

PART 7

CHARTER POLICY

Note: The charter policy discussed in this section refers to ‘closed charter’ air services.

7.1 Definition of charter air services

Air transport operations in Australia are subject to several pieces of legislation including the *Civil Aviation Act 1988* and the *Aviation Transport Security Act 2004* (which refers to open and closed charter operations). ‘Open charter’ refers to services offered to the public who pay a fee, while ‘closed charter’ operations are generally non-public and non-fee paying.

More specifically, a ‘closed charter’ service is defined by the Commonwealth Government Civil Aviation Safety Authority (CASA) as “the carriage, in accordance with fixed schedules to and from fixed terminals, of cargo or passengers and cargo in circumstances in which the accommodation in the aircraft is not available for use by persons generally” (CASA, 2009, p.2). In other words, the general public is currently not allowed to travel on closed charters. Fly-in-fly-out (FIFO) operations are an example of closed charter operations.

At present, under Commonwealth legislation administered by the Office of Transport Security (OTS), security screening of passengers and baggage on RPT flights is required for all aircraft weighing more than 20,000 kg; however, closed charters are not subject to security screening regulations regardless of aircraft size. Any operations that take a fee-paying passenger would be classed as an RPT or open charter operation and be subject to the relevant screening requirements (that is, the service would no longer be considered a closed charter). For example, if Fokker 100 jets currently used for closed charter operations were to provide RPT or open charter services (airline can sell seats to the general public), passengers and baggage will be required to undergo security screening.

It should also be noted that closed charters can be regular or ad-hoc. Regular charters refer to the provision of at least one charter service per week every week for a continuous period greater than three months. Ad-hoc charters are provided on an as-needed basis, usually for emergency purposes, once or several times per week but only over a short period for up to three months. For example, ad-hoc charters can arise from plant shutdowns at mine sites and therefore are not seen to impact on existing RPT services.

7.2 Demand for closed charters

Compared to most other states and territories in the nation, where demand for air services is typically for tourism and leisure purposes, in WA the greatest demand flights is for business purposes. The State’s economy is largely underpinned by the resources sector and its iron ore, gold and various mineral mining operations and oil and gas exploration, which also contribute significantly to Australia’s commodity exports. Across the State, the resources industry predominantly uses closed charter air services to transport FIFO personnel, although block-bookings of seats on RPT flights are also common.

More particularly, numerous mining companies transport their staff on closed charter flights in the Pilbara and Northern Goldfields regions. In some cases, charter operators fly directly to private mine-site airstrips. However, many charter operators fly their mining client passengers into RPT airports—and these charter flights into RPT airports can impact the viability of existing RPT air services.

In the Northern Goldfields region, demand for multiple weekly charter operations on regulated RPT routes between Perth and Meekatharra, Mount Magnet, Laverton, Leonora, Wiluna and Leinster was relatively high in 2012–13. However, in the last two years this demand for charters to some of these RPT airports has somewhat stabilised or declined. Some charter services have been suspended due to mine sites going into care and maintenance mode, which has reduced the need to transport staff. Other charter operations have completely ceased due to the closure of mining sites.

Given the current economic conditions associated with the recent slowdown in the resources industry, demand for future charter air services is difficult to forecast. The falling price of commodities such as iron ore, gold and nickel in recent months has led to reduced mining activities for a number of companies. This, in turn, has seen a reduced workforce and a resulting reduced need for charter flights.

7.3 Key reasons for use of charter services

Generally, a closed charter provides more flexibility for users and is more cost efficient to run than an RPT service. The regulatory requirements for providing RPT services are more onerous than those for charter services, as RPT services are subject to meeting higher standards for the implementation of safety management plans, organisational structures, and policies and procedures.

It is also important to recognise that resource companies need the flexibility to negotiate flight times that meet company and FIFO workforce needs. The flight times preferred by the general public can be very different from those times required by a resource company. As such, many resource industry operators are unable to use existing RPT air services as the flight departure and arrival times are unsuitable. In addition, aircraft used for RPT services may not always provide the necessary seat capacity to accommodate demand from both FIFO and general public passengers.

