

Danish Civil Aviation Administration

Regulations for Civil Aviation (BL)

BL 9-15

Regulations on payment for use of airports (airport charges)

Edition 2, 19 December 2008

In pursuance of section 71(1), (3) and section 149(10) of the Danish Air Navigation Act, cf. Consolidation Act No. 731 of 21 June 2007, the Danish Civil Aviation Administration hereby stipulates as follows on the authority of the Ministry of Transport, cf. Order no. 1597 of 18 December 2008 on the tasks and powers of the Danish Civil Aviation Administration, on the publication of the Regulations issued by the Administration and on the complaints procedure:

1. Reference documents

1.1 ICAO, Doc 9082/7, Policies on Charges for Airports and Air Navigation Services, latest edition.

1.2 ICAO, Doc 9562/2, Airport Economics Manual, latest edition.

1.3 Commission Regulation (EC) 1794/2006 of 6 December 2006 on a common charging scheme for air navigation services.

1.4 Council Directive 93/3 of 9 December 1997 on access to the ground-handling market in Danish airports.

1.5 The documents referred to in paragraphs 1.1 – 1.4 above are available on the Danish Civil Aviation Administration's web site: www.slv.dk, and the document listed in

paragraph 1.4 is furthermore available on the website of Retsinformation:
www.retsinformation.dk.

1.6 The documents referred to in paragraphs 1.1 – 1.2 can also be obtained from:

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2. Definitions

Abnormal revenues/costs:

Revenues/costs which are very unusual in terms of amount, type or occurrence, and which would be misleading if the said revenues or costs were used as the basis for determining the revenue cap.

User:

The owner or user of an aircraft using an airport.

CAPM (Capital asset pricing model):

An internationally recognised cost-of-capital

method used for determining required return.

Operating costs:

Costs incurred in connection with aeronautical facilities and services.

Regular users:

Users or organisations of users who

- have a physical establishment (are based) at the airport, or
- over a period of more than eight months contribute either more than 20% of the airport's annual revenues in terms of aeronautical facilities and services or more than 20% of the airport's total annual IFR operations.

Revenue cap period:

The four calendar years beginning in the year when the next regulation of charges enters into force.

Commercial facilities and services:

Facilities and services which are not:

1. Aeronautical facilities and services;
2. Facilities and services stated as not included under paragraphs 1-3 of the definition of aeronautical facilities and services; and
3. Hotel facilities and facilities and services abroad.

Aeronautical facilities and services:

Facilities and services which are supplied solely by the airport and which are related to take-off, landing, airport marking, aircraft parking and processing of passengers and cargo, including security measures, not including such facilities and services as are covered by:

1. Commission Regulation (EC) 1794/2006 of 6 December 2006 on a common charging scheme for air navigation services;
2. Council Directive 933 of 9 December 1997 on access to the ground-handling market in Danish airports, except for centralised infrastructures which are, thus, aeronautical facilities that have been approved by the

Danish Civil Aviation Administration in pursuance of section 8 of the Directive; and

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

Airport:

An aerodrome the use of which is open to the public, cf. section 55 of the Air Navigation Act (Public aerodrome).

Airport charges:

Amounts charged to the user as payment for the use of aeronautical facilities and services.

Additional return:

Revenue less operating costs, depreciation and return on invested capital.

Reference year:

The calendar year two years prior to the year when the next regulation of charges enters into force.

Regulatory period:

The four-year period covered by the schedules of charges in connection with the next regulation of charges. The regulatory period may lag the revenue cap period, e.g. if the charges do not come into force until 1 April.

3. Scope

These Regulations lay down provisions on airport charges for the use of those airports in Denmark which are used for commercial aviation and whose average annual passenger movements for the past three years exceed ten million.

4. Fixing airport charges

4.1 General provisions

4.1.1 Airport charges will be fixed in accordance with the recommendations and guidelines applicable to payment for the use of aeronautical facilities and services as defined in section 2 of these Regulations and

set out in

- a. Chapters I and II and Appendix 1 and 3 of ICAO's "Policies on Charges for Airports and Air Navigation Services" (Doc 9082/7), cf. paragraph 1.1 of these Regulations, and
- b. Chapter 2B and Chapters 3 - 7 and attachments 1, 3, 4 and 6 of ICAO's "Airport Economics Manual" (Doc 9562/2), cf. paragraph 1.2 of these Regulations.

4.1.2 Notwithstanding the provisions of paragraph 4.1.1, airport charges may be fixed only to the extent that this is in accordance with the provisions on aids granted by states in the Treaty Establishing the European Community (articles 87-89).

Remark: Some of ICAO's recommendations and guidelines, see paragraph 4.1.1, provide that states may grant aids, including rebates. To the extent that such provisions are contrary to the provisions on aids granted by states in the Treaty, the provisions of the Treaty prevail.

4.2 Cost-based and incentive-based model

4.2.1 The Danish Civil Aviation Administration may choose whether airport charges are to be fixed according to a cost-based or an incentive-based model. See ICAO Doc 9082/7, "Policies on Charges for Airports and Air Navigation Services", Chapter II, paragraph 22, and ICAO Doc 9562/2, "Airport Economics Manual", Chapter 2B.

4.2.1.1 In determining which regulatory model to apply in accordance with paragraph 4.2.1 above, the Danish Civil Aviation Administration will assess which model best ensures efficient airport operations, including that the airport does not abuse its market position.

4.2.1.2 In cases where the Danish Civil Aviation Administration determines that airport charges are to be fixed according to an incentive-based model, this regulatory

model will be recorded as an appendix to these Regulations in relation to the fixing of the charges of the airport in question.

