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

CIVIL AVIATION AUTHORITY OF SINGAPORE (PRICE CONTROL OF AERONAUTICAL CHARGES) RULES 2009

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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:

PART I
PRELIMINARY

Citation and commencement

1. These Rules may be cited as the Civil Aviation Authority of Singapore (Price Control of Aeronautical Charges) Rules 2009 and shall come into operation on 1st July 2009.

Definitions

2.—(1) In these Rules, unless the context otherwise requires —

“aeronautical charge” means any charge imposed by an airport licensee for an airport for the provision of aeronautical services and facilities at that airport;

“aeronautical services and facilities” has the meaning assigned in rule 3;

“airside area” includes the movement area of an airport and any other part of an airport to which a person is denied access unless in possession of a valid flight ticket or boarding card or such other identification issued or approved by the Authority;

“amend” means omit any matter, insert or add any matter, or omit any matter and substitute any other matter;

“designated airport users”, in relation to an airport, means —

(a) such commercial airline landing at and departing from the airport;

(b) such person providing ground-handling services at the airport; and

(c) such persons using airport services and facilities at the airport, or such organisation representing such persons,

as the Authority shall designate under rule 9 or 19 for each regulatory period applicable to the airport licensee for that airport;

“determination” means a decision of the Authority under section 52(1) of the Act in respect of any aeronautical

charges at any airport, and includes a determination for the first regulatory period;

“determination for the first regulatory period” means any maximum price approved by the Authority immediately upon the commencement of Division 4 of Part IV of the Act for the first regulatory period, being the maximum price referred to in section 52(3) of the Act;

“first regulatory period” means the period starting from 1st July 2009 and ending on 31st March 2012;

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

[S 361/2012 wef 31/07/2012]

“inquiry” means an inquiry under these Rules for the purpose of the Authority making a determination in respect of the airport licensee for any airport for any particular regulatory period;

“landside area” means such part of an airport that is not within the airside area of the airport;

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

[S 361/2012 wef 31/07/2012]

“non-aeronautical charge” means any charge imposed by an airport licensee for an airport for providing non-aeronautical services and facilities at that airport;

“non-aeronautical services and facilities” has the meaning assigned in rule 4(1);

“notice of aeronautical services and facilities pricing” means the notice given under rule 10(1) or 20(1);

“pass-through event” means an event (such as a tax event) which, in the opinion of the Authority, requires that the maximum revenues specified in a determination should be adjusted;

“price variation trigger” means an event or events the happening of which would entitle the Authority to initiate an inquiry with a view to amending a determination for a regulatory period before the end of the regulatory period;

“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;

[S 361/2012 wef 31/07/2012]

“relevant tax” means a tax, charge, levy, duty or an imposition that is directly attributable to the provision of a service or facility specified in a determination and, in the opinion of the Authority, is not normally absorbed by businesses in a fully competitive market, but does not include —

- (a) an income tax or a property tax; or
- (b) a fine or other penalty;

“security services and facilities” has the meaning assigned in rule 4(2);

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

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“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;

[S 361/2012 wef 31/07/2012]

“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;

[S 361/2012 wef 31/07/2012]

“tax event”, in relation to a determination, means —

- (a) the imposition on an airport licensee of an obligation to pay an amount which —
 - (i) it was not obliged to pay at the time the determination was made; or
 - (ii) arises from the imposition of a relevant tax;

- (b) a change in the manner in which, or the rate at which, a relevant tax is calculated which results in a change in an amount an airport licensee is required to pay, whether directly or by reason of an adjustment under a contract of an amount payable under that contract, in respect of relevant taxes from the amount it was so required to pay at the time the determination was made; or

- (c) the removal of a relevant tax which results in a change in an amount an airport licensee is required to pay, whether directly or by reason of an adjustment under a contract of an amount payable under that contract, in respect of relevant taxes from the amount it was so required to pay at the time the determination was made;

“unregulated services and facilities”, in relation to an airport licensee for an airport, means the provision of services and facilities by the airport licensee —

- (a) which are not related to the operation and maintenance of civil aviation at the airport; or

[S 778/2014 wef 01/12/2014]

(b) which are or can be competitively offered in Singapore.
[S 778/2014 wef 01/12/2014]

(2) Where a person together with one or more other persons, by any contract or other arrangement between them, provide services or facilities subject to the joint control of the parties to that contract or arrangement so as to obtain individual benefits for the parties, whether in the form of a share of the output of the arrangement or joint or collective profits for all the parties, any reference in these Rules to a person who provides services or facilities includes a reference to all those parties.

Meaning of “aeronautical services and facilities”

3.—(1) In these Rules, “aeronautical services and facilities”, in relation to an airport licensee for an airport, means all or any of the following services or facilities provided by the airport licensee for that airport:

- (a) those services and facilities provided at the airport that are essential to the operation and maintenance of civil aviation at the airport, and includes each service or facility that is —
 - (i) mentioned in an item in Part I of the First Schedule (aircraft-related); or
 - (ii) mentioned in an item in Part II of the First Schedule (passenger-related);
- (b) such other services and facilities provided at the airport which the Authority certifies under rule 5 as a service that the airport licensee has the market power of a monopoly or near monopoly in Singapore as a provider of such service.

(2) For the avoidance of doubt, aeronautical services and facilities do not include air navigation services and unregulated services and facilities.

[S 778/2014 wef 01/12/2014]

Meaning of “non-aeronautical services and facilities” and “security services and facilities”

4.—(1) Except as otherwise provided under rule 5, “non-aeronautical services and facilities”, in relation to an airport

licensee for an airport, means those services and facilities provided at the airport that are neither —

- (a) aeronautical services and facilities;
- (b) security services and facilities; nor
- (c) unregulated services and facilities,

and includes each service or facility that is mentioned in an item in the Second Schedule.

(2) In these Rules, “security services and facilities”, in relation to an airport licensee for an airport, means each service or facility that is mentioned in an item in the Third Schedule and provided by the airport licensee for the airport.

(3) For the avoidance of doubt, non-aeronautical services and facilities and security services and facilities do not include air navigation services.

Re-classifying services and facilities, etc.

5.—(1) Subject to this rule, the Authority may at any time certify any non-aeronautical service or facility or any security service or facility provided by an airport licensee to be within the meaning of aeronautical services and facilities if the Authority is of the opinion that —

- (a) the airport licensee exercises the market power of a monopoly or near monopoly in Singapore as a provider of that service or facility; and
- (b) the promotion of competition, efficiency or the public interest requires the making of the certification.

(2) The Authority may at any time cancel a certification under paragraph (1) in respect of a service or facility if the Authority is of the opinion that the airport licensee no longer exercises the market power of a monopoly or near monopoly in Singapore as a provider of that service or facility.