Many resources companies in WA have strict rosters for their FIFO personnel. A timely air service is an important part of their working conditions and ensures adequate staff handovers. On time performance (OTP) of flights is generally considered adequate in the aviation industry if it is above 80 per cent. Some resources companies use charter flights instead of RPT flights, as poor OTP on some RPT services can sometimes result in undesired delays and even flight cancellations.

Despite the greater flexibility and efficiency of charter services, some mining companies have been able to switch from using closed charter services to using RPT services. For example, in September 2014 Ramelius Resources commenced using the RPT services between Perth and Mount Magnet twice weekly. Since then the passenger demand from Ramelius Resources has resulted in the Mount Magnet community receiving two direct services per week from Perth. In comparison to the previous schedule, which involved triangulated flights via Meekatharra, the direct flights to/from Mount Magnet have provided greater public benefits and have been welcomed by the local community.

7.4 Charter policy objectives

The State Government's long-standing objective has been to ensure that charter air services do not detract from the viability of RPT air services in WA as a matter of public interest. The State Government's position is to ensure the viability of RPT services for regional communities, while also seeking to meet the needs of the resources companies and minimise any cost on the resources and charter industries.

In the context of seeking to balance both the needs of the resource industry and the needs of the community, the objectives of the charter policy are to:

- maintain an adequate level of air services to regional communities;
- foster economic development for the resources sector in WA;
- minimise costs for the resources and charter industries; and
- adopt a consistent and transparent State Government policy in the interest of fair charter assessment and management.



7.5 Key charter issues

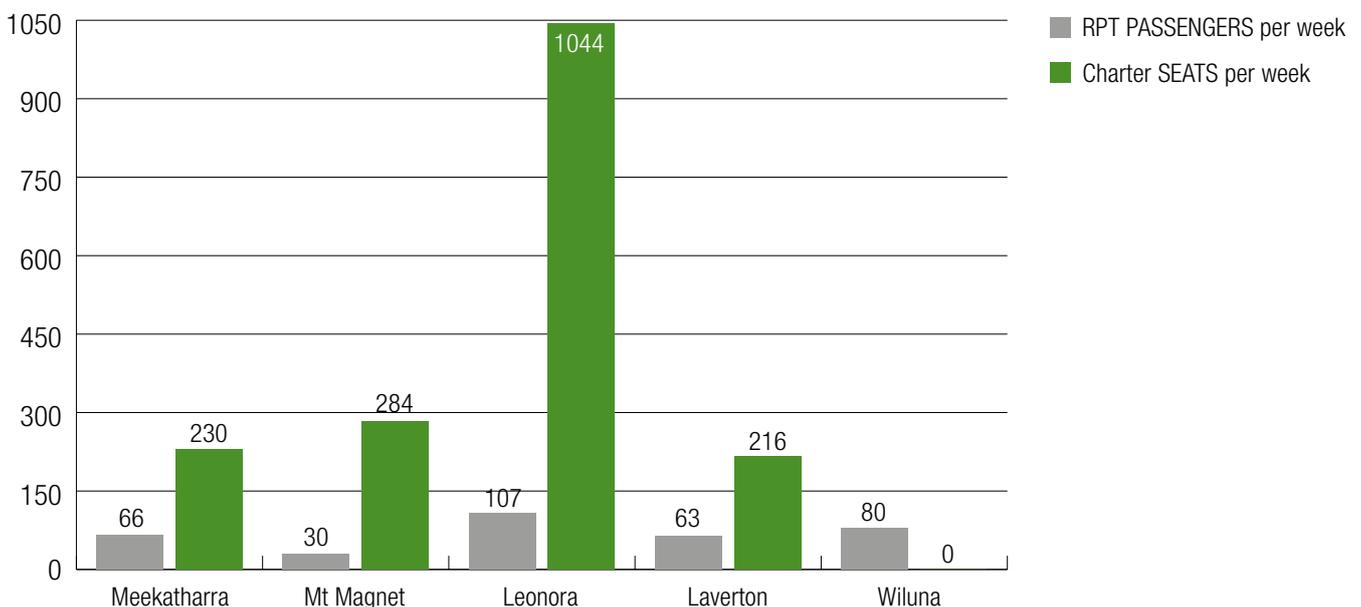
Despite the rise and fall of the resources industry over past years, numerous charter flights continue to operate in regional WA. Some of these charters are seen as a threat to existing RPT services. If charter operations expand in the future, some RPT flights currently available to regional communities may become unviable on both unregulated and regulated RPT routes.

