



Australian Government
Department of Immigration and Citizenship

ACTING SECRETARY

2 April 2012

Mr Alan Joyce
Chief Executive Officer
Qantas Group
203 Coward Street
MASCOT NSW 2020

Dear Mr Joyce

International airline crew visa arrangements

The Department is aware of concerns that have been raised around Jetstar Group airlines' foreign crew rostering practices and the Fair Work Ombudsman investigation triggered by these concerns. Evidence has also been presented to the Senate Rural Affairs and Transport Legislation Committee on 6 February 2012, where it was claimed that Jetstar had certain foreign airline crew members working on "a series of domestic tag flights".

In this context, I thought it timely to draw your attention to the visa arrangements for international airline crew to ensure there is no confusion about them or their intent and to ensure clarity around the need for strong compliance with the legislative and regulatory provisions of the *Migration Act 1958* and *Migration Regulations 1994*.

As you would be aware, the Department of Immigration and Citizenship has longstanding facilitative immigration arrangements for international airline crew entering and departing Australia. The relevant legislative provisions have been in place in their present form since 1 September 1994. Airline positioning crew are taken to hold a special purpose visa (SPV) for five days beginning when they disembark from the aircraft on which they travel to Australia, provided they hold a passport that is in force and carry a letter from their employer certifying air crew status, purpose of travel and arrangements for departure from Australia.

Airline crew members (operational crew) are taken to hold an SPV for 30 days after they disembark from the aircraft on which they travelled to Australia, provided they hold a passport that is in force and an airline identity card.

Both airline crew members and airline positioning crew members are not permitted to work in Australia other than the work of a kind they normally perform in the course of their duties as an airline positioning crew member or an airline crew member.

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These provisions are supported by the Crew Travel Authority (CTA), which enables airlines to register crew with the Department in advance and facilitates their processing through our systems at both check-in and on arrival to and departure from Australia.

The intent behind these airline crew SPV provisions is to provide a lawful basis for international airline crew to operate in and out of Australia and not require a formal visa application to do so. This is broadly consistent with established international practice, namely Annex 9 (Chapter 3N) of the Convention on International Civil Aviation, to which Australia is a signatory. In general we believe that these arrangements work well in facilitating the free entry and departure of international airline crew, thereby benefiting both industry and travellers, and protecting Australia's national interest in preventing the entry of persons who raise character or other concerns.

These provisions were not however designed for foreign airline crew to perform identifiably separate tasks from their international airline crew work in Australia and the Department is concerned that such use, would, at the very least, run counter to the spirit or intent of the SPV arrangements.

Specifically, they are not appropriate for foreign airline crew to operate on domestic sectors in Australia which have no reasonable connection to an international service. Any work performed in relation to a domestic leg of an international flight should be incidental and in no way separate from the international sector.

If Qantas or Jetstar has non-Australian or New Zealand citizen staff wishing to work specifically on domestic sectors or to perform other duties in Australia, they should first apply for an appropriate visa, for example the Temporary Business (Long Stay) Subclass 457 visa. For semi-skilled crew categories it would also be necessary for the company or companies to enter into a Labour Agreement with the Department for this course to be available. I note that Jetstar previously had certain crew members employed under this arrangement and this remains the appropriate pathway.

Inappropriate use of the SPV arrangements, if not checked, could create pressure for the Department to regulate further in this area, with possible implications for Australia's participation in the international travel industry. The Department has a longstanding and cooperative relationship with the Qantas Group and with the airline industry more generally, and we believe that in the first instance it would be appropriate to work with the industry to ensure that there is a clear understanding of the limits of use of the SPV arrangements. To that end, we will shortly be providing all international airlines operating into Australia with further education and advice on the use of the SPV arrangements and to ensure that the preferred alternative domestic work and visa arrangements are well understood.

I would also propose that a regime of monitoring, based on voluntary cooperation from the airline industry, is put in place to ensure that the use of the SPV remains within the spirit of the original conception. This will ensure that there is transparency in the arrangements to demonstrate to stakeholders that both industry and Department are taking these matters seriously, and are committed to ensuring appropriate practices are in place.

The Department values its longstanding cooperative work with Qantas Group and Jetstar and the airline industry more broadly. I trust this information clarifies our understanding of the airline crew SPV provisions and their use and in doing so will avoid the need to consider new and more restrictive regulations for international airline crew. This cooperative approach is worth continuing in what is a dynamic and changing global industry, critical to the Australian economy and community.

I have asked my executive assistant to contact your office so that we can discuss this matter in the immediate future.

Yours sincerely

Martin Bowles PSM