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## **No. S 361**

### **CIVIL AVIATION AUTHORITY OF SINGAPORE ACT 2009 (ACT 17 OF 2009)**

#### **CIVIL AVIATION AUTHORITY OF SINGAPORE (PRICE CONTROL OF AERONAUTICAL CHARGES) (AMENDMENT) RULES 2012**

In exercise of the powers conferred by section 52(2) of the Civil Aviation Authority of Singapore Act 2009, the Minister for Transport hereby makes the following Rules:

#### **Citation and commencement**

1. These Rules may be cited as the Civil Aviation Authority of Singapore (Price Control of Aeronautical Charges) (Amendment) Rules 2012 and shall come into operation on 31st July 2012.

#### **Amendment of rule 2**

2. Rule 2(1) of the Civil Aviation Authority of Singapore (Price Control of Aeronautical Charges) Rules 2009 (G.N. No. S 298/2009) (referred to in these Rules as the principal Rules) is amended —

(a) by inserting, immediately after the definition of “first regulatory period”, the following definition:

““former exempt airport licensee” means an airport licensee that was formerly exempt from these Rules with regard to any airport;”;

(b) by inserting, immediately after the definition of “landside area”, the following definition:

““material capital expenditure” means any capital expenditure project relating to an airport incurred or to be incurred during a regulatory period where the contract value of the project exceeds

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the materiality threshold specified by the Authority for that regulatory period;”;

(c) by deleting the definition of “regulatory period” and substituting the following definition:

““regulatory period” means —

(a) the period starting from 1st July 2009 and ending on 31st March 2012 (which is the first regulatory period), and thereafter, every subsequent period of 5 years each, unless otherwise provided in paragraph (b); or

(b) in the case of a former exempt airport licensee, such period as the Authority thinks fit with respect to the airport licensee’s airport starting from the date the exemption is revoked, and thereafter, every subsequent period of such duration (which may be of equal or different duration) as the Authority specifies with respect to that airport;”;

(d) by inserting, immediately after the definition of “security services and facilities”, the following definitions:

““significant capital expenditure” means any capital expenditure for any significant project;

“significant project” means any project relating to an airport which, if not completed or its completion is delayed —

(a) is likely to adversely affect the status of Singapore as an international aviation hub;

(b) is likely to adversely affect the safety of the airport; or

(c) is likely to adversely affect the security of the airport;

“tariff” means any aeronautical charges, including any terms or conditions imposed in relation to such charges, set by the airport licensee and approved by the Authority in accordance with these Rules;”.

### **Amendment of rule 6**

3. Rule 6 of the principal Rules is amended by inserting, immediately after paragraph (2), the following paragraph:

“(3) In the case of an airport licensee that is a former exempt airport licensee, the Authority must conduct in accordance with this Part and Part IV (as modified by rules 28A and 28B where applicable) an inquiry or review for the purpose of making a determination in respect of such an airport licensee for each regulatory period of that airport licensee.”.

### **Amendment of rule 7**

4. Rule 7(1) of the principal Rules is amended —

(a) by deleting the words “in the form of either or both of the following” and substituting the words “in any or all of the following terms”; and

(b) by deleting the full-stop at the end of sub-paragraph (b) and substituting a semi-colon, and by inserting immediately thereafter the following sub-paragraphs:

“(c) the maximum rate of increase or the minimum rate of decrease in maximum price;

(d) the average price or the average rate of increase or decrease in average price;

(e) a tariff for the provision of aeronautical services and facilities, including the rate of increase or decrease in a tariff, a maximum tariff or maximum rate of increase or minimum rate of decrease in the maximum tariff or an average tariff or an average rate of increase or decrease in the average tariff;

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- (f) the pricing policies or principles for fixing prices or tariffs;
  - (g) by reference to a general price index or to quantity, location or period of provision of the aeronautical services and facilities, the class of persons to whom aeronautical services and facilities is provided;
  - (h) such other terms as the Authority considers appropriate.”.

### **Amendment of rule 8**

5. Rule 8(1) of the principal Rules is amended by deleting sub-paragraph (b) and substituting the following sub-paragraph:

“(b) in any other case —

- (i) must not be less than 5 years after the determination takes effect, unless otherwise provided in sub-paragraph (ii); or
- (ii) where an airport licensee is a former exempt airport licensee, must be the end of such period as the Authority specifies for each regulatory period applicable to that airport licensee.”.