The risk to the sustainability of the RPT services is particularly high on 'thin air routes' (that is, where passenger volumes on the RPT service are low), such as those in the Northern Goldfields region where the frequency of charter services is often higher than the RPT service flying to the same regional town. Furthermore, charter services are

sometimes provided in larger aircraft than the RPT service. Thus, the charter traffic volume significantly exceeds the number of travellers using the RPT service. This is clearly evident in figure 8, which represents data for the April 2014–March 2015 period.

The high volume of charter traffic over RPT routes, particularly in the Northern Goldfields, can be detrimental to the viability of RPT air services. Without regulation of charter operations, the RPT services are likely to be reduced to an inadequate level or even cease altogether, leaving some remote towns without a service. This issue necessitates regulation of charters where the extent of charter operations is likely to undermine RPT operations on a route.

Figure 8: Number of RPT passengers vs charter seats per week in the Northern Goldfields (April 2014–March 2015)



7.6 Application of charter policy and licensing conditions

Charter operations are regulated by various conditions being placed on the annual aircraft licences of charter operators. The intention of these charter conditions is to prevent reductions in passenger loads on RPT routes, which would affect the viability of the airline operating the RPT route, while allowing ad-hoc charters to operate for business, tourism or emergency purposes. There are three types of charter licence conditions.

1. **Standard** charter condition – this states that the charter operator must not make seats on the charter flight available to the general public, in line with Commonwealth legislation (CASA).
2. **Operational** charter condition – this stipulates the frequency, airport destinations (the route) and charter client in order to control where and how often charter airlines may fly within the State. A requirement for charter airlines to provide statistics on charter operations to the State Government is also specified.
3. **Special** charter condition – this requires the charter operator (through their charter client) to purchase a certain number of RPT seats operating over the same route as the charter. The number of RPT seats to be purchased is based on a nominal five per cent of the requested charter seats (based on aircraft size) to ensure the sustainability of the RPT service. The State Government, at its discretion, may vary this percentage to ensure that the objectives of the charter policy are met.

Requests for the provision of charter air services on all RPT routes may be:

- approved subject to standard and operational licence conditions only where passenger volumes on the RPT service are deemed sufficiently high and will not have a negative impact on the viability of the RPT services; or
- approved subject to standard and operational licence conditions as well as an additional special charter condition where passenger volumes are not deemed sufficiently high for the sustainability of the RPT service; or
- rejected where the viability of RPT services is at risk, that is, when the frequency of existing RPT services per week would become inadequate.

The application of the charter policy depends on the type of route on which charter operations are proposed, of which there are three types.

1. Non-RPT routes

Charter operators can, at any time, provide an unlimited number of closed charter air services on any non-RPT route, such as those to private mining site airstrips, **without seeking approval** from the State Government. However, charter airlines are still required to have a valid licence under the *Transport Coordination Act 1966* and *Transport Coordination Regulations 1985* and must provide written advice with details of their charter operations on non-RPT routes to the Department of Transport.

2. Unregulated RPT routes

Charter operators can, at any time, operate one return charter in any type of aircraft, on behalf of one client per calendar week on any unregulated RPT air route (such as Port Hedland or Karratha) **without seeking approval** from the State Government. No special charter conditions will apply.

Approval for multiple charter services per week, flying over unregulated RPT air routes in any type of aircraft, is required from the State Government.

Depending on the traffic volume (that is, the annual number of passenger movements) on an unregulated RPT route, two categories of unregulated RPT route are used in order to determine whether the criteria for a *special* charter condition will need to be taken into account as part of the charter application assessment process.

- **Category A** – where an unregulated RPT route has **150,000 passenger movements or more** (in the 12 months prior to the charter application), the proposed provision of multiple charter services per week **will generally not be** subject to a special charter condition, regardless of whether the schedule of the proposed charter services coincides or overlaps with the schedule of the RPT services.
- **Category B** – where an unregulated RPT route has **less than 150,000 passenger movements** (in the 12 months prior to the charter application), the proposed provision of multiple charter services per week **will be** subject to an assessment against the criteria for the placement of a special charter condition (unless exemptions apply, as outlined within this section).

