



Australian Government

**Department of Infrastructure, Transport,
Regional Development, Communications and the Arts**

International Airline Licence— guidance document

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1. Introduction

a) Who needs to apply?

i) General

Any airline proposing to operate scheduled international air services over¹, into or out of Australian territory requires an International Airline Licence (IAL) before it can commence services. This includes cargo only operations.

Airline applicants are permitted to apply to the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the Department) for an IAL; to the Civil Aviation Safety Authority (CASA) for an Air Operator's Certificate (AOC); and to the Aviation and Maritime Security Division with the Department of Home Affairs for a Transport Security Program (TSP) approval at the same time.

ii) Code share arrangements

Airlines proposing to market seats and/or cargo capacity to and from Australia under code share arrangements with another airline also require an IAL. In these circumstances, an approved applicant will receive a limited licence which only authorises code sharing, provided that the services conducted on behalf of the applicant are operated in accordance with an approved AOC and TSP. If the marketing airline in a code share arrangement wishes to commence operations with its own aircraft in the future, it will need to reapply for a full IAL.

An IAL application must be lodged by both the intending operator and the marketing airline in a code share arrangement.

iii) Wet or damp-lease arrangements

Airline applicants proposing to use wet or damp-leased aircraft to conduct scheduled international air services must provide the Department with the following information:

- a declaration that they intend to use wet or damp-leased aircraft to conduct proposed services;
- details of the provider of the aircraft for the proposed services; and
- evidence that the wet-leased aircraft provider holds an approved AOC and TSP for the proposed services.

Approved airline applicants will receive a 'restricted' IAL. If the marketing airline in a wet or damp-leasing arrangement wishes to commence operations with its own aircraft in the future, it will need to apply for a full IAL.

b) Eligibility

i) Australian airlines

Australian airlines seeking an IAL to operate international air services are required to demonstrate that they can comply with the requirements of the relevant international air services agreement and/or arrangements between Australia and the country or countries to which they wish to fly. This is

¹ Airlines proposing to operate scheduled international air services over Australia without landing are currently exempt from the requirement to hold an IAL by a Determination of the Secretary of the Department under section 12(3) of the *Air Navigation Act 1920* ('the Determination'). The Determination commenced on 20 March 2009.

particularly important in relation to issues of substantial ownership and effective control, country of incorporation and principal place of business and/or incorporation.

The Australian Government requires Australian international carriers to meet a number of national interest criteria in relation to ownership and control requirements.

Ownership provisions require that:

- Foreign shareholdings be limited to no more than 49 per cent of the total value of the issued share capital of the Australian airline.

Control criteria require that:

- At least two-thirds of the Board members are Australian citizens;
- The Chairperson of the Board is an Australian citizen;
- The airline's head office is in Australia; and
- The airline's operational base is in Australia. Separate legislative provisions apply to Qantas Airways Ltd.

ii) Foreign airlines

Foreign airline applicants must demonstrate that they are designated by their country/authority under the relevant international air services agreement and/or arrangement between Australia and their country of designation. This can be evidenced by submitting a copy of a relevant Third Party Note or where this cannot be located, by providing a declaration that the airline is appropriately designated, signed by a Senior Airline Official.

Foreign airlines must also demonstrate that they meet the requirements of the relevant international air services agreement and/or arrangements between Australia and their country of designation relating to incorporation as well as ownership and control and/or principal place of business and/or incorporation.

Please do not submit a copy of the relevant air services agreement/arrangement as part of your IAL application.

c) Licence maintenance

Airlines are required to comply with audit measures administered by the Department in order to maintain their IAL and continue conducting scheduled international air services to and from Australia. Further details are outlined in the Maintaining Licence Status section.

2. The application

a) Administrative details

i) How to submit the application

Applications for IALs may be submitted by email (preferred) or post.

Post to:

Director, International Aviation
 International Aviation, Technology and Services Division
 Department of Infrastructure, Transport, Regional Development, Communications and the Arts
 GPO Box 594
 CANBERRA ACT 2601 AUSTRALIA

Email to: InternationalAirline@infrastructure.gov.au

All applications are required to be signed by an authorised representative of the applicant airline (further details on 'signature' are provided below) before submission. For applications submitted by email, electronic (i.e. scanned) signatures will be accepted.

