



# Procedures for renewal of Determinations

August 2025

# Contents

<b><u>Purpose</u></b>	<b>3</b>
<b><u>Renewal process</u></b>	<b>3</b>
<b><u>Making an application to renew a determination</u></b>	<b>3</b>
Application requirements	Error! Bookmark not defined.
<b><u>Invitation for other applications</u></b>	<b>4</b>
New operators	5
<b><u>Process after application period has closed</u></b>	<b>5</b>
Competing applications	5
Criteria to be applied	5
Draft determinations	6
Pre-determination conference about draft determinations	6
Hearings	6
Final (fresh) determination	6
<b><u>Information handling</u></b>	Error! Bookmark not defined.

## Purpose

These procedures are intended for Australian carriers seeking the renewal of a determination issued by the International Air Services Commission (the Commission). For avoidance of doubt, nothing in this document overrides the requirements of the *International Air Services Commission Act 1992* (the Act), the International Air Services Regulations 2018 (the Regulations), and the International Air Services Commission Policy Statement 2018 (the Policy Statement).

It is recommended that these procedures are read in conjunction with the Act, the Regulations and the Policy Statement. For further details, refer to the Commission's [website](#).

## Renewal process

1. The Commission must start its consideration of the renewal of a determination (other than an interim determination) at least 12 months before the end of the period during which the determination is in force.
2. For interim determinations, the Commission must start its consideration of the renewal of the determination as soon as practicable after the determination is made.
3. The Commission may, at any time while a determination is in force, make a fresh determination allocating the capacity to which the original determination relates. The renewed determination comes into force immediately after the original determination expires.
4. The criteria for renewal of a determination (other than an interim determination) reflect a rebuttable presumption in favour of the incumbent. For determinations (other than an interim determination), the Commission must make the same allocation of capacity as the original determination unless the Commission is satisfied that the same allocation is no longer of benefit to the public (section 8 of the Act and section 14 of the Policy Statement refer).
5. Section 14(2) of the Act specifies that without limiting the matters to which the Commission may have regard, an allocation is generally no longer of benefit to the public if:
  - a) the carrier seeking renewal has failed to service the route effectively; and
  - b) there are other applications for some or all of the capacity; and
  - c) the Commission, having regard to the reasonable capability criterion and any of the additional criteria that it considers relevant, is satisfied that a different allocation of the capacity would be of greater benefit to the public.

## Making an application to renew a determination

### Application requirements

6. Before starting its consideration of the renewal of a determination, the Commission will invite the incumbent carrier to advise in writing whether it wishes to seek the renewal of a determination.
7. If the incumbent carrier wishes to seek a renewal, it must submit an application to the Commission for a fresh determination allocating the capacity.
8. Applications for capacity must be made in writing and must be delivered to the Commission by email to [contact@iasc.gov.au](mailto:contact@iasc.gov.au) or by post - GPO Box 630, Canberra ACT 2601.

9. If the incumbent carrier advises that it does not wish to renew a determination, the carrier should either apply to revoke the determination (if the capacity is no longer required) or allow its expiry date to lapse (if there are plans for services to continue until the determination expires).
10. To assist the Commission in making an informed decision, incumbent carriers are advised to provide the following information as part of their application:
- the route;
  - amount and type of capacity requested to be renewed (e.g. passenger, freight, beyond, code share);
  - the duration of the determination sought;
  - which conditions the airline wishes to retain;
  - for applications to continue to utilise the capacity for wet lease operations: a copy of the latest commercial agreement between airlines;
  - for applications to continue to utilise the capacity for joint international air services with another carrier (including code sharing): a copy of the latest commercial arrangement between the carriers and summary of city pairs covered by the arrangement;
  - statement of claims as to why the carrier(s) proposed to operate the capacity continue(s) to meet the section 8 reasonable capability public benefit criterion in the Policy Statement (including to address that the carrier continues to hold the licences, permits or other approvals required to operate on and service the route; and a statement regarding the carrier's effective servicing of the route to demonstrate that it remains capable of using the capacity allocated under the determination).
11. Should the application propose changes to the terms and conditions included in the determination (which is sought to be renewed), such as the addition of code share services with a foreign carrier or use of capacity under a wet lease arrangement, the Commission will treat the proposed changes as variations to the determination being renewed and will invite submissions about the proposed variation(s).

### Invitation for other applications

12. On receipt of a valid application, and in accordance with section 12 of the Act, the Commission must publish details of the application on its website and issue a notice inviting other applications. The notice will invite applications for an allocation of all or part of the capacity that is subject to renewal.
13. In addition to the website notification, the Commission also notifies, by email, a list of interested parties who have requested to receive updates on applications and/or submissions received on an application.
14. The notice must specify the period within which applications are required to be made. Interested parties wishing to make an application must do so within the timeframe specified by the Commission in its published notice.
15. The Commission's standard practice is to allow a total of 10 business days within which

another party may submit an application<sup>1</sup>. The Commission will not commence making a decision in relation to the application until the consultation period has concluded.