(3) Subject to this rule, the Authority may at any time recommend to the Minister that any non-aeronautical service or facility provided by

an airport licensee to be re-classified as security service or facility, and vice versa.

(4) Before making a certification under paragraph (1), or cancelling any such certification under paragraph (2), and before making any recommendation under paragraph (3), the Authority must —

- (a) give written notice of its intention to make the certification, cancellation or recommendation, as the case may be, and the reasons for doing so, to each airport licensee providing the service or facility in question;
- (b) publish the giving of such a notice in such daily newspapers circulating in Singapore as the Authority considers appropriate; and
- (c) allow the airport licensee to make written submissions to the Authority with respect to the matter within such reasonable time as is specified in that notice.

(5) Upon any certification under paragraph (1) or cancellation of any such certification under paragraph (2), or upon any recommendation under paragraph (3), the Authority must, within 7 days after the certification or cancellation or recommendation, as the case may be, give notice thereof by giving a copy of its decision to the airport licensee concerned.

[S 778/2014 wef 01/12/2014]

(6) The Authority must state in the copy of its decision referred to in paragraph (5), the effective date of the certification or cancellation or recommendation, as the case may be.

[S 778/2014 wef 01/12/2014]

(7) *[Deleted by S 778/2014 wef 01/12/2014]*

PART II

GENERAL PROVISIONS ON DETERMINATIONS

Requirement to comply with procedure

6.—(1) The Authority must conduct in accordance with this Part and Part III an inquiry for the purpose of ascertaining whether the determination for the first regulatory period in respect of the airport

licensee for any airport should be amended or revoked during that regulatory period.

(2) The Authority must conduct in accordance with this Part and Part IV an inquiry for the purpose of making a determination in respect of the airport licensee for any airport for each regulatory period after the first regulatory period.

(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.

[S 361/2012 wef 31/07/2012]

Content of determinations

7.—(1) A determination for a regulatory period must include a direction about the pricing of aeronautical services and facilities provided by the airport licensee for an airport in any or all of the following terms:

(a) a maximum price or both a minimum and maximum price for each aeronautical service or facility to be provided in that regulatory period;

(b) a maximum total amount (revenue cap, revenue yield cap or otherwise) that may be earned by the airport licensee providing aeronautical services and facilities from the provision of those services and facilities in relation to that airport in that regulatory period;

[S 361/2012 wef 31/07/2012]

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

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

[S 361/2012 wef 31/07/2012]

(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;

[S 361/2012 wef 31/07/2012]

(f) the pricing policies or principles for fixing prices or tariffs;

[S 361/2012 wef 31/07/2012]

(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;

[S 361/2012 wef 31/07/2012]

(h) such other terms as the Authority considers appropriate.

[S 361/2012 wef 31/07/2012]

(2) A determination may include all or any of the following:

(a) a price or an amount referred to in paragraph (1)(a) or (b) that is calculated according to the formula in rule 7A;

[S 284/2010 wef 01/06/2010]

(b) a method (for example, by reference to price indices) by which a price or an amount mentioned in paragraph (1) is to be ascertained;

(c) a reference to the price variation triggers.

(3) In making or amending or revoking any determination, the Authority must consider the following matters:

(a) the cost of providing aeronautical services and facilities and non-aeronautical services and facilities at the airport concerned;

(b) any international benchmark for prices, costs, revenues and return on assets in bodies providing a service similar to those aeronautical services and facilities and non-aeronautical services and facilities;

(c) the principle that there is a need for a reasonable return on the assets of the airport licensee concerned;

(d) the principle that there is a need for efficiency in the provision of the aeronautical services and facilities and non-

aeronautical services and facilities for the purpose of benefiting the public interest;

- (e) the effects of inflation and deflation;
- (f) the principle that there is a need for the airport licensee concerned to be financially viable so far as the provision of airport services and facilities are concerned;
- (g) the impact on pricing policies of any borrowing, capital, dividend and taxation or tax equivalent obligations of the airport licensee concerned, including obligations to renew or increase assets;
- (h) the quality of the provision of those aeronautical services and facilities;
- (i) any cost (including capital expenditure) incurred by the airport licensee concerned at the direction of the Authority;
- (j) the public interest; and
- (k) any other matter the Authority considers relevant.

[S 361/2012 wef 31/07/2012]

Formula for price or amount

7A.—(1) For the purposes of rule 7(2)(a), the formula for calculating a price or an amount is

$$RYCap_t = \frac{Opex_{aero\ t} + Depreciation_{aero\ t} + CoC_{aero\ t} - H\% * Profit_{non-aero\ t} - Adjustment_t}{Vol_{pax\ t}}$$

where	t	is the year in the regulatory period for which the RYCap is to be determined;
	RYCap _t	is the revenue yield cap or aeronautical revenue earned per passenger in the relevant year t;
	Opex _{aero t}	is the operating expenses incurred from the provision of aeronautical services and facilities, including security-related

		operating expenses not recovered from projected security-related revenue, projected for the relevant year t ;
	Depreciation _{aero t}	is the projected depreciation of assets utilised from the provision of aeronautical services and facilities, including the projected depreciation of security-related assets not recovered from projected security-related revenue, in the relevant year t ;
	CoC _{aero t}	is the sum of computed pre-tax weighted average cost of capital (WACC) on the average regulated asset base and the computed pre-tax WACC on the average security asset base not recovered from projected security-related revenue, in the relevant year t ;
	H%	is the level of contribution applied on the projected non-aeronautical economic profits in the relevant year t ;
	Profit _{non-aero t}	is the projected non-aeronautical economic profits in the relevant year t ;
	Adjustment _t	is the allowable adjustments made, on a net present value-neutral basis, to the projected aeronautical revenue in the relevant year t which may include, but are not limited to, positive or negative adjustments to account for revenue profiling requirements, under-recovery and over-recovery from previous regulatory periods and deviations from capital expenditure forecasts;
	Vol _{pax t}	is the projected total passenger movement for the relevant year t .

(2) In this rule —

“average regulated asset base”, in relation to any year, means the average of the starting and ending value of the regulated asset base for the year;

“average security asset base”, in relation to any year, means the average of the starting value and the ending value of the security asset base for the year;

“non-aeronautical economic profit” means the operating profit derived from the provision of non-aeronautical services and facilities, net of depreciation and the pre-tax weighted average cost of capital on the average non-regulated asset base;

“regulated asset base”, in relation to an airport licensee for an airport, means such assets, including working capital and work-in-progress assets, that are utilised by the airport licensee in the provision of aeronautical services and facilities at the airport;

“security asset base”, in relation to an airport licensee for an airport, means such assets, including working capital and work-in-progress assets, that are utilised by the airport licensee in the provision of security services and facilities at the airport.