For your convenience, a downloadable application template is available to assist you in your IAL application. The template may be altered as necessary, but all applicants must take responsibility to ensure their final application meets all formatting requirements outlined below. The template can be downloaded from

www.infrastructure.gov.au/sites/default/files/migrated/aviation/international/ial/files/Application_template_final.docx

Please note that incomplete applications will be accepted by the Department at the applicant's risk.

ii) Title

The application should be titled "An Application for an International Airline Licence—by (full registered name of airline)".

iii) Timing of licence application

The application should be forwarded to the Department at least sixty (60) days before the date of commencement of the proposed services or other such period as agreed by the Department.

iv) General formatting

The pages of an application should be consecutively numbered and paragraphs should be titled identically with the corresponding items in this guide.

The application should include the information requested below and any further information the applicant considers may clarify aspects of the application.

v) Caption

The following caption must be included in the application:

"The undersigned applies for permission pursuant to the *Air Navigation Act 1920* and the *Air Navigation Regulation 2016* to conduct scheduled international air services to and from Australia and certifies that the facts stated in the application are true and that the copies of any documents attached to the application are true copies".

vi) Contact details of applicant

Applicants are to provide the names of the heads of the following components of the organisation, together with postal and street addresses, telephone numbers and email addresses.

- Head Office
- Operating Headquarters
- Australian Offices (where applicable for foreign operators)
 - Australian Management
 - Marketing
 - Airport(s)

Note: both foreign and Australian international airlines are required to maintain a **published Australian phone number**. Failure to ensure Australian consumers have access to customer assistance without having to make an international phone call may result in the rejection of an IAL application.

vii) Attached documents

Please provide a table of contents identifying all attached documents in accordance with the relevant part of the application.

viii) Signature

- The original of the application shall be signed:
- by the applicant, if an individual, who is sole owner;
- by each member of a partnership; or
- if a registered company or corporation, by an officer or officers of the company or corporation duly authorised to submit such applications on behalf of the company or corporation.

The status of the signatory must be indicated in terms of one of the above business structures. Copies of appropriate authorisations must be attached to the application.

As indicated above, electronic signatures will be accepted where applications are submitted to the Department by email.

b) Company profile

Applicants are required to supply particular information in relation to their company profile. In particular, applicants must provide evidence of:

i) The present corporate existence of the applicant

This includes evidence of the relevant Australian and/or foreign company number, the incorporation or business name registration, and a copy of any Act, Memorandum and Articles of Association, certificate of incorporation, or other instrument, from which the company or corporation derives its powers and functions. This documentation should be supplied both in relation to the country where the applicant is headquartered and Australia (whichever is applicable); and

ii) a—Nationality of ownership and control (if applicable)

Proof of the nationality of the interests holding substantial ownership and effective control of the applicant should be supplied; or

iii) b—Principal place of business and/or incorporation (where applicable)

The applicant should supply evidence showing the applicant's main place of operations.

Nationality of ownership and control and principal place of business requirements may be satisfied by providing an extract from your home business register (such as the Australian Securities and Investment Commission for Australian airlines) that indicates company shareholding and control.

c) IASC determinations (australian applicants only)

Australian applicants for an IAL will require an allocation of capacity from the International Air Services Commission (IASC) prior to the grant of a licence.

The applicant should quote the IASC Determination number.

d) Air operator's certificate

Operators of aircraft seeking to operate scheduled international air services will be required to obtain from CASA an AOC. Information regarding applications for AOCs can be obtained from the CASA website (www.casa.gov.au), or by writing to:

International Operations
Civil Aviation Safety Authority
GPO Box 2005
CANBERRA ACT 2601 AUSTRALIA
Phone: 131 757 or [+61 2 6217 1449](tel:+61262171449) (if overseas)
Email: international_ops@casa.gov.au

The Department will not finalise an application for an IAL until a relevant AOC has been approved by CASA.

Note: that applicants for a limited code share only IAL and applicants intending to use wet-leased aircraft for proposed services are not required to supply this information in their application.

However, such applicants are required to provide details of the operating airline in the proposed code share or wet-lease arrangement and are responsible for ensuring the operating airline has an approved AOC for the proposed services.

e) Insurance

Applicants are required to supply a copy of an insurance contract or certificate from an insurer evidencing that appropriate insurance is held by the applicant in relation to the following:

- passenger liability;
- third party liability;
- cargo and baggage liability; and
- injury and loss as a result of active hostilities or civil unrest (War risk insurance).

i) Passenger liability

Each carrier who carries passengers for hire or reward to or from Australia, or within Australia, is required to have in place passenger liability insurance which ensures that compensation will be paid in respect of death or personal injury suffered by passengers on the carrier's aircraft.

