



## RENEWAL DETERMINATION

**DETERMINATION NO:** [2002] IASC 124  
**RENEWAL OF:** DETERMINATION IASC/DET/9811  
**THE ROUTE:** VANUATU  
**THE APPLICANT:** QANTAS AIRWAYS LIMITED  
(ACN 009 661 901) (QANTAS)  
**PUBLIC REGISTER FILE:** IASC/APP/200216

### 1 The application for renewal

1.1 On 18 May 1998, the Commission issued Determination IASC/DET/9811 (the Determination) allocating 150 seats per week in each direction on the Vanuatu route. Qantas currently has a total allocation of 350 seats per week on the 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 24 November 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 recently handed back 50 seats from the original allocation and has requested some flexibility to allow for altered operating patterns by Air Vanuatu;
- there are no other applicants seeking capacity on the route;
- there are 1100 seats per week 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/9811 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/9811 allocating capacity on the Vanuatu route to Qantas ([2002] IASC 124)**

3.1 The Commission makes a fresh determination in favour of Qantas Airways Limited, allocating 100 seats per week in each direction between Australia and Vanuatu.

3.2 The determination is for five years from 25 November 2003.

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 Capacity Purchase/Sale Agreement between Air Vanuatu (Operations) Limited and Qantas dated 16 September 1993 as extended from time to time in accordance with its terms; or
  - the Capacity Purchase/Sale 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: 10 October 2002

Ross Jones  
Chairman

Michael Lawriwsky  
Member

Stephen Lonergan  
Member