(3) In computing the average regulated asset base in relation to any year within a regulatory period —

- (a) the starting value of the regulated asset base for the next regulatory period shall be equal to its value at the end of the last regulatory period; and
- (b) the projected ending value of the regulated asset base of each year in the regulatory period shall be its starting value plus —
 - (i) projected aeronautical capital expenditure during the year;
 - (ii) projected change in work-in-progress assets; and
 - (iii) projected net changes to net aeronautical working capital, where aeronautical working capital is to be determined by the Authority after consultation with the airport licensee,

but less projected depreciation and disposals of aeronautical assets.

(4) In computing the average security asset base in relation to any year within a regulatory period —

- (a) the starting value of the security asset base for the next regulatory period shall be equal to its value at the end of the last regulatory period; and
- (b) the projected ending value of the security asset base of each year in the regulatory period shall be its starting value plus —
 - (i) projected security capital expenditure during the year;
 - (ii) projected change in work-in-progress assets; and
 - (iii) projected net changes to net security working capital, where security working capital is to be determined by the Authority after consultation with the airport licensee,

but less projected depreciation and disposals of security assets.

[S 284/2010 wef 01/06/2010]

When determination takes effect and ends

8.—(1) A determination must specify the day on which the determination expires which —

- (a) must be 31st March 2012 in the case of the first regulatory period; and
- (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.

[S 361/2012 wef 31/07/2012]

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- (2) Subject to Part V, a determination takes effect —
- (a) if at the time the determination is made no existing determination is in force, on the day specified in the determination;
 - (b) if at the time the determination is made an existing determination is in force having not yet reached its expiry date, on the expiry or revocation of that existing determination; or
 - (c) if at the time the determination is made an existing determination is in force by reason of paragraph (5), on the day specified in that determination.
- (3) Notwithstanding paragraph (2), the determination for the first regulatory period shall take effect on 1st July 2009.
- (4) A determination ceases to have effect —
- (a) if the determination is revoked, on the day that revocation takes effect; or
 - (b) in any other case, on the day specified in the determination as the day on which it expires.
- (5) If on the day on which an existing determination is due to expire an inquiry is being conducted in respect of a service to which the existing determination relates, the existing determination —
- (a) continues to have effect in respect of that service; but
 - (b) subject to these Rules, ceases to have effect in respect of any other service to which it relates.

PART III

AMENDMENTS TO DETERMINATION FOR FIRST REGULATORY PERIOD

Designated airport users for first regulatory period

9. The list of designated airport users relating to an airport for the first regulatory period must be given by the Authority to the airport

licensee for the airport not later than 2 weeks after the commencement of these Rules.

Requirement to initiate inquiry to ascertain amendments, etc.

10.—(1) Not later than 7 days after the commencement of these Rules, the Authority must give notice in writing to the airport licensee for an airport of its intention to commence an inquiry for the purpose of ascertaining whether the determination for the first regulatory period in respect of that airport licensee should be amended or revoked, or revoked and substituted by another determination, during that regulatory period (referred to in these Rules as a notice of aeronautical services and facilities pricing).

(2) A notice of aeronautical services and facilities pricing with respect to the first regulatory period specified therein must specify —

- (a) the purpose of the inquiry;
- (b) the day by which the Authority is to complete the inquiry and make a determination under rule 17(1), which must not be later than 4 months after the commencement of these Rules;
- (c) the period within which proposals may be made to the Authority, which must not be more than 3 months;
- (d) the form in which proposals may be made to the Authority; and
- (e) the matters the Authority would like the proposals to address.

(3) Within one week after a notice of aeronautical services and facilities pricing is given to the airport licensee concerned, the notice shall also be published in such daily newspapers circulating in Singapore as the Authority considers appropriate.

(4) The notice of aeronautical services and facilities pricing that is given to an airport licensee for an airport shall be accompanied by the determination for the first regulatory period and preliminary guidelines to be used by the Authority in making its inquiry, including but not limited to the following:

- (a) passenger growth expectations in relation to the airport;
- (b) aircraft traffic growth expectations in relation to the airport;

- (c) cost of capital assumptions;
- (d) an inflation and deflation forecast;
- (e) productivity expectations;
- (f) a proposed capital expenditure schedule for that airport.

(5) For the avoidance of doubt, rule 31 does not apply to an inquiry or hearing under this Part.

Airport licensee's duty to consult

11.—(1) Within a period of one month after receiving a notice of aeronautical services and facilities pricing with respect to the first regulatory period, the airport licensee for an airport concerned must —

- (a) prepare a draft proposal on the determination for the first regulatory period (which may include any proposed amendments thereto);
- (b) provide without charge a copy of the draft proposal to the Authority;
- (c) make copies of the draft proposal, in both electronic and printed form, available free of charge to the designated airport users relating to that airport for the first regulatory period; and
- (d) start to consult, at its own expense, with those designated airport users for the first regulatory period.

(2) In carrying out any consultation of the designated airport users for the first regulatory period, the airport licensee must give reasonable notice of the consultation to those designated airport users in writing, specifying —

- (a) the purpose of the consultation;
- (b) the period within which comments by those designated airport users may be given to the airport licensee, being a period not ending before 21st August 2009;
- (c) the matters the airport licensee would like the comments to address; and

(d) that if such a designated airport user does make such comments, the designated airport user must also deliver a copy of those comments to the Authority at the same time.

(3) The airport licensee must take into consideration all comments submitted in relation to its draft proposal in accordance with the notice of the consultation in paragraph (2).

Airport licensee's proposal to Authority

12. An airport licensee for an airport which has received a notice of aeronautical services and facilities pricing with respect to the first regulatory period must, no later than 19th September 2009, submit to the Authority, in accordance with the requirements of the Authority, its proposal on the determination for the first regulatory period (which may include any proposed amendments thereto) regarding aeronautical charges for the aeronautical services and facilities to be provided by the airport licensee in that first regulatory period in relation to that airport.

Review of airport licensee's proposal

13.—(1) Upon receipt of any proposal from an airport licensee under rule 12, the Authority must —

(a) prepare a draft report on the inquiry and a draft of any determination under rule 17(1) in relation to the determination for the first regulatory period; and

(b) do anything it considers necessary or convenient for the purposes of reviewing the proposal, but subject to these Rules.

(2) Subject to these Rules, the Authority may conduct any such review in the manner it considers appropriate and, in particular, may —

(a) consult with any person;

(b) receive submissions from those persons it considers appropriate;

(c) hold seminars or workshops; or

(d) conduct hearings.