### **Amendment of rule 21**

6. Rule 21(4) of the principal Rules is amended —

- (a) by inserting, immediately after the word “weeks”, the words “(or such longer period as the Chief Executive may allow in any particular case)”; and
- (b) by deleting the word “generally” in sub-paragraph (a) and substituting the words “in appropriate detail”.

### **Amendment of rule 22**

7. Rule 22(2) of the principal Rules is amended —

- (a) by deleting sub-paragraph (iv) of sub-paragraph (a) and substituting the following sub-paragraph:

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“(iv) a progress report of items of material capital expenditure and significant capital expenditure for the preceding regulatory period;”;

(b) by deleting the word “and” at the end of sub-paragraph (a)(ix); and

(c) by inserting, immediately after sub-paragraph (x) of sub-paragraph (a), the following sub-paragraph:

“(xi) unaudited quarterly regulatory accounts for the years in the preceding regulatory period where audited accounts are not yet available; and”.

### **New rules 28A and 28B**

8. The principal Rules are amended by inserting, immediately after rule 28, the following rules:

#### **“Modification of this Part to former exempt airport licensee**

**28A.**—(1) A former exempt airport licensee of an airport must, before setting any aeronautical charges in respect of any period for the use of the airport or for such other airport services and facilities provided by the former exempt airport licensee at the airport, submit to the Authority its proposal on the determination to be made under this Part in relation to the aeronautical charges for the use of the airport or for such other airport services and facilities to be provided by the former exempt airport licensee at that airport in that period.

(2) The provisions of this Part shall apply to and in relation to any former exempt airport licensee but with such exceptions, modifications and adaptations as are specified in this rule and rule 28B.

(3) Rules 19, 20, 21(1), 22, 23, 27 and 28 shall not apply to or in relation to any proposal from any former exempt airport licensee on the determination to be made in relation to the airport

of the former exempt airport licensee where the proposal from any such airport licensee is a tariff.

(4) Rules 24, 25 and 26 shall each apply to and in relation to any former exempt airport licensee as if any reference therein to a review or hearing under rule 23 is a reference to a review under rule 28B, where the proposal from any such airport licensee is a tariff.

### **Review and determination with respect to tariff proposal**

**28B.**—(1) Where the proposal submitted under rule 28A(1) by a former exempt airport licensee is a tariff, the proposal must —

- (a) fully and clearly describe the particular services and facilities to be provided by the former exempt airport licensee at that airport;
- (b) contain a clear statement of the aeronautical charges and all terms or conditions imposed in relation to those charges, including any package offer and the criteria for determining those persons who may be offered such a package offer;
- (c) state the date that the tariff is proposed to take effect (which must be at least 3 months after the submission of the proposal under this rule) and the period the tariff specified therein is to remain in force;
- (d) list any discounts or special considerations that the former exempt airport licensee proposes to offer, the period of time for which such discounts or special considerations will be valid and the requirements that must be satisfied;
- (e) state any person or aircraft or class of persons or aircraft who are proposed to be exempted from the payment of any tariff or all of the tariffs; and
- (f) be accompanied by —
  - (i) relevant business development strategies and plans, together with all the necessary costs and revenue projections;

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- (ii) information, assumptions, justifications and calculations to show the basis and rationale for the proposed tariff;
  - (iii) actual and projected operating statistics, including the number of passengers landing at or departing from the airport of the former exempt airport licensee and the number of aircraft movements at that airport for each type of flight where relevant; and
  - (iv) such other provisions, specifications and particulars in relation to the proposed tariff, and such other information and materials as are necessary to explain and illustrate the proposal, as the Authority may require.

(2) Upon receipt of any proposal from a former exempt airport licensee under rule 28A(1) that is a tariff, the Authority may conduct a review of the proposal in the manner it considers appropriate and do anything the Authority considers necessary or convenient for the purposes of conducting such a review but subject to these Rules, and in particular may —

- (a) consult with any person;
- (b) require the airport licensee to consult with any relevant airport users;
- (c) receive submissions from those persons the Authority considers appropriate;
- (d) hold seminars or workshops;
- (e) conduct hearings; or
- (f) seek additional clarifications, information or documents from the airport licensee concerned in relation to its proposal,

and in conducting any such review, the Authority is not bound by rules of evidence but may inform itself of any matter in any manner it considers appropriate.

