



## RENEWAL DETERMINATION

**DETERMINATION NO:** [2003] IASC 107  
**RENEWAL OF:** DETERMINATION IASC/DET/9807  
**THE ROUTE:** HONG KONG  
**THE APPLICANT:** QANTAS AIRWAYS LIMITED  
(ACN 009 661 901) (QANTAS)  
**PUBLIC REGISTER FILE:** IASC/APP/200216

### 1 The application for renewal

1.1 On 23 April 1998, the Commission issued Determination IASC/DET/9807 (the Determination) allocating 600 seats and three frequencies per week in each direction on the Hong Kong route. The Determination was later varied to permit a wholly owned subsidiary, Australian Airlines, to utilise the capacity.

1.2 Under the *International Air Services Commission Act 1992* (the Act) the Commission must start its consideration of the renewal of a determination at least 12 months before expiry of the Determination. The Determination expires on 23 September 2003.

1.3 Qantas applied to the Commission for a renewal of the Determination. The Commission published a notice on 2 September 2002 inviting submissions about the application, and other applications for an allocation of the capacity subject to renewal. No submissions or other applications were received.

1.4 All material supplied by the applicant is filed on the Register of Public Documents.

### 2 Commission's consideration

2.1 Under the Minister's Policy Statement (No. 3), of 23 April 1997, as amended on 9 March 1999, 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 up until the outbreak of SARS in Hong Kong and would have continued to do so in normal circumstances. The Commission sees no reason why Qantas and Australian Airlines will not resume services at their previous level in the near to

medium term, and will give the airlines flexibility to do so in line with improving market conditions;

- there are no other applicants seeking capacity on the route;
- according to the Register of Available Capacity there are 3,479 seats and three frequencies per week in each direction available for immediate allocation; and
- there is no evidence that Qantas has failed to service the route effectively.

2.3 In these circumstances, the Commission concludes that the renewal of Determination IASC/DET/9807 would be of benefit to the public.

2.4 The wording of the fresh determination below reflects the view of the Commission that determinations which renew original determinations should contain updated terms and conditions consistent with the Commission's current practice and current air services arrangements. 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 Determination IASC/DET/9807 allocating capacity on the Hong Kong route to Qantas ([2003] IASC 107)**

3.1 The Commission makes a determination in favour of Qantas Airways Limited, allocating 600 seats and three frequencies per week in each direction between Australia and Hong Kong.

3.2 The determination is for five years from 24 September 2003.

3.3 The determination is subject to the following conditions:

- Qantas is required to fully utilise the capacity;
- only Qantas or another Australian carrier which is a wholly owned subsidiary of Qantas is permitted to utilise the capacity;
- neither Qantas nor another Australian carrier which is a wholly owned subsidiary of Qantas is permitted to utilise the capacity to provide services jointly with another Australian carrier or any other person without the approval of the Commission;
- 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 - Hong Kong 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 - Hong Kong air services arrangements.

Dated: 30 May 2003

Ross Jones  
Chairman

Michael Lawriwsky  
Member

Stephen Lonergan  
Member