4.2.2 According to the cost-based model, revenues for each individual charges area, see ICAO Doc 9082/7, "Policies on Charges for Airports and Air Navigation Services", Chapter II, paragraphs 26 - 30, (such as take-off, landing, passenger, security and parking) are not to exceed an amount covering the costs associated with the charges area in question, cf., however, paragraph 4.2.3 below.

4.2.3 If the airport and a qualified majority of 2/3 of the regular users so agree, the Danish Civil Aviation Administration may stipulate that revenues and costs under the cost-based model are to be determined for all areas of charges in aggregate.

4.2.4 The Danish Civil Aviation Administration will stipulate the more detailed conditions for the incentive-based model. The conditions for this model as it relates to Copenhagen Airports A/S are stipulated in Appendix 1 to these Regulations (regulatory model), cf. paragraph 4.2.1.2.

5. Approval of airport charges

5.1 Airport charges are to be approved by the Danish Civil Aviation Administration. A prerequisite for approval is that the charges are cost-based, non-discriminatory and transparent. With respect to Copenhagen Airports A/S, the charges must furthermore be in accordance with the provisions in Appendix 1.

5.2. Application for approval of airport charges is to be submitted to the Danish Civil Aviation Administration not later than four months prior to the date when the charges are to come into force. See, however, paragraph 5.2.1 below and paragraph 7 of Appendix 1.

5.2.1 This deadline may be reduced if this is accepted by the airport and its regular users. See, however, paragraph 5.2.2 below. The

deadline may not be reduced to less than four weeks, however.

5.2.2 A reduction of the deadline set out in paragraph 5.2.1 above is subject to the deadline for the implementation of the schedule of charges being met. See paragraphs 7.2 and 7.2.1.

5.3 In its application for approval of airport charges, the airport must demonstrate that the airport charges are transparent and do not discriminate against certain users and document that the users have been consulted pursuant to ICAO Doc 9082/7, "Policies on Charges for Airports and Air Navigation Services", Chapter II, paragraphs 31 and 32. See paragraph 1.1 above.

5.4 If the Danish Civil Aviation Administration does not approve the airport charges, new charges are to be prepared and submitted for approval by a deadline fixed by the Danish Civil Aviation Administration. If the charges are once again rejected, the Danish Civil Aviation Administration will set out the new charges upon consultation with the airport and its users. The existing charges remain in force until the Danish Civil Aviation Administration has approved or set out new charges. The Danish Civil Aviation Administration will stipulate the date when the new charges are to enter into force, again upon consultation with the airport and its users.

6. Changes to airport charges

The Danish Civil Aviation Administration is entitled to change airport charges at any time upon consultation with the airport and its users if this is warranted by social interests or overall traffic considerations, for example if, due to new statutory requirements or rules pursuant to these, significantly higher costs are imposed on the airport relative to the charges on which the calculation of charges is based.

7. Schedules of charges

7.1 The airport will publicise the airport charges in a schedule of charges and ensure that this is readily available to the users.

7.1.1 The airport will forward the schedule of charges to the Danish Civil Aviation Administration at the time of its publication.

7.2 The schedule of charges cannot enter into force until at least two months after the Danish Civil Aviation Administration's approval of the airport charges. See, however, paragraph 7.2.1 below.

7.2.1 This deadline may be changed if this is accepted by the airport and its regular users.

8. Duty of disclosure

8.1 The airport as well as its users have an obligation to disclose such information, including documents, as the Danish Civil Aviation Administration may request in connection with the administration of these Regulations with appendixes. For example, the Danish Civil Aviation Administration may request from the airport schedules covering multi-year periods of the airport's

- a. total costs and revenues accrued from aeronautical facilities and services;
- b. total costs and revenues accrued from non-aeronautical facilities and services (commercial business);
- c. total costs and revenues for each individual charges area;
- d. development of demand within each individual charges area;
- e. an account of the allocation principles and keys applied to non-current assets and operating costs, including whether these have changed during the period.

8.1.1 The airport must document the correlation between the information listed in paragraph 8.1 a-c and the airport's annual report. As for the distribution between aeronautical and commercial costs and the distribution between areas of charges, this may be made on the basis of estimates.

8.2 If the Danish Civil Aviation Administration does not within a stipulated reasonable deadline receive the information requested by the Administration in accordance with paragraphs 8.1 and 8.1.1, the Administration will make its decision based on the information available.

9. Late payment

If the airport charges are not paid on a timely basis, the airport may charge a cost-based service fee for each reminder sent.

Note 1: In addition, interest is charged pursuant to the Danish Interest Act, cf. section 71(3) of the Danish Air Navigation Act.

Note 2: Payment including accrued interest may be collected by means of statutory debt collection, cf. section 71(5) of the Danish Air Navigation Act.

10. Punishment

10.1 Any violation of the provisions of paragraphs 4.1.1; 5.1; 7.1 and 8.1 and the terms and conditions set out pursuant to paragraph 4.2.4 is punishable by fine.

10.2 Companies and other entities (legal entities) may be criminally liable pursuant to the provisions of part 5 of the Danish Criminal

Code, cf. section 149(14) of the Air Navigation Act.

11. Exemption

The Civil Aviation Administration – Denmark may in quite exceptional cases grant exemption from the provisions of these Regulations.

12. Commencement

12.1 These Regulations come into force on 31 December 2008.

12.2 At the same date, BL 9-15, Edition 1 of June 1 2007 is repealed.

12.3 Schedules of charges for airports subject to these Regulations and which at the effective date have been approved by the Danish Civil Aviation Administration for a given period remain in force until the end of the period in question.

12.5 The existing model for the fixing of Copenhagen Airports A/S' airport charges expires on 31 December 2008. However, the charges already approved will be in force until 31 March 2009, and these charges will, thus, be the same as those in force on 31 December 2008.

Danish Civil Aviation Administration, 19 December 2008

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