

# RENEWAL DETERMINATION

**DETERMINATION NO:** IASC/DET/9912  
**RENEWAL OF:** DETERMINATION  
SECTION 54A  
**THE ROUTE:** TAIWAN  
**THE APPLICANT:** QANTAS LIMITED  
(ACN 003 613 465)

## 1. The application for renewal

1.1. Qantas Limited (ACN 003 613 465) (Qantas) holds an allocation of 687 seats per week on the Taiwan route. The original allocation was made by the Minister under section 54A of the *International Air Services Commission Act 1992* on 2 February 1995. The current determination expires on 27 November 1999.

1.2. On 23 February 1999, Qantas wrote to the Commission seeking a renewal of the determination. On 26 February 1999, the Commission published a notice inviting submissions from any interested person about the renewal of the determination, and other applications for an allocation of all or part of the capacity subject to renewal. The closing date for submissions and other applications was 12 March 1999. No submissions or other applications were received.

## 2. Commission's consideration of the renewal of the determination

2.1. Under section 11 of the *International Air Services Commission Act 1992* (the Act), the Minister may make Policy Statements setting out matters relevant to the Commission's performance of its functions. Under the Policy Statement (No. 3), issued by the Minister on 23 April 1997, there is a rebuttable presumption in favour of the carrier seeking the renewal.

2.2. The Commission notes that:

- Qantas has been fully utilising the relevant capacity;
- there are no other applicants seeking capacity on the route; and
- there is no evidence that Qantas has failed to service the route effectively.

The Commission therefore concludes that the renewal of the Minister's Section 54A Determination would be of benefit to the public.

2.3. The wording of the fresh determination below reflects the belief of the Commission that determinations which renew original determinations should contain updated terms and conditions consistent with the Commission's current practice. Under the Act, the Commission may make changes to the terms and conditions included in the original determination where warranted by changes in circumstances since the original determination was made.

### **3. Determination for renewal of Section 54A Determination allocating capacity on the Taiwan route to Qantas (IASC/DET/9912)**

3.1. The Commission finds a renewal of the Section 54A Determination allocating 687 seats per week in each direction to Qantas on the Taiwan route would be of benefit to the public.

3.2. The Commission makes a fresh determination in favour of Qantas, allocating 687 seats per week on the Taiwan route.

3.3. The determination is for 5 years from 28 November 1999 and is subject to the following conditions:

- Qantas is required to fully utilise the allocated capacity from 28 November 1999;
- only Qantas is permitted to utilise the capacity;
- changes in relation to the ownership and control of Qantas are permitted except to the extent that any change:
  - results in the designation of the airline as an Australian carrier under the Australia - Taiwan air services arrangements being withdrawn; or
  - has the effect that another Australian carrier, or a person (or group of persons) having substantial ownership or effective control of another Australian carrier, would take substantial ownership of Qantas or be in a position to exercise effective control of Qantas, without the prior consent of the Commission, and
- changes in relation to the management, status or location of operations and Head Office of Qantas are permitted except to the extent that any change would result in the airline ceasing to be an airline designated by the Australian Government for the purposes of the Australia - Taiwan air services arrangements.

Dated: 17 May 1999

Russell Miller  
Chairman

Michael Lawriwsky  
Member

Stephen Lonergan  
Member