

INTERNATIONAL AIR SERVICES COMMISSION ACT 1992

SECTION 54B

DECLARATION OF PRE-EXISTING CAPACITY

I, John Duncan Anderson, Minister for Transport & Regional Services, pursuant to subsection 54B(2) of the *International Air Services Commission Act 1992* ('IASC Act'), declare that the IASC Act applies to the following pre-existing capacity:

1. the pre-existing capacity set out in Schedule 1 to this instrument, which is allocated to Qantas Airways Limited ACN 009 661 901 and its fully owned subsidiary Qantas Limited ACN 003 613 465 ('Qantas');
2. the pre-existing capacity set out in Schedule 2 to this instrument, which is allocated to Ansett International Limited ACN 060 622 460 ('Ansett');
3. the pre-existing capacity set out in Schedule 3 to this instrument, which is allocated to National Jet Systems Pty Limited ACN 008 279 203 ('National Jet');
4. the pre-existing capacity set out in Schedule 4 to this instrument, which is allocated to Australia World Airways Limited ACN 004 381 971 ('Australia World');
5. the pre-existing capacity set out in Schedule 5 to this instrument, which is allocated to Asian Express Airlines ACN 073 412 272 ('Asian Express');
6. the pre-existing capacity set out in Schedule 6 to this instrument, which is allocated to Flight West Airlines Pty Limited ACN 010 718 975 ('Flight West');
7. the pre-existing capacity set out in Schedule 7 to this instrument, which is allocated to Doskite Pty Limited ACN 009 630 380, trading as Qwestair ('Qwestair'); and
8. the pre-existing capacity set out in Schedule 8 to this instrument, which is allocated to Lessbrook Pty Limited ACN 010 855 875, trading as Transair ('Transair');

as if, immediately after the commencement of section 54B of the IASC Act¹, the International Air Services Commission ('IASC') had made determinations concerning the allocation of the pre-existing capacity set out in the Schedules in the following terms:

9. the capacity allocated to a carrier must only be used by the carrier to which it is allocated, except to the extent that the determinations and decisions listed in Column 2 of Table 1, Table 2, Table 3, Table 4, Table 5, Table 6, Table 7 and Table 8 in the Schedules to this instrument permit the carrier to use capacity by providing joint international air services with another Australian carrier or any other person;

¹ 25 January 1999; see s. 2(3) *Aviation Legislation Amendment Act (No.1) 1998*.

10. the ownership or control of a carrier to which capacity is allocated under this declaration must not change, if the effect of the change would be that:
 - (a) another Australian carrier, or a person having substantial ownership or effective control of another Australian carrier, would take substantial ownership or effective control of the carrier; or
 - (b) substantial ownership or effective control of the carrier would no longer be in the hands of Australian nationals;
11. the determinations making the allocations of capacity under this instrument are in force for the period of five years starting on 25 January 1999; and
12. the capacity allocated by this instrument must be used consistently with all relevant bilateral arrangements.

This declaration takes effect from the date of the commencement of section 54B of the IASC Act².

Dated day of 1999

JOHN ANDERSON

² 25 January 1999; see s. 2(3) *Aviation Legislation Amendment Act (No.1) 1998*.

SCHEDULE 1
DETERMINATIONS ALLOCATING PRE-EXISTING CAPACITY TO
QANTAS

1. Qantas has been allocated capacity between Australia and the countries listed in Column 1 of Table 1, under the determinations listed in Column 2, including the determinations as varied by the decisions listed in Column 2 and including any resolutions of the IASC made prior to 25 January 1999 relating to those determinations and decisions.
2. This determination allocates pre-existing capacity to Qantas and is in force for a period of five years commencing 25 January 1999.
3. For each country listed in Column 1 of Table 1, Qantas is allocated pre-existing capacity enabling it to operate international air services over the route as described in Australia's bilateral arrangements with that country, up to capacity allocated to it in the determinations and decisions listed in Column 2, subject to any conditions or restrictions mentioned in Column 3.

