
**THE AIRPORT AUTHORITY (FEES AND)
CHARGES) REGULATIONS, 2009**

S.I. 17/2009.

(SECTION 25)*[Commencement 26th January, 2009]* S.I. 19/2009.

1. These Regulations may be cited as the Airport Authority (Fees and Charges) Regulations, 2009. Citation.

2. In these Regulations — Interpretation.

"Act" means the Airport Authority Act;

"Aeronautical Fees" means landing fees, aircraft parking fees, terminal usage charges, lighting charges, passenger loading bridging charges, any fee or tax chargeable to arriving or departing passengers other than Passenger Facility Charges, and any other fee or charge imposed by the Authority on any airline relating to the movement of aircraft at the Lynden Pindling International Airport;

"Company" means the Nassau Airport Development Company Limited;

"Fees and Charges" means fees and charges imposed by the Authority pursuant to paragraph (d) of subsection (2) of section 7 of the Act with respect to Aeronautical Fees and Passenger Facility Charges;

"Passenger Facility Charges" means any fee or tax, excluding passenger taxes as defined in the Passenger Tax Act, chargeable to arriving or departing passengers for the benefit of the Lynden Pindling International Airport and which are used primarily for capital works, including but not limited to departure taxes; Ch. 379.

"Transfer Agreement" means the agreement dated 1st April, 2007 made between the Authority and the Company and any amendments from time to time, whether before or after the date of these regulations, thereto;

"ICAO" means the International Civil Aviation Organization;

Power to vary
fees and charges.

3. The Authority shall impose or vary Fees and Charges as is necessary to fulfill its obligations under the Transfer Agreement.

Procedure to vary
fees and charges.

4. (1) Without prejudice to the powers of the Authority pursuant to section 7 of the Act, the Authority shall consider an imposition or variation of Fees and Charges upon a written recommendation submitted to it by the Company in accordance with these regulations.

(2) If the Authority determines that a recommendation submitted pursuant to paragraph (1) is reasonable, the Authority shall approve the recommendation and impose or vary the Fees and Charges.

(3) In determining whether a recommendation submitted pursuant to paragraph (1) is reasonable, the Authority shall consider, inter alia, the following factors and principles —

- (a) whether the application or level of the Fees and Charges as recommended by the Company is consistent with ICAO's Policies on Charges for Airports and Air Navigation Systems, as may be amended, modified, supplemented or replaced from time to time;
- (b) how the Fees and Charges compare with those in the Caribbean region for airports of similar size and level-of-service as the Lynden Pindling International Airport;
- (c) whether the amount of the Fees and Charges are such that, together with all other airport revenues collected by the Company, they are sufficient to —
 - (i) fund the Company's operating and capital expenditures, including any required reserve accounts;
 - (ii) generate sufficient revenues for the Company's debt service;
 - (iii) achieve compliance with financial covenants of the Company including the achievement of certain projected average and minimum debt service coverage ratios with respect to the Company's then existing and expected debt (including any such debt with an investment-grade rating by at least one internationally

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recognized debt or credit rating agency); and

- (iv) fund the Company's debt service reserve and other required reserve accounts; and *S.I. 39/2009.*
- (v) a return, if any, to the shareholders as maybe agreed from time to time between the government and the Authority.

(4) When the Company from time to time determines, in accordance with the criteria set forth in paragraph (3) of regulation 4, that imposition or variation of Fees and Charges are required, it may submit to the Authority a written recommendation for changes to the Fees and Charges. Such recommendations shall include reasonable details of the factors forming the basis of the recommendation.

(5) Upon submission of a recommendation to the Authority, the Company shall disclose publicly in not fewer than two issues of the Gazette published and circulating in The Bahamas at intervals of not less than two days, and Directly or impacted air carriers, a notice of intent to impose or vary the Fees and Charges called a “Proposed Modification to Airport Fees and Charges Notice” and such Notice shall —

- (a) be issued a minimum of 180 days prior to the proposed effective date of the changes to the Fees and Charges;
- (b) outline the rationale for the proposed changes to the Fees and Charges; and
- (c) invite comments from members of the public and from impacted air carriers on the proposed changes to the Fees and Charges.

(6) The Company shall invite air carriers impacted by the proposed changes to a consultative meeting to be held within thirty days after the first publication of the notice pursuant to paragraph (5), to discuss the Fees and Charges and at said meeting the Company shall —

- (a) disclose financial and other information to support the proposed changes to the Fees and Charges; and
- (b) demonstrate that the criteria set out in subparagraphs (a), (b) and (c) of paragraph (3) to be considered by the Authority in establishing