Compare, for example, the Perth–Learmonth route with an annual passenger volume of approximately 90,000 to the Perth–Karratha route that has over 800,000 passenger movements per annum. The lower volume of RPT traffic in Learmonth means that charter operations to this airport will have a disproportionately greater impact on the RPT services than would be the case in Karratha.

3. Regulated RPT routes

Charter operators can, at any time, operate one return charter in an aircraft with 18 seats or less, on behalf of one client per calendar week, on any regulated RPT air route **without seeking approval** from the State Government. No special charter conditions will apply.

Approval is required from the State Government for the provision of:

- one charter service per week in an aircraft with 19 seats or more flying over regulated RPT air routes; and/or
- multiple charter services per week in any type of aircraft flying over regulated RPT air routes.

Applications for such charter operations on regulated RPT routes will be subject to an assessment against the criteria for the placement of a *special* charter condition (unless exemptions apply, as outlined within this section).

Aircraft with 19 seats have been chosen as the cut-off point in the assessment process, as this is the minimum size aircraft that are permitted to operate on regulated routes.

7.7 Special charter condition

7.7.1 Purpose of special charter condition

In the historical and current aviation environment, the high volume of charter traffic operating on some regulated RPT routes in the Northern Goldfields has been seen as a threat to the viability of RPT services. This has resulted in a reduction in the number of passengers using the RPT services, necessitating changes to RPT flight schedules or the use of smaller aircraft on some Northern Goldfields routes. If the number of charters increases in the future this may have an even greater detrimental impact on RPT routes. Therefore, a *special* aircraft licence condition may be placed (unless exemptions apply) on charter services operating on unregulated or regulated RPT routes, where the risk of the RPT service becoming unviable is high.

Some charter operations were previously approved by the Minister for Transport or DoT with a *special* licensing condition that required the charter operator (or effectively their resource industry client) to purchase a certain number of seats on the RPT service from the RPT airline. As multiple charter operations over ‘thin’ regulated RPT routes (such as in the Northern Goldfields) are likely to have a negative impact on the viability of the RPT services, this *special* condition on the licence aims to provide some support to the existing RPT service. In this regard, the charter policy and the *special* charter condition could be seen as successful, insofar as there has been no need for the State Government to subsidise any of the RPT air routes in the Northern Goldfields, as the minimum level of RPT services has been maintained despite the marginal nature of the routes.

Arrivals at Nifty Airstrip
Source: Network Aviation



7.7.2 Application of special charter conditions

A *special* charter condition requires the charter operator (through their resource industry client) to purchase, at least one week in advance, a certain number of seats on the RPT air service. The number of RPT seats required to be purchased is based on a nominal five per cent (rounded up to the nearest whole number) of the total requested charter seats (that is, charter aircraft size).

The *special* charter condition will be placed (where applicable) on the charter operator's aircraft licence where:

- **the one-way charter flight operates on the same day as the RPT air service** – this is assessed at the time the charter application is submitted to DoT; and
- **there is a difference of less than four hours between the departure time of the RPT service and the departure time of the charter service.**

Note: Any direct sale or transfer of RPT seats purchased by charter operators to a third party (including to resource industry or other clients of the charter operator) may be regulated by the *Travel Agents Act 1985*, that is, charter operators may need to have a travel agent licence issued by the Western Australian Department of Commerce. Seats purchased on the relevant RPT flight directly by the resource industry client of the charter operator will be recognised by DoT as purchases by the charter operator for the purposes of satisfying any special charter condition placed on the aircraft licence of the charter operator as long as DoT is provided, as and when required, with proof of purchase of the RPT seats.

The Government reserves the right to change the charter policy at any time and provide for a wider scope for application of special charter conditions, should there be evidence that even if proposed charters are provided on days outside of the RPT services, they will still have a negative impact on the viability of RPT services on marginal routes.

It should also be noted that the *special* charter condition also applies when an airline provides both RPT and charter services over the same RPT route, that is, the purchase of seats on the RPT service will be required in order to provide closed charter services over the same RPT route.

7.7.3 Exemptions from special charter conditions

Exemptions from imposing a *special* charter condition that requires the purchase RPT seats equal to five per cent of proposed charter seats will apply in the following situations:

- when extraordinary circumstances arise, such as charter services for emergency purposes (ad-hoc charters); or
- when the circumstances in which charter operations are provided are deemed by the Minister for Transport as requiring an alternative set of charter conditions.

