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Ordinance on Airport Charges

of 25 April 2012 (Status as of 1 August 2019)

The Swiss Federal Council,

based on Article 39 of the Civil Aviation Act of 21 December 1948¹ (CAA), in implementation of Directive 2009/12/EC², Directive 96/67/EC³ and Regulation (EC) No 1107/2006⁴ in the version valid for Switzerland according to Annex Nos 1 and 7 of the Agreement of 21 June 1999⁵ concluded between the Swiss Confederation and the European Community on Air Transport,

ordains:

Chapter 1 General Provisions

Art. 1 Object and scope of application

¹ This Ordinance governs the setting and levying of charges for the use of those airport facilities which serve the purpose of flight operations as well as for access to these facilities (airport charges).

² Airport charges are

- a. flight operations charges;
- b. fees for access to airport installations and systems (access fees);
- c. fees for the use of the central infrastructure (usage fees).

³ The following are included in flight operations charges:

- a. charges in the air traffic segment, and in particular:
 1. landing charges,
 2. passenger charges,

AS 2012 2753

¹ SR 748.0

² Directive 2009/12/EC of the European Parliament and the Council of 11 March 2009 on airport fees

³ Directive 96/67/EC of the Council of 15 October 1996 on access to the ground handling market at community airports

⁴ Regulation (EC) no. 1107/2006 of the European Parliament and the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air

⁵ SR 0.748.127.192.68

3. aircraft parking charges,
 4. freight charges,
 5. charges with an incentive effect in relation to environmental protection;
- b. charges for facilities and services for disabled passengers or those with reduced mobility (PRM segment) in accordance with Regulation (EC) no. 1107/2006;
 - c. charges for measures relating to air safety (air safety segment).

⁴ This Ordinance applies to airports in accordance with Article 36a paragraph 1 CAA.

Art. 2 Definitions

In this Ordinance:

- a. *airport operator* means the owner of the operating concession according to Article 36a CAA;
- b. *airport user* means any natural person or legal entity responsible for the transport of passengers, postal mail or freight by air to or from the affected airport;
- c. *sector relevant to flight operations* means that sector of the airport comprising the segments air traffic, air safety and PRM; also included in this sector are facilities and services for which the airport operator levies access or usage fees;
- d. *central infrastructure* means facilities and services which cannot be provided separately or in multiple versions owing to their complexity or for cost or environmental reasons;
- e. *airside* means that part of the airport which is accessible to the public only with special authorisation;
- f. *landside* means that part of the airport which is accessible to the public without special authorisation;
- g. *economic added value* means profit earned after deducting reasonable capital interest (Art. 17) from the operating result before interest and after taxes or parafiscal charges.

Art. 3 Levying of airport charges

¹ The airport operator levies the airport charges.

² The operator may commission third parties to collect these charges.

Art. 4 Publication of airport charges

The airport operator publishes the airport charges in the Swiss Aeronautical Information Publication (AIP).⁶

Art. 5 Debtor for charges

¹ The concession holder is the debtor for the flight operations charges for flights carried out in terms of a route-specific concession.⁷

² If it is not possible to take legal action against the concession holder or if the flight is not carried out in terms of a route-specific concession, the operator of the arriving or departing aircraft is liable in lieu of the concession holder. If it is not possible to take legal action against the operator either, the owner of the arriving or departing aircraft is liable in lieu of the operator.⁸

^{2bis} In the case of freight charges, the freight forwarder is jointly liable.⁹

³ The debtor for the access fees is the legal entity or natural person who uses the airside access. Persons who require only sporadic access may be exempted by the airport operator from the payment of access fees.

⁴ The debtor for the usage fees is the legal entity or natural person who uses the central infrastructure facilities.

Art. 6 Oversight

The Federal Office of Civil Aviation (FOCA) applies the Price Supervision Act of 20 December 1985¹⁰ mutatis mutandis within the scope of its oversight of the airport charges.

Art. 7 Decisions of the FOCA

¹ The FOCA shall decide on the approval of airport charge regulations by issuing rulings.

² These rulings are published in the Federal Gazette.