CASA is responsible for administering and enforcing the Commonwealth and State compulsory insurance schemes under Part IVA of the Commonwealth *Civil Aviation (Carriers' Liability) Act 1959*, the Civil Aviation (Carriers' Liability) Regulations 1991 and complementary State legislation.

Carriers are required to have appropriate insurance to be able to carry passengers on a commercial flight. The requirement also extends to any cargo carrier who transports persons who are not active flight crew members (e.g. cargo handlers, security guards, animal minders, etc.) on a cargo flight. Details of the requirements are available from the:

Carriers' Liability Insurance Unit
Civil Aviation Safety Authority
GPO Box 2005
CANBERRA ACT 2601 AUSTRALIA

Telephone: (02) 6217 1131 (international +61-2-6217 1131)

ii) Third party liability

Under the *Damage by Aircraft Act 1999*, Australian law provides for strict and unlimited liability for compensating third parties on the ground suffering death, injury or damage from aircraft within the Commonwealth's jurisdiction. It is a commercial decision of airlines to decide what insurance cover should be held. The Australian Government will assess whether the cover is appropriate for the level of an airline's operations in Australian territory.

iii) Injury and loss as a result of active hostilities or civil unrest (war risk insurance)

The amount of war risk insurance covering passengers, hull and third-party damage on the ground is a commercial matter for the airline. The Australian Government will assess whether the cover is appropriate for the level of an airline's operations in Australian territory.

f) Transport security program

Applicants are required to provide a copy of a certificate of approval for a TSP for the proposed services. TSPs are approved by the Cyber and Infrastructure Security Division within the Department of Home Affairs in accordance with the *Aviation Transport Security Act 2004* and related regulations.

Applicants should contact the Cyber and Infrastructure Security Division for further information by email to: national.coordinator@homeaffairs.gov.au.

Guidance material for the preparation of TSPs for Prescribed Air Services has been developed, and is available at www.cisc.gov.au/information-for-your-industry/transport/security/obligations.

Note: that applicants for a limited code share only IAL and applicants intending to use wet-leased aircraft for proposed services are not required to supply this information in their application.

However, such applicants are required to provide details of the operating airline in the proposed code share or wet-lease arrangement and are responsible for ensuring the operating airline has a relevant TSP for the proposed services.

g) Timetables and tariffs

Before air services may commence, and in conjunction with the issue of an IAL, applicants are required to separately submit details of proposed timetables to the Department. Timetable details should include the type of aircraft to be used for each scheduled international air service in accordance with regulations 14 and 30 of the *Air Navigation Regulation 2016*.

Licensees are not required to provide details of proposed tariffs unless the Secretary directs that they be submitted for approval.

h) Compliance with Aircraft Noise Standards (use of non-chapter 3 aircraft)

Under the *Air Navigation (Aircraft Noise) Regulations 1984*, subsonic jet aircraft that do not comply with the standards provided in Chapter 3, Volume I of ICAO Annex 16 ('Chapter 3') must not engage in air navigation in Australia.

The regulations provide limited exceptions for the operation of aircraft that is to be used solely for a purpose in the public interest. In this instance, the operator must lodge an IAL application in writing to the Secretary of the Department, stating the public interest grounds relied on.

Additional information regarding aircraft noise standards for air navigation in Australian airspace is available at www.infrastructure.gov.au/infrastructure-transport-vehicles/aviation/aviation-safety/aircraft-noise.

i) Request for supplementary material

The applicant must supply such additional information as the Secretary to the Department may require.

3) Maintaining licence status

a) Compliance declaration form

IAL holders are required to comply with a simple self-assessment audit scheme to maintain their IAL and continue conducting scheduled international air services to and from Australia.

In order to comply, IAL holders must download, complete and lodge a Compliance Declaration Form (CDF) with the Department every six (6) months, declaring their compliance with licence conditions.

To simplify the system for airlines, this declaration has been aligned with the existing requirements to lodge timetable applications for the respective Northern Summer and Winter Scheduling periods. The declaration is available at: www.infrastructure.gov.au/aviation/international/ial/licence_status.aspx.

b) Departmental audit

To further improve the Australian Government's oversight of the IAL system, the Secretary of the Department (the Secretary) will write to IAL holders on occasion requiring the licence holder to provide evidence that they are complying with licence conditions.