Charter operators may be partially exempted from the *special* charter condition and be required to purchase a reduced percentage of RPT seats, or be fully exempted, in which case no RPT seats will be required to be purchased.

7.8 Discussion on the charter policy

The Review's Position Paper proposed a charter policy, which stated:

"In the interest of maintaining an adequate level of RPT air services, continue to regulate charter operations over RPT air routes and implement the proposed charter policy amendments in 2014. This includes the capacity to place a special charter condition (unless exemptions apply) on aircraft licences to purchase a certain number of seats on the RPT service in the cases:

- *when the RPT route is regulated; or*
- *when the RPT route is unregulated but has a traffic volume of less than 150,000 passenger movements per annum*

AND where:

- *the one-way charter flight operates on the same day as the RPT air service—this is assessed at the time the charter application is submitted to DoT; and*
- *there is less than four hours difference between the departure time of the RPT service and the departure time of the charter service".*

As part of the consultation process, formal feedback was received from regional stakeholders' submissions in response to the Review's Position Paper, as well as face-to-face or phone discussions held in September and October 2014. The majority of consulted stakeholders generally support the regulation of charters in order to maintain an adequate level of RPT services to remote towns. In New South Wales, although licences for charters were abolished several years ago, the government continues to regulate charters by restricting operators from flying the same route more than four times over any 28 day period unless specifically authorised to do so (Transport for NSW, 2012).

Some stakeholders have expressed a view in their submissions on the Review's Position Paper that regulation that requires charter airlines to seek State Government approval for charter services provided once a week in small planes with 19 seats is somewhat excessive and unnecessary, and an administrative burden. This view arises from the assumption that this number of charter seats is relatively small and would not have a negative impact on the RPT services. However, it should be noted that 19-seater aircraft are the minimum size aircraft that are permitted to be used for RPT operations on regulated routes, and this already occurs on some RPT flights. As demonstrated in figure 8, the Northern Goldfields routes are marginal and even small-sized charter planes can

pose a risk to the RPT services. Thus, regulation of charters using aircraft with 19 seats has been chosen as the cut-off point in the charter assessments over regulated RPT routes.

While there is broad support from the charter and resource industries for adopting a consistent and transparent approach to regulating charter operations over regulated RPT routes, it has been highlighted by several stakeholders that sometimes assessment of future charter applications may need to be made on a case-by-case basis. This view takes into account the fact that each intrastate route has different characteristics and that the needs of resources companies in each region can vary significantly. It has therefore been suggested that blanket regulation of all charters operating across the State may not always be appropriate as it may unnecessarily impact on the efficiency of charter services and transportation of the FIFO workforce.

Taking into consideration previous complaints concerning the case-by-case assessment process for charter applications and its lack of transparency, the State Government aims to adopt, where possible, a more consistent, open and transparent approach to charter regulation that ensures a more equitable charter assessment practice. The State Government does however acknowledge that there are likely to be cases in the future where strict application of the charter





policy and blanket placement of predefined charter conditions may not be appropriate. In such instances, rather than adopting a uniform or 'one size fits all' approach to charter applications, exemptions will be considered. Therefore, where appropriate, charter assessment can be made on a case-by-case basis and may require consultation with the RPT airline, the community (represented through the respective local government) and other relevant stakeholders, in order to understand and take into account the possible effect of the proposed charter on the existing RPT service.

The placement of a *special* charter condition has been criticised in a number of stakeholders' submissions. Concerns have been raised that a *special* charter condition imposes extra cost on the charter and resources industries. Key stakeholders have highlighted that in the current economic conditions the requirement to purchase a certain number of RPT seats on a weekly basis is an unreasonable financial burden on the charter operators who, in turn, pass the cost of the RPT seats onto the resource company using the charter service. Unlike big resources corporations, which generally have greater financial capacities, some small mining companies have highlighted that underwriting RPT services is a financial challenge for their relatively small business and is somewhat unfair.

The *special* charter condition placed on some aircraft licences is particularly unwelcome by the resources industry when the purchased RPT seats cannot actually be used by the companies and

their FIFO staff. The main reasons for the unused RPT seats are unsuitable RPT timetables or the significant distance between the RPT airport and the actual mining site, requiring a long drive by car to pick up the employee or contractor from the RPT airport.