³ They come into force at the earliest 90 days after they become legally enforceable.¹¹

⁶ A paid subscription to the AIP may be obtained from: Skyguide, P.O. Box 23, 8602 Wangen bei Dübendorf, Switzerland; www.skyguide.ch. It may be viewed free of charge at the Federal Office of Civil Aviation (FOCA), Mühlestrasse 2, 3063 Ittigen, Switzerland.

⁷ Amended by No I of the O of 14 June 2019, in force since 1 Aug. 2019 (AS 2019 2067).

⁸ Amended by No I of the O of 14 June 2019, in force since 1 Aug. 2019 (AS 2019 2067).

⁹ Inserted by No I of the O of 14 June 2019, in force since 1 Aug. 2019 (AS 2019 2067).

¹⁰ SR 942.20

¹¹ Amended by No I of the O of 14 June 2019, in force since 1 Aug. 2019 (AS 2019 2067).

Art. 8 Deadline for FOCA decisions

If the FOCA fails to meet a decision deadline prescribed in this Ordinance, the parties concerned may demand that it provide a written explanation for failing to meet the deadline and state the time by which a decision may be expected.

Art. 9 Obligation to provide information

If so requested, the airport operator must allow the FOCA to examine the operational accounting records of the airport.

Chapter 2 Flight Operations Charges at Geneva and Zurich Airports
Section 1 General Provisions**Art. 10** Charge periods

¹ The charge regulations for Zurich and Geneva Airports must specify when the airport operator will next initiate proceedings for adjusting flight operations charges.

² This target date may be at most four years after the charge regulations come into force.

Art. 11 Adjustment before the planned target date

¹ The airport operator may only initiate proceedings for changing the flight operations charges before the prescribed target date if:

- a. extraordinary circumstances arise which have an effect on the cost of airport operation;
- b. there are changes to the airport's regulatory environment which were not foreseeable and which have a substantial effect on costs.

² FOCA may order adjustment proceedings to be held or directly prescribe changes in the charges at any time if they do not comply with the requirements of law.

Art. 12 Capacity surcharges

¹ Capacity surcharges may be levied on flights handled during times of proven capacity shortages. Airlines with considerable transfer passenger traffic may not be disadvantaged in the general market environment by these surcharges.

² The amount of the surcharge is calculated according to the additional costs of services and facilities necessary to satisfy demand during peak capacity utilisation.

Art. 13 Differentiated charges

Flight operations charges may be differentiated to correspond to the scope and quality of the facilities and services offered by the airport operator, if these costs differ significantly. In this case, the following applies:

- a. Criteria defined in Article 10 of Directive 2009/12/EC must be observed.
- b. There may be no cross-financing between individual facilities and services.

Art. 14 Pre-financing

¹ Projected expenditures in the environmental sector and, given the necessary approvals from the authorities, investments in facilities in the airport sector relevant to flight operations may be pre-financed through flight operations charges.

² This pre-financing must be limited in time.

³ Charge income from pre-financing and interest earned on these funds must be allocated to a special account in the airport operator's financial accounts. This account may only be debited for expenditures for the investment projects concerned.

⁴ The airport operator shall provide information on the income and expenditures of its special accounts in the notes to its annual financial statements.

Art. 15 Inflation-related cost increases

¹ The airport operator must provide proof of any inflation-related cost increases added to the basis for calculating airport charges and fees.

² This proof must be provided if possible on the basis of agreements, especially with suppliers and employees. Otherwise, the inflation forecasts of the Swiss National Bank shall be considered authoritative.

³ A reasonable share of any inflation-related cost increases must be deducted to compensate for cost savings based on increases in productivity.

Art. 16 Depreciation

¹ Depreciation is based on the historic procurement or manufacturing costs of non-current assets.

² They are calculated per component of non-current assets based on their useful life.

Art. 17 Reasonable capital interest

Reasonable interest on the capital invested in the airport is calculated according to Annex 1.

Art. 18¹²**Art. 19**¹³ Accounting policies

¹ In its cost accounting the airport operator must list the following segments separately:

¹² Repealed by No I of the O of 14 June 2019, with effect from 1 Aug. 2019 (AS 2019 2067).

¹³ Amended by No I of the O of 14 June 2019, in force since 1 Aug. 2019 (AS 2019 2067).