| Column 1 | Column 2 | Column 3 |
|------------------|--|---------------------|
| Country | Existing Determinations and Decisions | Restrictions |
| Argentina | DET9821 | |
| Austria | DET9726 DEC9721 | |
| Canada | DET9508 DET9626 | |
| China | DET9402 DET9616 DET9802 | |
| Dubai | DET9714 DEC9720 DET9824 | |
| Fiji | DET9715 DET9812 DEC9829 | |
| France (Route 1) | DET9723 DET9818 DEC9824 | |
| France (Route 2) | DET9721 DET9731 DET9819 DEC9817 | |
| France (Route 3) | DET9720 | |

TABLE 1 and following: Existing capacity allocated to Qantas

SCHEDULE 1
DETERMINATIONS ALLOCATING PRE-EXISTING CAPACITY TO
QANTAS

| Column 1 | Column 2 | Column 3 |
|-----------------|---|---|
| Country | Existing Determinations and Decisions | Restrictions |
| Germany | DET9705 DET9722 DEC9823 | |
| Hong Kong | DET9315 DET9702 DEC9806 DET9807 | A maximum of 7 frequencies per week to Hong Kong via Singapore and return; No additional flights in either direction between intermediate points and Hong Kong; No flights in either direction between Hong Kong and points beyond. |
| India | DET9604 DEC9717 DET9801 | |
| Indonesia | DET9401 DET9406 DET9509 DET9603 DET9607 DET9621 DEC9713 DET9730 DET9813 | Over the entire Australian route beyond Indonesia, a total of 5.85 B747 equivalent services weekly in each direction with 9 frequencies weekly in each direction, of which 4 frequencies weekly in each direction must serve Denpasar. |
| Italy | DET9602 DET9624 DEC9822 | |
| Japan | DET9404 DET9504 DET9701 DET9804 DEC9816 | |
| Korea | DET9605 DET9611 DEC9607 DET9627 DEC9704 | |
| Malaysia | DET9610 DET9620 | |

TABLE 1 ctd: Existing capacity allocated to Qantas

SCHEDULE 1
DETERMINATIONS ALLOCATING PRE-EXISTING CAPACITY TO
QANTAS

| Column 1 | Column 2 | Column 3 |
|------------------|--|--|
| Country | Existing Determinations and Decisions | Restrictions |
| Netherlands | DET9619 DET9725 DEC9804 | |
| New Zealand | DET9622 DEC9818 DEC9825 | A maximum of 9.344 B747 equivalents per week beyond New Zealand. |
| Papua New Guinea | DET9724 DEC9719 DEC9820 | |
| Philippines | DET9403 DET9625 DEC9702 DET9703 DET9803 DEC9808 DET9809 DET9817 | |
| Singapore | DET9609 DEC9703 DET9712 DET9713 DEC9723 DEC9821 | |
| Solomon Islands | DET9405 DET9623 DEC9831 | |
| South Africa | DET9505 DET9615 DET9618 DET9810 | |
| Switzerland | DET9823 | |
| Taiwan | 54A DEC9715 DEC9813 | |
| Thailand | DET9709 DEC9805 DET9806 | |

TABLE 1 ctd: Existing capacity allocated to Qantas

SCHEDULE 1
DETERMINATIONS ALLOCATING PRE-EXISTING CAPACITY TO
QANTAS

| Column 1 | Column 2 | Column 3 |
|-----------------|--|---------------------|
| Country | Existing Determinations and Decisions | Restrictions |
| United Kingdom | DET9707 DET9727 DEC9724 | |
| United States | DET9716 DEC9810 | |
| Vanuatu | DET9501 DEC9603 DET9811 DEC9812 | |
| Vietnam | DET9503 DEC9802 DEC9803 DEC9814 | |
| Zimbabwe | DET9506 DET9704 DEC9832 | |