(3) 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.

Requiring person to give evidence or produce documents

14.—(1) For the purposes of a review under rule 13, the Authority may require a person, by written notice provided to the person, to do any one or more of the following:

- (a) attend before the Authority and answer questions which, in the opinion of the Authority, are relevant to the review;
- (b) provide to the Authority, in the manner specified in the notice, any document specified in the notice which is in the person's possession or control and which, in the opinion of the Authority, is relevant to the review;
- (c) provide to the Authority, in the manner specified in the notice, a document prepared as specified in the notice that contains information which is specified in the notice and which, in the opinion of the Authority, is relevant to the review;
- (d) provide to the Authority, in the manner specified in the notice, any other information specified in the notice which, in the opinion of the Authority, is relevant to the review.

(2) If a person is required under paragraph (1) to attend before the Authority and answer questions, the Authority may determine whether the person may be represented by another person.

Use of documents or information

15.—(1) The Authority —

- (a) may examine, take possession of, make copies of and take extracts from any document provided under a requirement referred to in rule 14(1)(b) or (c);
- (b) may retain that document for so long as is necessary for the purposes of the inquiry; and

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- (c) must allow a person who would be entitled to inspect the document if it were not in the possession of the Authority to inspect it, make a copy of it or take an extract from it at any reasonable time.
- (2) The Authority may give directions prohibiting or restricting —
- (a) the publication of any answer, document or other information provided to it under a requirement referred to in rule 14(1);
 - (b) a part of any such answer, document or other information; and
 - (c) a copy of, or extract from, any such answer, document, other information or part.
- (3) The Authority may communicate to any person as the Authority considers appropriate any answer, document or other information provided under a requirement referred to in rule 14(1), or part of any such answer, document or other information, except where —
- (a) a direction in respect of the answer, document, other information or part has been given under paragraph (2) and its provision to that person would contravene the direction; or
 - (b) the answer, document, other information or part contains information which could cause damage to the commercial interests of a person and the Authority determines that such damage or the possibility of such damage outweighs the public benefit that would arise from its publication.
- (4) Any person who contravenes a direction under paragraph (2) shall be guilty of an offence.

Hearings

16.—(1) Before conducting a hearing referred to in rule 13(2)(d), the Authority must give reasonable notice of the hearing to the airport licensee concerned, the designated airport users for the first regulatory period and such other relevant consumers or users of airport services and facilities provided by the airport licensee concerned as the Authority determines.

- (2) The notice of a hearing is to specify —
- (a) the purpose of the hearing;

- (b) the time and place at which the hearing is to be held; and
- (c) the places at which copies of any draft report and draft determination prepared by the Authority on the inquiry may be obtained or accessed.

(3) The Authority may determine whether any person wishing to appear before the Authority at a hearing may be represented by another person.

(4) Subject to paragraph (5), a hearing is to be held in public.

(5) If the Authority is satisfied that it would be in the public interest to do so or that any evidence or document to be presented at the hearing is, or is likely to be, of a confidential or commercially sensitive nature, the Authority must —

- (a) direct that the hearing or part of the hearing is to take place in private and give directions as to the persons who may be present; and
- (b) give directions prohibiting or restricting the publication of evidence or a document presented at the hearing or a part of any such evidence or document.

(6) Any person who contravenes a direction under paragraph (5) shall be guilty of an offence.

(7) The Authority may communicate to any person as it considers appropriate any evidence or document presented at a hearing, or part of any such evidence or document, except where —

- (a) a direction in respect of the answer, document, other information or part has been given under paragraph (5)(b) and its provision to that person would contravene the direction; or
- (b) the answer, document, other information or part contains information which could cause damage to the commercial interests of a person and the Authority determines that such damage or the possibility of such damage outweighs the public benefit that would arise from its publication.

Authority's decision to amend, etc.

17.—(1) After considering the proposal made by the airport licensee and any information received during the review under rule 13 or presented during any hearings held under rule 16, the Authority must make a determination —

- (a) to confirm the determination for the first regulatory period;
- (b) to amend the determination for the first regulatory period;
- (c) to revoke the determination for the first regulatory period; or
- (d) to revoke and make a substitute determination for the first regulatory period.

(2) Any determination that revokes and substitutes the determination for the first regulatory period must —

- (a) specify the services and facilities to be provided by the airport licensee concerned in the first regulatory period; and
- (b) specify either or both of the following:
 - (i) a maximum price or both a minimum and maximum price for each aeronautical service or facility to be provided in the first regulatory period;
 - (ii) a maximum total amount (revenue cap or revenue yield cap or otherwise) that may be earned by the airport licensee providing aeronautical services and facilities from the provision of those services and facilities in relation to that airport in the first regulatory period.

(3) A determination under paragraph (1)(b) or (d) —

- (a) may allow for an adjustment to the maximum revenues specified in the determination as a result of a pass-through event specified in the determination and, if it does so allow, the Authority must specify the method of calculating that adjustment or the principles and general manner to be applied in making the adjustment or doing the calculation of the adjustment; and

(b) may establish a performance incentive scheme for the airport licensee and, if it does so, the Authority must specify the method of calculating the adjustment to the maximum revenues specified in the determination as a result of that scheme or the principles and general manner to be applied in making the adjustment or doing the calculation of the adjustment.

(4) In specifying in a determination the method of calculating an adjustment referred to in paragraph (3)(a) or (b) or the principles and general manner to be applied in making the adjustment or doing the calculation of the adjustment, the Authority must ensure that the adjustment reflects the financial effect to the airport licensee of the pass-through event or change.

(5) A determination under paragraph (1)(b) or (d) may have a differential application that varies according to factors stated in the determination.

(6) When making a determination under paragraph (1), the Authority must also prepare a report that specifies in appropriate detail the basis and rationale for the determination.

(7) When making any determination under paragraph (1), the Authority must also include the following either as part of the report or otherwise:

- (a) reasonable details of the qualitative and quantitative methodologies applied in making the decision, including calculations and formulae;
- (b) the values adopted by the Authority for each of the input variables in calculations and formulae used, including the reasons for adopting those values;
- (c) reasonable details of other assumptions made by the Authority in the conduct of material quantitative and qualitative analyses undertaken in relation to the setting of a maximum revenue or a related matter;
- (d) reasons for material judgments and qualitative determinations made and options considered;

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- (e) reasons for discretions exercised which materially affected the setting of maximum revenues in the determination.
- (8) On making any determination under paragraph (1) and a report under paragraph (6), the Authority must —
- (a) provide a copy of the determination and report to the Minister and to the airport licensee concerned; and
 - (b) publish in such daily newspapers circulating in Singapore as the Authority considers appropriate a notice of the making of the determination.
- (9) A determination under paragraph (1)(b) or (c) takes effect on the day specified in it.