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(3) If a former exempt airport licensee is required by the Authority under paragraph (2)(b) to consult relevant airport users, the airport licensee concerned must within a week (or such longer period as the Chief Executive may allow in any particular case) after being informed by the Authority, commence the consultation and rule 21(2), (3) and (4) shall apply to and in relation to the former exempt airport licensee as if —

- (a) any reference therein to a draft proposal is a reference to the proposal submitted by the former exempt airport licensee under rule 28A(1) that is a tariff;
- (b) any reference therein to a designated airport user is a reference to the relevant airport user of the former exempt airport licensee's airport;
- (c) any reference in rule 21(2)(b) to a period of 6 weeks is a reference to a period of one month (or such longer period as the Chief Executive may allow in any particular case);
- (d) any reference in rule 21(4) to rule 22(1) is a reference to rule 28A(1);
- (e) any reference in rule 21(4) to a period of 2 weeks is a reference to a period of one week (or such longer period as the Chief Executive may allow in any particular case); and
- (f) any reference therein to a regulatory period is a reference to the period specified by the former exempt airport licensee under paragraph (1)(c) to be the period the tariff specified in its proposal is to remain in force.

(4) After considering a proposal that is a proposed tariff made by a former exempt airport licensee and any information received under rules 23, 24 and 25 as modified by rule 28A or presented during any hearings held under rule 26 as modified by this rule, the Authority must, within a period of 6 weeks (or such extension by the Authority in accordance with paragraph (5) in any particular case) make a determination to approve or reject in whole or in part the proposed tariff and a report that specifies in appropriate detail the basis and rationale for the determination.

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(5) The Authority may extend the period for making a determination and report under paragraph (4) subject to —

- (a) the period of extension being not more than 6 weeks; and
- (b) the Authority gives prior written notice to the former exempt airport licensee of the period of extension.

(6) On making a determination and report under paragraph (4), the Authority must —

- (a) provide a copy of the determination and report to the Minister and to the airport licensee concerned; and
- (b) publish on the Authority's website or in such daily newspaper circulating in Singapore as the Authority considers appropriate notice of the making of the determination.

(7) Where the Authority determines that it would be appropriate, it may —

- (a) allow the proposed tariff to have effect temporarily on an interim basis, and adjust the proposed tariff at a later date if the Authority determines that any price, term or condition in the tariff should not take effect;
- (b) approve the proposed tariff, subject to such conditions as the Authority considers appropriate; or
- (c) approve the proposed tariff with appropriate variations or amendments.

(8) Except where the Authority is satisfied that any particular tariff shall not be disclosed, the former exempt airport licensee must publish on its website the aeronautical charges for the provision of airport services and facilities in accordance with the tariff approved, varied or amended under paragraph (4) or (7), at least 3 months (or any other period as the Chief Executive may allow in any particular case) prior to such charges taking effect.

(9) The information published under paragraph (8) must, at the minimum, include a service description, prices (including any discount offered and the persons or aircraft that are exempted

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from payment of any particular aeronautical charge), conditions and eligibility requirements.”.

### **Amendment of rule 30**

9. Rule 30 of the principal Rules is amended —

(a) by deleting the word “at” in paragraph (1)(b) and substituting the word “before”;

(b) by deleting sub-paragraph (e) of paragraph (2) and substituting the following sub-paragraph:

“(e) since the start of the regulatory period, the actual annual electricity rate, the actual annual consumption amount incurred by the airport licensee and such other parties as specified by the Authority in the determination in force for that regulatory period where available.”;

(c) by deleting sub-paragraph (c) of paragraph (3) and substituting the following sub-paragraph:

“(c) any deviation in electricity costs by the airport licensee in the provision of aeronautical services and facilities at the airport in comparison to the projections made for the period before the mid-term review; or”; and

(d) by deleting paragraph (9) and substituting the following paragraph:

“(9) This rule shall not apply to or in relation to any determination comprising a tariff of aeronautical charges.”.

### **Saving and transitional provision**

10.—(1) Any proposal submitted by a former exempt airport licensee of an airport to the Authority before 31st July 2012 in relation to any aeronautical charges for the aeronautical services and facilities to be provided by the former exempt airport licensee at that airport shall be regarded as a proposal submitted in accordance with the principal Rules as amended.

(2) Except as expressly provided in these Rules, this rule shall apply without prejudice to section 16 of the Interpretation Act (Cap. 1).

*[G.N. Nos. S 284/2010; S 789/2010]*

Made this 25th day of July 2012.

PANG KIN KEONG  
*Permanent Secretary,  
Ministry of Transport,  
Singapore.*

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