TABLE 1 ctd: Existing capacity allocated to Qantas

SCHEDULE 2**DETERMINATIONS ALLOCATING PRE-EXISTING CAPACITY TO ANSETT**

1. Ansett has been allocated capacity between Australia and the countries listed in Column 1 of Table 2, under the determinations listed in Column 2, including the determinations as varied by the decisions listed in Column 2 and including any resolutions of the IASC made prior to 25 January 1999 relating to those determinations and decisions.
2. This determination allocates pre-existing capacity to Ansett and is in force for a period of five years commencing 25 January 1999.
3. For each country listed in Column 1 of Table 2, Ansett is allocated pre-existing capacity enabling it to operate international air services over the route as described in Australia's bilateral arrangements with that country, up to capacity allocated to it in the determinations and decisions listed in Column 2, subject to any conditions or restrictions mentioned in Column 3.

| Column 1 | Column 2 | Column 3 |
|------------------|--|-------------------------------------|
| Country | Existing Determinations and Decisions | Restrictions |
| China | DET9617 | |
| Fiji | DET9822 | |
| Hong Kong | DET9808 | No intermediate or beyond capacity. |
| Indonesia | DET9510 DET9613 DET9733 | No capacity beyond Indonesia. |
| Japan | DET9706 DET9805 | |
| Malaysia | DET9507 DET9513 DET9601 DET9614 DEC9707 DET9734 | |
| New Zealand | DET9710 | No capacity beyond New Zealand. |
| Papua New Guinea | DET9825 | |
| Singapore | DET9820 | |
| Taiwan | DET9502 DEC9516 DEC9815 | |

TABLE 2: Existing capacity allocated to Ansett

SCHEDULE 3
DETERMINATIONS ALLOCATING PRE-EXISTING CAPACITY TO
NATIONAL JET

1. National Jet has been allocated capacity between Australia and the countries listed in Column 1 of Table 3, under the determinations listed in Column 2, including the determinations as varied by the decisions listed in Column 2 and including any resolutions of the IASC made prior to 25 January 1999 relating to those determinations and decisions.
2. This determination allocates pre-existing capacity to National Jet and is in force for a period of five years commencing 25 January 1999.
3. For each country listed in Column 1 of Table 3, National Jet is allocated pre-existing capacity enabling it to operate international air services over the route as described in Australia's bilateral arrangements with that country, up to capacity allocated to it in the determinations and decisions listed in Column 2, subject to any conditions or restrictions mentioned in Column 3.

| Column 1 | Column 2 | Column 3 |
|-----------------|---|-------------------------------|
| Country | Existing Determinations and Decisions | Restrictions |
| Indonesia | DET9511 DET9608 DEC9710 DEC9711 DET9735 | No capacity beyond Indonesia. |
| Singapore | DET9512 DEC9712 DEC9718 | |

TABLE 3: Existing capacity allocated to National Jet

SCHEDULE 4
DETERMINATIONS ALLOCATING PRE-EXISTING CAPACITY TO
AUSTRALIA WORLD

1. Australia World has been allocated capacity between Australia and the countries listed in Column 1 of Table 4, under the determinations listed in Column 2, including the determinations as varied by the decisions listed in Column 2 and including any resolutions of the IASC made prior to 25 January 1999 relating to those determinations and decisions.
2. This determination allocates pre-existing capacity to Australia World and is in force for a period of five years commencing 25 January 1999.
3. For each country listed in Column 1 of Table 4, Australia World is allocated pre-existing capacity enabling it to operate international air services over the route as described in Australia's bilateral arrangements with that country, up to capacity allocated to it in the determinations and decisions listed in Column 2, subject to any conditions or restrictions mentioned in Column 3.

| Column 1 | Column 2 | Column 3 |
|-----------------|--|---------------------|
| Country | Existing Determinations and Decisions | Restrictions |
| Greece | DET9717 DEC9722 DEC9811 | |
| Netherlands | DET9718 DEC9722 DEC9811 | |
| Sri Lanka | DET9719 DEC9722 DEC9811 | |