Airport licensee to supply price details

18.—(1) If the Authority —

- (a) amends a determination for the first regulatory period to become a determination described in rule 17(2)(b)(ii);
- (b) makes a substitute determination for the first regulatory period that is a determination described in rule 17(2)(b)(ii); or
- (c) confirms the determination for the first regulatory period which is a determination described in rule 17(2)(b)(ii),

specifying a maximum total amount (revenue cap, revenue yield cap or otherwise) that may be earned by the airport licensee for an airport from the provision of aeronautical services and facilities in relation to the airport in the first regulatory period, the airport licensee concerned shall prepare a statement setting out the details of every fee and charge it proposes to impose in respect of each type of aeronautical service or facility to be provided in relation to the airport in the first regulatory period.

(2) After the statement referred to in paragraph (1) is prepared, the airport licensee concerned must —

- (a) provide a copy of the statement to the Authority and to the Minister; and

- (b) make copies of the statement, in both electronic and printed form, available free of charge to the designated airport users for the first regulatory period,

at least 3 months before any fee or charge in that statement takes effect.

PART IV

DETERMINATIONS FOR OTHER REGULATORY PERIODS

Designated airport users

19. At least 12 months before the start of any regulatory period other than the first regulatory period, the Authority must also give to the airport licensee for an airport a list of the designated airport users relating to that airport for that regulatory period.

Requirement to initiate inquiry

20.—(1) At least 12 months before the start of any regulatory period other than the first regulatory period, the Authority must give notice in writing to the airport licensee concerned of its intention to commence an inquiry with respect to the regulatory period specified therein (referred to in these Rules as a notice of aeronautical services and facilities pricing).

(2) A notice of aeronautical services and facilities pricing with respect to the regulatory period specified therein must specify —

- (a) the purpose of the inquiry;
- (b) the day by which the Authority is to complete the inquiry and make a determination, which must be at least 4 months before the start of that regulatory period;
- (c) the period within which proposals may be made to the Authority, being a period that is at least 4 months;
- (d) the form in which proposals may be made to the Authority; and
- (e) the matters the Authority would like the proposals to address.

(3) Within one week after a notice of aeronautical services and facilities pricing is given to the airport licensee concerned, the notice shall also be published in such daily newspapers circulating in Singapore as the Authority considers appropriate.

(4) The notice of aeronautical services and facilities pricing that is given to an airport licensee for an airport shall be accompanied by preliminary guidelines to be used by the Authority in making its determination, including but not limited to the following:

- (a) passenger growth expectations in relation to the airport;
- (b) aircraft traffic growth expectations in relation to the airport;
- (c) cost of capital assumptions;
- (d) an inflation and deflation forecast;
- (e) productivity expectations.

[S 778/2014 wef 01/12/2014]

(f) *[Deleted by S 778/2014 wef 01/12/2014]*

(5) In addition to paragraph (4), every notice of aeronautical services and facilities pricing that is given to an airport licensee for an airport shall be accompanied by such revenue yield cap financial modelling programme and reporting template as the Authority requires to be used by the airport licensee when making its proposal to the Authority under rule 22(1).

[S 284/2010 wef 01/06/2010]

Airport licensee's duty to consult

21.—(1) If the airport licensee is required by the Authority in the notice of aeronautical services and facilities pricing with respect to a regulatory period to consult designated airport users, within a period of one month (or such longer period as the Chief Executive may allow in any particular case) after receiving such notice, the airport licensee for an airport concerned must —

- (a) prepare a draft proposal on the determination to be made, in relation to that airport in that regulatory period;
- (b) provide without charge a copy of the draft proposal to the Authority;

- (c) make copies of the draft proposal, in both electronic and printed form, available free of charge to the designated airport users relating to the airport for the regulatory period in question; and
- (d) start to consult, at its own expense, with those designated airport users for that regulatory period.

[S 778/2014 wef 01/12/2014]

(2) In carrying out any consultation of the designated airport users for a regulatory period, the airport licensee must give reasonable notice of the consultation to those designated airport users in writing, specifying —

- (a) the purpose of the consultation;
- (b) the period within which comments by those designated airport users may be given to the airport licensee, being a period that is at least 6 weeks (or such period as the Chief Executive may allow in any particular case);

[S 778/2014 wef 01/12/2014]

- (c) the matters the airport licensee would like the comments to address; and
- (d) that if such a designated airport user does make such comments, the designated airport user must also deliver a copy of those comments to the Authority at the same time.

(3) The airport licensee must take into consideration all comments submitted in relation to its draft proposal in accordance with the notice of consultation in paragraph (2).

(4) The airport licensee for an airport shall, within a period of 2 weeks (or such longer period as the Chief Executive may allow in any particular case) after submitting to the Authority in accordance with rule 22(1) its proposal regarding aeronautical charges for the aeronautical services and facilities to be provided by the airport licensee in a regulatory period in relation to the airport —

- (a) prepare a written response responding in appropriate detail to the comments of the designated airport users made in relation to its draft proposal; and

[S 361/2012 wef 31/07/2012]

(b) serve the written response on the designated airport users.

[S 284/2010 wef 01/06/2010]

[S 789/2010 wef 01/01/2011]

[S 361/2012 wef 31/07/2012]

Airport licensee's proposal to Authority

22.—(1) An airport licensee for an airport which has received a notice of aeronautical services and facilities pricing with respect to a regulatory period must, within the period delimited in that notice for proposals to be made to the Authority, submit to the Authority, in accordance with the requirements of the Authority, its proposal regarding aeronautical charges for the aeronautical services and facilities to be provided by the airport licensee in that regulatory period in relation to that airport.

