an application by [Applicant] (**Applicants**) to authorise an airline cooperation agreement under subpart 2 of Part 6 of the Civil Aviation Act 2023 (**the Act**) (**the Assessment**).
2. I acknowledge that I have been provided with a copy of the Order and have read and understood its terms.
3. I, ___ of ___ hereby irrevocably undertake to the Minister and to [Applicant]:
 - 3.1 to notify the Ministry and [Applicant] as soon as reasonably practicable of any change in my employment circumstances or role that may be relevant to my continuing access to the information marked as confidential contained within the documents listed in Schedule 4 of the Order (**Information**);
 - 3.2 to comply with the Order;
 - 3.3 not to use or refer to the Information in any way except in relation to the Assessment;
 - 3.4 not to make notes, summaries, copies, or records in any other form, of the Information except as is reasonably necessary for purposes of preparing advice and/or submissions in respect of the Assessment;
 - 3.5 subject to clause 4 of this Deed, to destroy all copies of the Information in any form, within ten working days of being requested to do so by the Ministry or after the expiry of the Order, whichever occurs first;
 - 3.6 subject to clause 4 of this Deed, to provide the Ministry with written confirmation that I have destroyed the Information in a secure and confidential manner, within fifteen working days of being requested to do so by the Ministry or after the expiry of the Order, whichever occurs first;
 - 3.7 to supervise compliance by my nominating party with the requirements of the Order;
 - 3.8 to advise the external adviser of my nominating party of their obligations under the Order and their Deed of Undertaking, including in particular when there are discussions between any personnel of my nominating party and the external adviser in relation to the Assessment; and
 - 3.9 to immediately notify the Ministry of any breach of the Order or this Deed.
4. Clauses 3.5 and 3.6 do not apply if the Minister expressly waives these obligations in writing.
5. I acknowledge and understand that a failure to comply with the Order is a criminal offence and that I may be liable to prosecution under section 198(5) of the Act if I fail to comply with the requirements of the Order.
6. I acknowledge that I continue to be bound by this Deed after the Order ceases to have effect unless expressly released by the Minister in writing.

7. I confirm that I hold a current practising certificate as a barrister and solicitor of the High Court of New Zealand.
8. This Deed is governed by the laws of New Zealand.
9. I submit to the exclusive jurisdiction of the courts of New Zealand in relation to any matters arising under this Deed.
10. Any failure to enforce any provision of the Deed shall not constitute a waiver of that provision nor of any other provision of this Deed.

DATED this ____ day of _ [Year]

Signature

Witnessed by:

Signature

Name

City, town or locality of residence

Occupation or description

SCHEDULE 2

DEED OF UNDERTAKING FOR EXTERNAL ADVISERS

1. This Deed of Undertaking (**Deed**) is given in relation to the section 198 order (**Order**) made by the Minister of Transport (**Minister**) on [date] relating to the assessment of an application by [Applicant] (**Applicants**) to authorise an airline cooperation agreement under subpart 2 of Part 6 of the Civil Aviation Act 2023 (**the Act**) (**the Assessment**).
2. I acknowledge that I have been provided with a copy of the Order and have read and understood its terms.
3. I, ___of___ hereby irrevocably undertake to the Minister and to [Applicant]:
 - 3.1 to notify the Ministry and [Applicant] as soon as reasonably practicable of any change in my employment circumstances or role that may be relevant to my continuing access to the information marked as confidential contained within the documents listed in Schedule 4 of the Order (**Information**);
 - 3.2 to comply with the Order;
 - 3.3 not to use or refer to the Information in any way except in relation to the Assessment;
 - 3.4 not to make notes, summaries, copies, or records in any other form, of the Information except as is reasonably necessary for purposes of preparing advice and/or submissions in respect of the Assessment;
 - 3.5 subject to clause 4 of this Deed, to destroy all copies of the Information in any form, within ten working days of being requested to do so by the Ministry after the expiry of the Order, whichever occurs first;
 - 3.6 subject to clause 4 of this Deed, to provide the Ministry with written confirmation that I have destroyed the Information in a secure and confidential manner, within fifteen working days of being requested to do so by the Ministry or after the expiry of the Order, whichever occurs first; and
 - 3.7 to immediately notify the Ministry of any breach of the Order or this Deed.
4. Clauses 3.5 and 3.6 do not apply if the Minister expressly waives these obligations in writing.
5. I acknowledge and understand that a failure to comply with the Order is a criminal offence and that I may be liable to prosecution under section 198(5) of the Act if I fail to comply with the requirements of the Order.
6. I acknowledge that I continue to be bound by this Deed after the Order ceases to have effect unless expressly released by the Minister in writing.
7. This Deed is governed by the laws of New Zealand.
8. I submit to the exclusive jurisdiction of the courts of New Zealand in relation to any matters arising under this Deed.

9. Any failure to enforce any provision of the Deed shall not constitute a waiver of that provision nor of any other provision of this Deed.