TABLE 4: Existing capacity allocated to Australia World

SCHEDULE 5
DETERMINATIONS ALLOCATING PRE-EXISTING CAPACITY TO
ASIAN EXPRESS

1. Asian Express has been allocated capacity between Australia and the countries listed in Column 1 of Table 5, under the determinations listed in Column 2, including the determinations as varied by the decisions listed in Column 2 and including any resolutions of the IASC made prior to 25 January 1999 relating to those determinations and decisions.
1. This determination allocates pre-existing capacity to Asian Express and is in force for a period of five years commencing 25 January 1999.
2. For each country listed in Column 1 of Table 5, Asian Express is allocated pre-existing capacity enabling it to operate international air services over the route as described in Australia's bilateral arrangements with that country, up to capacity allocated to it in the determinations and decisions listed in Column 2, subject to any conditions or restrictions mentioned in Column 3.

| Column 1 | Column 2 | Column 3 |
|-----------------|--|--------------------------------|
| Country | Existing Determinations and Decisions | Restrictions |
| New Zealand | DET9606 DEC9606 | No capacity beyond New Zealand |

TABLE 5: Existing capacity allocated to Asian Express

SCHEDULE 6
DETERMINATIONS ALLOCATING PRE-EXISTING CAPACITY TO
FLIGHT WEST

1. Flight West has been allocated capacity between Australia and the countries listed in Column 1 of Table 6, under the determinations listed in Column 2, including the determinations as varied by the decisions listed in Column 2 and including any resolutions of the IASC made prior to 25 January 1999 relating to those determinations and decisions.
2. This determination allocates pre-existing capacity to Flight West and is in force for a period of five years commencing 25 January 1999.
3. For each country listed in Column 1 of Table 6, Flight West is allocated pre-existing capacity enabling it to operate international air services over the route as described in Australia's bilateral arrangements with that country, up to capacity allocated to it in the determinations and decisions listed in Column 2, subject to any conditions or restrictions mentioned in Column 3.

| Column 1 | Column 2 | Column 3 |
|------------------|--|---------------------|
| Country | Existing Determinations and Decisions | Restrictions |
| Papua New Guinea | DET9711 DET9729 DEC9819 DEC9830 | |

TABLE 6: Existing capacity allocated to Flight West

SCHEDULE 7
DETERMINATIONS ALLOCATING PRE-EXISTING CAPACITY TO
QWESTAIR

1. Qwestair has been allocated capacity between Australia and the countries listed in Column 1 of Table 7, under the determinations listed in Column 2, including the determinations as varied by the decisions listed in Column 2 and including any resolutions of the IASC made prior to 25 January 1999 relating to those determinations and decisions.
2. This determination allocates pre-existing capacity to Qwestair and is in force for a period of five years commencing 25 January 1999.
3. For each country listed in Column 1 of Table 7, Qwestair is allocated pre-existing capacity enabling it to operate international air services over the route as described in Australia's bilateral arrangements with that country, up to capacity allocated to it in the determinations and decisions listed in Column 2, subject to any conditions or restrictions mentioned in Column 3.

| Column 1 | Column 2 | Column 3 |
|------------------|--|---------------------|
| Country | Existing Determinations and Decisions | Restrictions |
| Papua New Guinea | DET9728 DET9815 DEC9827 | |

TABLE 7: Existing capacity allocated to Qwestair

SCHEDULE 8
DETERMINATIONS ALLOCATING PRE-EXISTING CAPACITY TO
TRANSAIR

1. Transair has been allocated capacity between Australia and the countries listed in Column 1 of Table 8, under the determinations listed in Column 2, including the determinations as varied by the decisions listed in Column 2 and including any resolutions of the IASC made prior to 25 January 1999 relating to those determinations and decisions.
2. This determination allocates pre-existing capacity to Transair and is in force for a period of five years commencing 25 January 1999.
3. For each country listed in Column 1 of Table 8, Transair is allocated pre-existing capacity enabling it to operate international air services over the route as described in Australia's bilateral arrangements with that country, up to capacity allocated to it in the determinations and decisions listed in Column 2, subject to any conditions or restrictions mentioned in Column 3.

| Column 1 | Column 2 | Column 3 |
|------------------|--|---------------------|
| Country | Existing Determinations and Decisions | Restrictions |
| Papua New Guinea | DET9814 DEC9826 | |

TABLE 8: Existing capacity allocated to Transair