



## Australian Government

### International Air Services Commission

#### RENEWAL DETERMINATION

**Determination:** [2009] IASC 127  
**Renewal of:** [2005] IASC 128  
**The Route:** Thailand  
**The Applicant:** Qantas Airways Ltd  
(ACN 009 661 901) (Qantas)  
**Public Register File:** IASC/APP/200930

#### 1 The application for renewal

1.1 On 22 November 2005, the delegate of the Commission issued Determination [2005] IASC 128 (the Determination), allocating to Qantas 1.3 B747 equivalent units of capacity on the Thailand route for the period between 1 December and the 31<sup>st</sup> day of the following January, or such other periods as approved by the Commission. Decision [2007] IASC 207 amended the Determination to allow the capacity to be used all year round. Decision [2006] IASC 222 amended the Determination to enable the capacity to be used by any wholly-owned subsidiary of Qantas to provide joint services with Qantas.

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 the expiry of the Determination. The Determination expires on 21 November 2010.

1.3 Qantas applied to the Commission on 11 September 2009 for a renewal of the Determination. The Commission published a notice on 12 October 2009 inviting other applications for an allocation of the capacity subject to renewal. No 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. 5) of 19 May 2004, 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;

- according to the Register of Available Capacity, there are 27.5 B747 equivalent weekly services available for passenger services;
- there are no other applicants seeking capacity on the route; 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 [2005] IASC 128 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 [2005] IASC 128 allocating capacity on the Thailand route to Qantas ([2009] IASC 127)**

3.1 The Commission makes a determination in favour of Qantas, allocating 1.3 B747 equivalent units of capacity in each direction on the Thailand route under the Australia – Thailand air services arrangements.

3.2 The determination is for five years from 22 November 2010.

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;
- the capacity may be used by any wholly-owned subsidiary of Qantas to provide joint services with Qantas;
- to the extent that the capacity is used to provide joint services on the route, Qantas and any wholly-owned subsidiary of Qantas must take all reasonable steps to ensure that passengers are informed of the carrier actually operating the flight at the time of booking;

- 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 - Thailand 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 - Thailand air services arrangements.

Dated: 20 October 2009

John Martin  
Chairman

Philippa Stone  
Member

Ian Smith  
Member