(2) The airport licensee's proposal under paragraph (1) in respect of a regulatory period must —

(a) be accompanied by —

- (i) accounts or, if it is a holding company, consolidated accounts (prepared in accordance with the applicable accounting standards) that meets the requirements of Part VI of the Companies Act (Cap. 50) for the preceding regulatory period;
- (ii) director's reports for itself and for all its subsidiaries and related corporations providing aeronautical services and facilities, non-aeronautical services and facilities and security services and facilities at the airport for the preceding regulatory period;
- (iii) a proposed calculation of the regulated asset base, non-aeronautical asset base, and security asset base, respectively, for the preceding regulatory period;
- (iv) a progress report of items of material capital expenditure and significant capital expenditure for the preceding regulatory period;
[S 361/2012 wef 31/07/2012]
- (v) a summary calculation of actual aeronautical revenue yield for the preceding regulatory period;

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- (vi) an explanation of the allocation of costs to aeronautical services and facilities, non-aeronautical services and facilities and security services and facilities, respectively, including the details of the methodology of allocating such costs;
 - (vii) the prices for aeronautical charges within the meaning of sections 51 and 52 of the Act;
 - (viii) operating statistics for the preceding regulatory period, including the number of passengers landing at or departing from the airport, the number of connecting passengers, cargo tonnage and the number of aircraft movements at the airport;
 - (ix) the revenue yield cap financial modelling programme and a duly completed report prepared in accordance with the report template provided by the Authority under rule 20(5);

[S 284/2010 wef 01/06/2010]

[S 361/2012 wef 31/07/2012]

- (x) without charge, a copy of the comments by every designated airport user in relation to the airport licensee's draft proposal received by the airport licensee and the airport licensee's written response under rule 21(4) to those comments; and

[S 284/2010 wef 01/06/2010]

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

[S 361/2012 wef 31/07/2012]

- (b) set out such other provisions, specifications and particulars in relation to the proposal, and such other information and materials as are necessary to explain and illustrate the proposal, as the Authority may require.

(2A) In addition, the airport licensee must, after submitting to the Authority its proposal under paragraph (1) in respect of a regulatory period also submit, without charge, to the Authority a copy of the airport licensee's written response under rule 21(4) to the comments of

the designated airport users that the airport licensee has not already submitted under paragraph (2)(a)(x); and the Authority may regard the airport licensee's proposal under paragraph (1) as incomplete until it receives these copies.

[S 789/2010 wef 01/01/2011]

(3) The accounts or consolidated accounts referred to in paragraph (2) for any financial year in a regulatory period must show the costs incurred (including the costs associated with the maintenance and repair), the revenue earned and the assets utilised in relation to the provision and use of —

- (a) aeronautical services and facilities during the financial year;
- (b) non-aeronautical services and facilities during the financial year; and
- (c) security services and facilities during the financial year,

including those recovered directly or indirectly from airlines and other airport users.

(4) For the purpose of paragraph (3) —

- (a) the accounts and director's reports for an airport licensee for an airport must —
 - (i) include the financial reports for all subsidiaries and related corporations of the airport licensee providing aeronautical services and facilities, non-aeronautical services and facilities and security services and facilities at the airport; and
 - (ii) as far as practicable, include the financial reports for all other persons providing aeronautical services and facilities, non-aeronautical services and facilities and security services and facilities at the airport as if those persons were subsidiaries or related corporations of the airport licensee; and

- (b) the costs and revenue for the provision and use of aeronautical services and facilities for an airport licensee must include those recovered directly or indirectly from airlines and

persons who provide airport services and facilities under an agreement with an airport licensee.

(5) In this rule —

“accounting standards” means the accounting standards made or formulated by the Accounting Standards Council under Part III of the Accounting Standards Act (Cap. 2B) and applicable to the airport licensee;

“subsidiary” and “related corporation” have the same respective meanings assigned in the Companies Act (Cap. 50).

Review of airport licensee’s proposal

23.—(1) Upon receipt of any proposal from an airport licensee under rule 22, the Authority may do anything it considers necessary or convenient for the purposes of conducting a review, but subject to these Rules.

(2) Subject to these Rules, the Authority may conduct any such review in the manner it considers appropriate and, in particular, may —

- (a) consult with any person;
- (b) receive submissions from those persons it considers appropriate;
- (c) hold seminars or workshops; or
- (d) conduct hearings.

(2A) Without prejudice to paragraph (2), the Authority may seek clarification from the airport licensee with regard to its proposal and for that purpose, may require the airport licensee to provide the Authority with such additional information or documents as will assist to clarify the airport licensee’s proposal and to do so in such form and manner and within such time as the Authority shall specify.

[S 284/2010 wef 01/06/2010]

(3) 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.

Requiring person to give evidence or produce documents

24.—(1) For the purposes of a review under rule 23, the Authority may require a person, by written notice provided to the person, to do any one or more of the following:

- (a) attend before the Authority and answer questions which, in the opinion of the Authority, are relevant to the review;
- (b) provide to the Authority, in the manner specified in the notice, any document specified in the notice which is in the persons possession or control and which, in the opinion of the Authority, is relevant to the review;
- (c) provide to the Authority, in the manner specified in the notice, a document prepared as specified in the notice that contains information which is specified in the notice and which, in the opinion of the Authority, is relevant to the review;
- (d) provide to the Authority, in the manner specified in the notice, any other information specified in the notice which, in the opinion of the Authority, is relevant to the review.

(2) If a person is required under paragraph (1) to attend before the Authority and answer questions, the Authority may determine whether the person may be represented by another person.

Use of documents or information

25.—(1) The Authority —

- (a) may examine, take possession of, make copies of and take extracts from any document provided under a requirement referred to in rule 24(1)(b) or (c);
- (b) may retain that document for so long as is necessary for the purposes of the inquiry; and
- (c) must allow a person who would be entitled to inspect the document if it were not in the possession of the Authority to inspect it, make a copy of it or take an extract from it at any reasonable time.

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- (2) The Authority may give directions prohibiting or restricting —
- (a) the publication of any answer, document or other information provided to it under a requirement referred to in rule 24(1);
 - (b) a part of any such answer, document or other information; and
 - (c) a copy of, or extract from, any such answer, document, other information or part.
- (3) The Authority may communicate to any person as the Authority considers appropriate any answer, document or other information provided under a requirement referred to in rule 24(1), or part of any such answer, document or other information, except where —
- (a) a direction in respect of the answer, document, other information or part has been given under paragraph (2) and its provision to that person would contravene the direction; or
 - (b) the answer, document, other information or part contains information which could cause damage to the commercial interests of a person and the Authority determines that such damage or the possibility of such damage outweighs the public benefit that would arise from its publication.
- (4) Any person who contravenes a direction under paragraph (2) shall be guilty of an offence.

Hearings

26.—(1) Before conducting a hearing referred to in rule 23(2)(d), the Authority must give reasonable notice of the hearing to the airport licensee for an airport concerned, the designated airport users relating to the airport for the regulatory period and such other relevant consumers or users of airport services and facilities provided by the airport licensee as the Authority determines.

- (2) The notice of a hearing is to specify —
- (a) the purpose of the hearing;
 - (b) the time and place at which the hearing is to be held; and

(c) the places at which copies of the draft report and draft determination prepared by the Authority on the inquiry may be obtained or accessed.

(3) The Authority may determine whether any person wishing to appear before the Authority at a hearing may be represented by another person.

(4) Subject to paragraph (5), a hearing is to be held in public.

