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

S.I. 17/2009.

(SECTION 25)

*[Commencement 26<sup>th</sup> 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.

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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

*S.I. 39/2009.*

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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

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Fees and Charges have been met by the Company.

(7) The Company shall accept, for a period of 45 days following the first publication of the notice pursuant to paragraph (5), written comments on the proposed changes to the Fees and Charges from members of the public and impacted air carriers and shall provide the Authority with copies of all written comments received.

(8) The Company shall, no later than 60 days following the first publication of the notice pursuant to paragraph (5) —

- (a) disclose publicly on its internet Website, and Directly to any party who has made a written comment and provided contact details, its response to the written comments it has received pursuant to paragraph (7);
- (b) provide the Authority with copies of its response made under subparagraph (a); and
- (c) after taking into consideration the written comments received by the Company pursuant to paragraph (7) and the Company's response to such comments made under subparagraph (a), recommend in writing to the Authority, any imposition or variation of fees and charges.

(9) The Authority shall, within 30 days following a recommendation of the Company under subparagraph (c) of paragraph (8), notify the Company in writing of its determination as to whether a recommendation submitted by the Company pursuant to paragraph (4) is reasonable or not, and, if the Authority determines such recommendation to be reasonable, its approval of the recommendation.

(10) Where the Authority notifies the Company under paragraph (9) of its positive determination and approval of a recommendation submitted by the Company pursuant to paragraph (4), the Authority, simultaneously with the said notification, shall —

- (a) impose or vary the Fees and Charges as recommended; and
- (b) in writing authorize the Company to disclose publicly on behalf of the Authority 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 to impacted air carriers, a notice in the form prescribed in the

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Schedule of the imposition or variation of Fees and Charges by the Authority to take effect not less than 90 days from the date of the first publication.

(11) Where the Authority under paragraph (9) notifies the Company that it has determined that a recommendation submitted by the Company pursuant to paragraph (4) is not reasonable, and it has not approved the recommendation, the Authority shall, simultaneously with the said notification, inform the Company in writing of the reasons for its negative determination.

**Schedule (Regulation 4(10)(b))****NOTICE****LYNDEN PINDLING INTERNATIONAL AIRPORT  
IMPOSITION/VARIATION OF FEES AND CHARGES**

It is hereby notified pursuant to regulation 4 (10) (b) of the Airport Authority (Amendment) Regulations, 2009 that the Airport Authority at a meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 200 \_ imposed and or varied fees and charges at the Lynden Pindling International Airport as follows:

**Aeronautical Fees**

- a)
- b)
- c)
- d)
- e)

**Passenger Facility Charges**

It is further notified that the said imposition and or variation of Fees and Charges shall take effect at the Lynden Pindling International Airport ninety days from the date of first publication of this Notice.