### New operators

16. A prospective new operator may accept the invitation for applications for the capacity that is subject to renewal. For a prospective new Australian operator, the Commission requires substantially more information to support an application than it would from an established operator. Further guidance for new entrants can be found in the IASC Procedures '[Making an application for capacity – New Entrants](#)'.

### Process after application period has closed

#### Competing applications

17. If one or more competing applications are received, the Commission will call for submissions from interested parties about the applications. A further period of 10 business days will be given within which to make a submission. As part of this process, each applicant will have the opportunity to make a submission about the application of the other(s). The Commission would normally require applicants to address in such submissions the section 9 criteria in the Policy Statement.

18. In the case of competing applications, the Commission may ask any or all applicants and submitters for additional information, particularly if the Commission decides to consider a matter against the additional public benefit criteria set out in section 9 of the Policy Statement. Applicants are given the opportunity to respond to submissions by other applicants and/or submitters. Generally, the carrier seeking renewal will have the final right of reply to submissions from others. However, the Commission's guiding principle will be to ensure that all applicants have provided all information that the Commission considers relevant to the Commission's decision making.

19. Any person wishing to make a submission on a matter before the Commission should refer to the Commission's '[Procedures for making a submission to the Commission](#)' available on the Commission's website.

#### Criteria to be applied

##### Determinations (other than an interim determination)

20. A number of different criteria may apply to the renewal of determinations. The criteria to be applied depend on whether the determination is a determination (other than an interim determination) or an interim determination; and if capacity and route rights are unrestricted.

21. The criteria for renewal of a determination (other than an interim determination) reflect a rebuttable presumption in favour of the incumbent.

22. For determinations (other than an interim determination), the Commission must make the same allocation of capacity as the original determination unless the Commission is satisfied that the same allocation is no longer of benefit to the public (section 8 of the Act and section 14 of the Policy Statement refer).

23. When making a different allocation of capacity, the Commission is to have regard to the

-----  
<sup>1</sup> To give effect to the full 10-business-day period, the Commission will accept applications up until 11:59 pm on the 10<sup>th</sup> business day of the consultation period.

reasonable capability criterion (in section 8 of the Policy Statement) and any of the additional public benefit criteria that it considers relevant (under section 9 of the Policy Statement).

#### Interim determinations

24. A carrier seeking to renew an interim determination does not have a presumption in its favour of being given the same allocation of capacity. The Commission will apply the relevant criteria under sections 11, 12 or 13 of the Policy Statement.

#### Draft determinations

25. The Commission may decide to issue a draft determination to give applicants and submitters an opportunity to comment before a final (fresh) determination is issued. This would be likely to occur where there were competing applications and/or opposing submissions, and possibly where conditions proposed to be attached to a determination may not be anticipated by the applicant. The notifications will indicate the timeframe for comments on the draft determination and this will generally be 10 business days.

26. In other circumstances, the Commission will move directly to a final determination.

#### Pre-determination conference about draft determinations

27. The Commission may conduct a pre-determination conference at which any applicant or submitter may address the Commission on matters arising from a draft determination. Applicants or submitters seeking a conference should indicate this promptly in response to the issue of the draft determination.

28. Conferences are intended as an opportunity to address the Commission on information submitted to the Commission which the applicant or submitter believes may not have been fully addressed by the Commission in the draft determination. As the conference is not intended as a forum for the introduction of new information, new information may only be introduced with the consent of the Commission.

29. Legal counsel or other advisers may attend to assist parties, but may not represent them without the Commission's prior consent, which would only be granted in exceptional circumstances.

#### Hearings

30. The Commission may hold a hearing for the purpose of considering any matter before it. Hearings are formal processes and are likely to only be rarely employed by the Commission. Sections 30-38 of the Act detail arrangements for hearings.

#### Final (fresh) determination

31. Upon making a renewed determination, the Commission will circulate it promptly to applicants and submitters and to other parties on the Commission's notification list.

#### Information handling

32. The Commission understands that there may be information provided by applicants that they do not wish to be made public.

33. The Commission accepts that information that is of a commercially sensitive nature should be treated confidentially. The Commission will not normally publish such information on its website,

provided a suitable case for confidential treatment is made. This might include, for example, detailed business plans or joint service agreements between airlines.

34. The Commission requires applicants and submitters to provide a non-confidential version of the application and/or submission for public release. The existence and nature of the confidential information must be referred to in the non-confidential version.

35. The Commission reserves the right to reject claims for confidentiality of information, or to not take the information into account in its deliberations. The Commission might do either of these things if it disagrees with the applicant or submitter that the information is confidential, or where relying on such information in the Commission's deliberations would be unfair to other affected parties, which would not have the opportunity to respond to it.

#### Version control

Version	Author	Date	Authorised by	Date
1.0	IASC Secretariat	August 2025	Ms Genevieve Butler Ms Jane McKeon	06/08/2025