(5) If the Authority is satisfied that it would be in the public interest to do so or that any evidence or document to be presented at the hearing is, or is likely to be, of a confidential or commercially sensitive nature, the Authority must —

(a) direct that the hearing or part of the hearing is to take place in private and give directions as to the persons who may be present; and

(b) give directions prohibiting or restricting the publication of evidence or a document presented at the hearing or a part of any such evidence or document.

(6) Any person who contravenes a direction under paragraph (5) shall be guilty of an offence.

(7) The Authority may communicate to any person as it considers appropriate any evidence or document presented at a hearing, or part of any such evidence or document, except where —

(a) a direction in respect of the answer, document, other information or part has been given under paragraph (5)(b) and its provision to that person would contravene the direction; or

(b) the answer, document, other information or part contains information which could cause damage to the commercial interests of a person and the Authority determines that such damage or the possibility of such damage outweighs the public benefit that would arise from its publication.

Authority's determination

27.—(1) After considering the proposal made by the airport licensee and any information received during the review under rule 23 or presented during any hearings held under rule 26, the Authority must make a determination that —

- (a) specifies the services and facilities to be provided by the airport licensee concerned in the regulatory period to which the determination applies; and
- (b) specifies either or both of the following:
 - (i) a maximum price or both a minimum and maximum price for each aeronautical service or facility to be provided in that regulatory period;
 - (ii) a maximum total amount (revenue cap or revenue yield cap or otherwise) that may be earned by the airport licensee providing aeronautical services and facilities from the provision of those services and facilities in relation to that airport in that regulatory period.

(2) A determination —

- (a) may allow for an adjustment to the maximum revenues specified in the determination as a result of a pass-through event specified in the determination and, if it does so allow, the Authority must specify the method of calculating that adjustment or the principles and general manner to be applied in making the adjustment or doing the calculation of the adjustment; and
- (b) may establish a performance incentive scheme for the airport licensee and, if it does so, the Authority must specify the method of calculating the adjustment to the maximum revenues specified in the determination as a result of that scheme or the principles and general manner to be applied in making the adjustment or doing the calculation of the adjustment.

(3) In specifying in a determination the method of calculating an adjustment referred to in paragraph (2)(a) or (b) or the principles and general manner to be applied in making the adjustment or doing the calculation of the adjustment, the Authority must ensure that the adjustment reflects the financial effect to the airport licensee of the pass-through event or change.

(4) A determination may have a differential application that varies according to factors stated in the determination.

(5) When making a determination, the Authority must also prepare a report that specifies in appropriate detail the basis and rationale for the determination.

(6) When making a determination, the Authority must also include the following either as part of the report or otherwise:

- (a) reasonable details of the qualitative and quantitative methodologies applied in making the determination, including calculations and formulae;
- (b) the values adopted by the Authority for each of the input variables in calculations and formulae used, including the reasons for adopting those values;
- (c) reasonable details of other assumptions made by the Authority in the conduct of material quantitative and qualitative analyses undertaken in relation to the setting of a maximum revenue or a related matter;
- (d) reasons for material judgments and qualitative determinations made and options considered;
- (e) reasons for discretions exercised which materially affected the setting of maximum revenues in the determination.

(7) On making a determination and report under paragraph (6), 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 newspapers circulating in Singapore as the Authority

considers appropriate notice of the making of the determination.

[S 778/2014 wef 01/12/2014]

Airport licensee to supply price details

28.—(1) If the Authority makes a determination described in rule 27(1)(*b*)(ii), specifying a maximum total amount (revenue cap, revenue yield cap or otherwise) that may be earned by the airport licensee for an airport from the provision of aeronautical services and facilities in relation to the airport in any regulatory period —

(*a*) the Authority shall, as soon as is reasonably practicable —

(i) notify, in such form and manner and in such detail as the Authority considers appropriate, the designated airport users who had made comments under rule 21 at the inquiry leading to that determination; and

(ii) provide without charge to the Minister a copy of its notice under sub-paragraph (i) to the designated airport users; and

(*b*) the airport licensee concerned shall prepare a statement setting out the details of every fee and charge it proposes to impose in respect of each type of aeronautical service or facility to be provided in relation to the airport in that regulatory period.

[S 284/2010 wef 01/06/2010]

(2) Subject to paragraph (3), after the statement referred to in paragraph (1) is prepared, the airport licensee concerned must —

(*a*) provide a copy of the statement to the Authority and to the Minister; and

(*b*) make copies of the statement, in both electronic and printed form, available free of charge to the designated airport users for that regulatory period,

at least 3 months (or such period as the Chief Executive may allow in any particular case) before any fee or charge in that statement takes effect.

[S 778/2014 wef 01/12/2014]

(3) The Authority may, in its discretion, waive any requirements in paragraph (2)(b) to make copies of the statement, in both electronic and printed form, available free of charge to the designated airport users for the regulatory period at least 3 months (or such period as the Chief Executive may allow in any particular case) before any fee or charge in that statement takes effect, if the Authority is satisfied that the airport licensee will notify the relevant designated airport user separately in writing of the applicable fee or charge before the fee or charge takes effect.

[S 778/2014 wef 01/12/2014]

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.

[S 361/2012 wef 31/07/2012]

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;
 - (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

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- (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.

(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;

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- (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.

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

[S 361/2012 wef 31/07/2012]

PART V

ADJUSTMENTS AND REVOCATIONS

Adjustments for pass-through event, etc.

29.—(1) If a determination allows for an adjustment to the maximum revenues under the determination as a result of the occurrence of a pass-through event or under a performance

incentive scheme, that adjustment does not take effect until it has been approved by the Authority.

(2) If when considering whether to approve an adjustment the Authority determines that a pass-through event has not occurred or a standard of performance required for an adjustment has not been reached, the Authority must notify the airport licensee concerned of that determination.

(3) The Authority is not to approve an adjustment unless it is satisfied that the adjustment has been calculated in accordance with the method of calculating that adjustment, or the principles and general manner to be applied in making the adjustment or doing the calculation of the adjustment, specified in the determination.

(4) On approving or refusing to approve an adjustment, the Authority must notify the airport licensee concerned of that determination.

Mid-term review

30.—(1) The Authority must specify —

- (a) not later than 2 weeks after the commencement of these Rules; and
- (b) in any other case, before the start of every regulatory period thereafter,

[S 361/2012 wef 31/07/2012]

a date as being the middle of that regulatory period (referred to in this rule as the mid-term review date).