DATED this ____ day of _ [Year]

Signature

Witnessed by:

Signature Name

City, town or locality of residence Occupation or description

SCHEDULE 3
PERSONS WHO HAVE BEEN PROVIDED WITH A CONFIDENTIAL VERSION OF
[APPLICANTS] INFORMATION

Nominating Party	Nominated Counsel	External Adviser

SCHEDULE 4
DOCUMENTS COVERED BY THE SECTION 198 ORDER

1. [Applicant] – [Document 1 Title] – [Date]
2. [Applicant] – [Document 2 Title] – [Date]
3. [Applicant] – [Document 3 Title] – [Date]

Annex 4 Example confidentiality undertaking

CONFIDENTIALITY UNDERTAKING FOR COUNSEL / ADVISORS

I, _____ (name in full)

_____ (occupation)

representative counsel for / advisor to _____ (Client)

will receive Specified Confidential Information in relation to the Application and I hereby personally undertake to the Ministry of Transport (Ministry) and each of the Parties as follows:

1. I will preserve the confidentiality of, and keep strictly secure, any Specified Confidential Information provided to me;
2. I will not use or refer to the Specified Confidential Information in any way except as is reasonably required for the purposes of the Application, including the Ministry's investigations and determinations in relation to it, and any subsequent appeals of the Ministry's determinations to the High Court, Court of Appeal or Supreme Court of New Zealand. For the avoidance of doubt this includes that I will not use or refer to the Specified Confidential Information in the course of (directly or indirectly) advising on any other matter, commercial or otherwise, involving any of the Parties;
3. I will not disclose the Specified Confidential Information to the Client or any Party, person, firm, company or partnership (including, without limitation, any other partners, consultants or employees of the firm or business I work for), other than the Ministry or a person who has signed and provided to the Ministry a Confidential Undertaking, that has been accepted by the Ministry, except:
 - (a) as required by the Ministry;
 - (b) agreed in writing by any Parties who are the subject of (or provided) the relevant Specified Confidential Information; or
 - (c) ordered by a Court, or required by law.
4. I will not make copies, notes, records or summaries, or recordings in any other form, of the Specified Confidential Information except as is reasonably necessary in relation to the Application, including the Ministry's investigations and determinations in relation to it, and any subsequent appeals of the Ministry's determinations to the High Court, Court of Appeal or Supreme Court of New Zealand. Any such copies, notes, records, summaries or recordings in any other form made by me are subject to this undertaking in the same way, and to the same extent, as the Specified Confidential Information;
5. If I become aware of any breach of the obligations in this undertaking I will:
 - (a) immediately inform the Ministry; and
 - (b) immediately, for each relevant Party,
 - (i) if I have the Party's contact details, inform the Party; or

- (ii) if I don't have the Party's contact details, request the Party's contact details from the Ministry, and then immediately inform the Party once the contact details have been received.
- 6. I will destroy in a secure and confidential manner all Specified Confidential Information and any copies, notes, records, summaries or recordings in any other form which I may have made of any Specified Confidential Information within 25 working days of the following, whichever is later:
 - (a) the withdrawal of the Application; or
 - (b) the release of the Ministry's written reasons in relation to its final recommendation of the Application; or
 - (c) where one or more appeal or judicial review proceedings are filed in any New Zealand court in relation to the Ministry's recommendation and Minister's decision on the Application, the final determination of those proceedings (including any subsequent appeals, or the withdrawal of all proceedings);
 unless otherwise advised by the Ministry;
- 7. Within 10 working days of the satisfaction of clause 6, I will provide the Ministry with a declaration made before any officer or person authorised by law to take or receive declarations confirming that:
 - (a) I have notified the Ministry of any breaches of this Confidential Undertaking which I am aware of; and
 - (b) all Specified Confidential Information I have received, and any copies, notes, records, summaries or recordings in any other form which I may have made of any Specified Confidential Information, have been destroyed in accordance with this Confidential Undertaking;
- 8. I acknowledge:
 - (a) that this undertaking is given for the benefit of the Ministry and the Parties and for the protection of Specified Confidential Information submitted to the Ministry in the course of the process to consider the Application;
 - (b) that a false statement provided pursuant to clause 7 may amount to a breach of section 111 of the Crimes Act 1961;
 - (c) to the extent that I am a Barrister and Solicitor of the High Court of New Zealand:
 - (i) that a breach of this undertaking may amount to a breach of rule 10.5 of the Conduct Rules;
 - (ii) that I have received informed consent from my client to not disclose the Specified Confidential Information to them, in accordance with rule 7.3 and 7.4 of the Conduct Rules;
- 9. For the purposes of this undertaking:

Application means the application by;

Minister means Minister of Transport

Ministry means the Ministry of Transport;

Conduct Rules means the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008;

Confidential Undertaking means an undertaking on the exact same terms as specified in this document;

Parties means the parties that provide documents or information to the Ministry, or are the subject of information or documents provided to the Ministry, which are provided as Specified Confidential Information to counsel and advisors subject to these undertakings, in the course of the Ministry's process to consider the Application (and **Party** means any of them individually);

Specified Confidential Information means any document, information, data, material or other evidence, or any part thereof, provided to me by the Ministry, subject to this undertaking, excluding any previously specified confidential information that has become public (other than through a breach of any Confidential Undertaking).

Signature

Date

Signed and dated in the presence of:

Signature

Date

Application guidelines for
authorising airline
cooperation agreements

transport.govt.nz



Te Kāwanatanga o Aotearoa
New Zealand Government