



## Australian Government

### International Air Services Commission

#### RENEWAL DETERMINATION

**Determination:** [2004] IASC 117  
**Renewal of:** [2000] IASC 103  
**The Route:** Vanuatu  
**The Applicants:** Qantas Airways Ltd  
(ACN 009 661 901) (Qantas)  
**Public Register File:** IASC/APP/200420

#### 1 The application for renewal

1.1 On 21 February 2000 the Commission issued Determination [2000] IASC 103 (the Determination) allocating 200 seats per week on the Vanuatu route.

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 14 May 2005.

1.3 Qantas applied to the Commission on 6 September 2004 for a renewal of the Determination. The Commission published a notice on 9 September 2004 inviting applications for an allocation of the capacity subject to renewal. No applications were received.

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

#### 2 Delegate's consideration

2.1 In accordance with section 27AB of the *International Air Services Commission Act 1992* (the Act) and regulation 3A of the *International Air Services Commission Amendment Regulations 2003 (No.1)*, the delegate of the Commission considers the Qantas application.

2.2 Under the Minister's Policy Statement (No. 5), of 19 May 2004, there is a rebuttable presumption in favour of the carrier seeking the renewal.

2.3 The delegate notes that:

- Qantas has fully utilising the relevant capacity;

- there are no other applicants seeking capacity on the route,
- according to the Register of Available Capacity there are 380 seats available for immediate allocation to Australian carriers on the Vanuatu route; and
- there is no evidence that Qantas has failed to service the route effectively.

2.4 In these circumstances, the delegate concludes that the renewal of Determination [2000] IASC 103 would be of benefit to the public.

2.5 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 [2000] IASC 103 allocating capacity on the Vanuatu route to Qantas ([2004] IASC 117)**

3.1 The delegate, on behalf of the Commission, makes a determination in favour of Qantas, allocating 200 seats per week each direction on the Vanuatu route.

3.2 The determination is for 5 years from 15 May 2005.

3.3 The determination is subject to the following conditions:

- only Qantas is permitted to utilise the capacity;
- the capacity may be used by Qantas (as marketing carrier) to provide joint services with Air Vanuatu in accordance with:
  - the Code Share Agreement between Air Vanuatu (Operations) Limited and Qantas dated 8 November 2002 as extended from time to time in accordance with its terms; or
  - the Code Share Agreement as otherwise amended, with the prior consent of the Commission; or
  - any new joint services arrangement between Air Vanuatu and Qantas for operations on the Australia – Vanuatu route, whether or not it replaces the existing Agreement, with the prior approval of the Commission;
- subject to the following conditions:

- Qantas must price and sell its services on the route independently;
- Qantas must not share or pool revenues under any such agreement;  
and
- Qantas must take all reasonable steps to ensure that all passengers are informed, at the time of booking, of the carrier actually operating the flight.
- 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-Vanuatu Air Services Agreement 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 results in the airline ceasing to be an airline designated by the Australian Government for the purposes of the Australia-Vanuatu Air Services Agreement.

Dated: 11 October 2004

Michael Bird  
Executive Director  
Delegate of the IASC Commissioners