(2) At least 3 months before the mid-term review date for a regulatory period, the airport licensee for an airport must provide the Authority with the following information:

- (a) actual capital expenditure incurred since the start of the regulatory period on material capital expenditure and significant capital expenditure in respect of the airport;
- (b) a summary of current aeronautical charges;
- (c) a summary of actual aeronautical revenue earned per passenger for the financial years within the regulatory period;

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- (d) a summary of operating statistics for the financial years within the regulatory period including traffic results such as the number of passengers, the number of connecting passengers, cargo tonnage and the number of aircraft movements; and
- (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.
- [S 361/2012 wef 31/07/2012]*
- (3) After receiving the information referred to in paragraph (2), the Authority must, on the mid-term review date of a regulatory period or without delay thereafter, commence a mid-term review to consider —
- (a) any deviation in the implementation of any material capital expenditure and significant capital expenditure in respect of the airport;
- (b) any excessive over-recovery or under-recovery by the airport licensee of the revenue yield cap;
- (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
- [S 361/2012 wef 31/07/2012]*
- (d) any other deviations that the Authority considers to have a substantive impact on the revenue yield caps set for the regulatory period.
- [S 284/2010 wef 01/06/2010]*
- (4) The Authority must complete the mid-term review and decide whether to amend the determination for the regulatory period not later than 4 months after the mid-term review date.
- [S 789/2010 wef 01/01/2011]*
- (5) *[Deleted by S 789/2010 wef 01/01/2011]*
- (6) *[Deleted by S 789/2010 wef 01/01/2011]*
- (7) Subject to these Rules, the Authority may do anything it considers necessary or convenient for the purpose of determining

whether to amend a determination and, in this regard, rules 8(2) and (3), 12, 13, 14 and 16 apply as if the Authority were conducting an inquiry or a hearing.

(8) A decision amending a determination under this rule takes effect on the day specified in it.

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

[S 361/2012 wef 31/07/2012]

Revocation or amendment of determination

31.—(1) Without prejudice to Part III and rule 30, the Authority may, by determination —

- (a) amend the determination for any regulatory period;
- (b) revoke the determination for any regulatory period; or
- (c) revoke and make a substitute determination for any regulatory period,

if —

- (i) the Authority considers that the determination was made on the basis of information provided to the Authority that was false or misleading in a material particular;
- (ii) the Authority considers that there is a material error in the determination and the airport licensee has consented to the revocation or amendment; or
- (iii) the Authority is satisfied that —
 - (A) a price variation trigger has happened; or
 - (B) there has been a material change in the cost conditions and capital expenditure requirements for the provision of the aeronautical services and facilities and security services and facilities by the airport licensee and the change was brought about by external events not reasonably foreseeable by and beyond the control of the airport licensee.

(2) Before amending or revoking, or revoking and substituting, a determination under paragraph (1), the Authority must —

- (a) invite submissions with respect to the matter within the reasonable period specified in the invitation; and
- (b) consider any such submissions made to it.

(3) The invitation referred to in paragraph (2) must be —

- (a) in writing; and
- (b) given to the airport licensee concerned.

[S 789/2010 wef 01/01/2011]

(4) Subject to these Rules, the Authority may do anything it considers necessary or convenient for the purpose of determining whether to amend, revoke or revoke and substitute another determination and, in this regard, rules 8(2) and (4), 13, 14, 15 and 16 apply as if the Authority were conducting an inquiry or a hearing under Part III.

(5) A determination under paragraph (1) amending or revoking, or revoking and substituting another determination takes effect on the day specified in it.

Price variation trigger

32.—(1) The Authority may only commence an inquiry to ascertain whether a determination in force for a regulatory period for aeronautical services and facilities provided by an airport licensee should be amended or revoked during that regulatory period if —

- (a) a price variation trigger specified in the determination has happened; or
- (b) the Authority is satisfied that there has been a material change in the cost conditions or capital expenditure requirements for the provision of the aeronautical services and facilities and security services and facilities by the airport licensee, and that the change was brought about by external events not reasonably foreseeable by and beyond the control of the airport licensee.

(2) Paragraph (1) shall apply without prejudice to Part III in so far as the Part relates to the first regulatory period.

FIRST SCHEDULE

Rule 3(1)

AERONAUTICAL SERVICES AND FACILITIES

PART I

AIRCRAFT-RELATED SERVICES AND FACILITIES

1. Runways, taxiways, aprons, airside roads and airside grounds.
2. Airfield and airside lighting.
3. Aircraft parking sites.
4. Ground handling.
5. Aircraft refuelling.
6. Airside freight handling and staging areas essential for aircraft loading and unloading.
7. Navigation on an airfield.
8. Airport safety and security services and facilities.
9. Environmental hazard control.
10. Services and facilities to ensure compliance with environmental laws.
11. Sites and buildings used for light or emergency aircraft maintenance and for maintenance, repair and overhaul activities.
12. Equipment parking facilities in apron areas.
13. Services and facilities that are customised or specialised in order to further promote and enhance the status of Singapore as an international aviation hub.

[S 284/2010 wef 01/06/2010]

PART II

PASSENGER-RELATED SERVICES AND FACILITIES

1. Public and passenger areas in terminals, public and passenger amenities.
2. Departure and holding lounges, and related facilities.
3. Aerobridges and bus bays used in airside areas.
4. Flight information and public-address systems.

FIRST SCHEDULE — *continued*

5. Facilities to enable the processing of passengers through customs, immigration, security and quarantine.
6. Check-in counters and related facilities.
7. Terminal access roads and transport facilities in landside areas.
8. Baggage make-up, handling and reclaiming facilities.
9. Space and facilities, whether in landside or airside areas, that are necessary for the efficient handling of arriving and departing aircraft.

SECOND SCHEDULE

Rule 4(1)

NON-AERONAUTICAL SERVICES AND FACILITIES

1. Shops or other premises for the carrying on of any trade or business the primary purpose of which is the sale of goods or foodstuff by retail or the provision of services to passengers and airport users.
2. Restaurants and snack bars and related facilities for the storage and preparation of food and drinks.
3. Offices and other places of business and for conducting administrative work.
4. Banks and banking facilities.
5. Paid amenities for passengers and the public.
6. Hotel.
7. Sale of publications.
8. Issuance of permits, licences or passes under any by-laws made under section 68 of the Act.
9. Warehouses, containers and coldrooms that are not necessary for the efficient handling of arriving and departing aircraft.
10. Vehicle parking facilities in landside areas.
11. Provision of utility services and utility network facilities for tenants, lessees or licensees of an airport licensee.

THIRD SCHEDULE

Rule 4(2)

SECURITY SERVICES AND FACILITIES

1. Security facilities and systems related to passenger handling and airport operations.

2. Security services related to passenger handling and airport operations.

[S 284/2010 wef 01/06/2010]

Made this 30th day of June 2009.

CHOI SHING KWOK

Permanent Secretary,

Ministry of Transport,

Singapore.

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