Some industry stakeholders see the *special* charter condition as a heavy-handed regulatory approach, which unnecessarily increases their operational costs and is essentially an unfair subsidy for the RPT airline paid by resources companies. This has been highlighted specifically for very marginal routes, such as Mount Magnet and Wiluna, where there is a view that there is no genuine demand for RPT services to those towns to warrant regular weekly public flights. The feedback also highlights that, despite the RPT services being subsidised by the resources sector through the *special* charter conditions, the RPT services are still marginal. Furthermore, it has been stressed that the special charter condition compromises the needs of the resources companies and provides an unfair advantage to the RPT operator, an outcome that is at odds with State Government objectives to minimise costs on the resources sector and charter industry. However, without a *special* charter condition that requires the purchase of RPT seats, the high volume of charter traffic can undermine the viability of RPT services on marginal routes (particularly in the Northern Goldfields). Thus, the requirement to purchase seats on the RPT service is essential to ensure the continuation of RPT services for regional communities in the future.

Another issue raised through responses to the Review's Position Paper is that the *special* condition should not be applied on charter licences where new RPT services are instigated on a route after existing and long-standing charter services were already in place on particular days of the week. It is argued that a 'first in, best dressed' approach should be adopted and there are expectations that current charter operations would be given 'grandfather' rights to continue their operations without being subject to a special charter condition. For example, Onslow has historically received numerous charter flights and RPT services only commenced in late 2014; thus, a special charter condition should not be applicable, especially if the new RPT services remain viable.

In addition to this issue, some industry stakeholders have expressed a view that once an established RPT service is viable, any new resource industry operations that require the introduction of new charter services would not have any adverse impact on the established RPT service as they would not reduce the existing passenger load using the RPT service. Thus, it could be argued that in such cases, there is no need for a special charter condition. Conversely, there is a risk that some passengers from the resources sector previously using the RPT services could switch to charter services, thereby reducing the volume of RPT traffic. Furthermore, even if a new mine operation does not result in a reduced number of passengers on RPT services, it is possible that over time there may be mine closures within the region, leading to reduced numbers of RPT passengers. If those RPT passengers are not replaced then, over time, the viability of RPT services will decline. As such, in the case of new mining operations the placement of a *special* charter condition on the charter operator's aircraft licence is regarded as appropriate and supports the objectives of the State for maintaining an adequate level of RPT air services for regional communities.

Conclusion

Charter regulation ensures that communities in remote locations can benefit from access to RPT services, which are essential for their wellbeing and lifestyle. The placement of a *special* charter condition on aircraft licences of charter airlines will ensure that the RPT services are supported and will remain viable. If charter operations expand in the future, without a *special* charter condition, some RPT flights may become unviable.

Highlights

- The State Government's priority is to maintain an adequate level of RPT air services while imposing the least possible cost on the charter and resources industries. Charter flights are regulated to ensure that they do not detract from the viability of RPT air services.
- The resources sector frequently uses charter services to transport the FIFO workforce and in many cases the volume of passengers on charters in WA is significantly higher than the volume of passengers on RPT services. This poses a risk to the RPT service, especially in the Northern Goldfields where the protected RPT routes are marginal.
- The charter policy provides for a more consistent and transparent approach to assessing charter operations in the future, although some assessment on a case-by-case basis may sometimes be appropriate to take into account the different dynamics of regional air routes.
- The placement of a special condition on the aircraft licence of a charter operator, where applicable, that requires the purchase of a certain number of RPT seats on the route to support the RPT service is essential for the sustainability of RPT air services in regional WA.

Final recommendation

In the interest of maintaining an adequate level of RPT air services, continue to regulate closed charter operations over RPT air routes. This includes the ability to place a *special* charter condition (unless exemptions apply) on aircraft licences to purchase a certain number of seats on the RPT service in cases:

- when the RPT route is regulated; or
- when the RPT route is unregulated but has a traffic volume of fewer than 150,000 passengers per annum;

AND

- where a closed charter flight operates on the same day as the RPT air service and there is a difference of less than four hours between the departure time of the RPT service and the departure time of the closed charter service.