Failure to provide either a declaration of compliance or evidence of compliance at the Secretary's request may result in the suspension or cancellation of an IAL.

4) Additional information

a) Licence variations

Additional conditions may be imposed on an IAL by the Secretary of the Department (the Secretary) to reflect ongoing changes in the regulation of international aviation by the Australian Government. Updating IAL conditions constitutes a 'licence variation' under the Air Navigation Regulation 2016 (the regulation).

An IAL may also be varied at the request of an airline, provided that the request is made out to the Department in writing.

Before an IAL is varied by the Secretary, the IAL holder will be given notice in writing, including reasons for the proposed variation. The IAL holder must respond to this notice within thirty-five (35) days after the notice is given, in accordance with regulation 21 of the regulation.

Any decision to vary an IAL is subject to appeal before the Administrative Appeals Tribunal.

b) Refusal to grant a licence

In the event that an airline's application for an IAL is refused, the applicant will be informed within fourteen (14) days after the decision is made.

Any decision to refuse to grant an IAL is subject to appeal before the Administrative Appeals Tribunal.

c) Advertising

In accordance with regulation 35 of the Air Navigation Regulation 2016, an airline that does not hold an IAL may advertise a scheduled international air service to and from Australia before receiving an IAL, provided that the advertisement clearly states the service is subject to regulatory approval.

d) Slot applications

Applicants should contact Airport Coordination Australia (www.airportcoordination.org) for information on the process of obtaining slots at Australia's main international airports.

Slots at airports not controlled by Airport Coordination Australia may be arranged directly with the Airports concerned.

e) Border agency consultation

Applicants seeking to commence international air services to Australia should make early contact with Australia's border agencies to discuss their plans and related Australian Government requirements. Applicants should note that not all international airports have a permanent border agency presence. Contact details for the border agencies are provided below:

Australian Border Force	Department of Home Affairs	Department of Agriculture, Fisheries and Forestry
Australian Border Operations Centre Australian Border Force PO Box 25 BELCONNEN ACT 2616 Ph: +61 2 6264 1301 Email: boc@abf.gov.au www.abf.gov.au	Cyber and Infrastructure Security Division PO Box 25 BELCONNEN ACT 2617 Ph: +61 2 6264 1111 https://www.homeaffairs.gov.au or https://www.cisc.gov.au	Compliance and Enforcement Division Department of Agriculture, Fisheries and Forestry GPO Box 858 CANBERRA ACT 2601 Ph: 1800 900 090 or +61 3 8318 6700 (from outside Australia) www.agriculture.gov.au

f) Regulatory requirements for registration as a foreign company

The Department does not require that foreign airlines be registered as a foreign company in Australia to be issued with an IAL.

However, the *Corporations Act 2001*, which is administered by the Australian Securities Investment Corporation (ASIC), may require such registration. Compliance with the Corporations Act is a matter for a foreign corporation and ASIC to determine.

Applicants are encouraged to contact ASIC (www.asic.gov.au) for further information, and/or obtain private legal advice in relation to their company's particular proposals.

g) Other agencies

For the requirements of other agencies, applicants should refer to Australia's Aeronautical Information Publication (AIP) (published by Airservices) (www.airservicesaustralia.com/aip/aip.asp), especially the Section dealing with Transit and Departure of Aircraft in the AIP Book.

h) Statistical returns

The Department is the Australian Government agency responsible for the collection of statistics on passengers, freight and mail carried by all international scheduled airlines operating into and out of Australia. Regulation 7 of the Air Navigation Regulations 2016 authorises the Department to collect this statistical data.

Information provided by airlines is incorporated into the Department's Bureau of Infrastructure, Transport and Regional Economics website (www.bitre.gov.au/statistics/aviation/international.aspx) with monthly and annual publications on international airline activity entitled 'International Scheduled Air Transport.' The statistics can be provided in excel format or as a text file. Contact details for further information are provided below:

Aviation Statistics
Bureau of Infrastructure, Transport and Regional Economics
GPO Box 501
Canberra ACT Australia 2600
Ph: +61 2 6136 8541
Email: avstats@infrastructure.gov.au
BITRE website: <http://www.bitre.gov.au>