

Regulations for Civil Aviation

BL 9-15

Edition 4, 16 November 2017

Regulations on payment for using airports¹ (airport charges)²

In pursuance of § 1 a, § 71 (1) and (3), § 149 (10) and § 153 a (1) of the Danish Air Navigation Act, cf. Consolidation Act no. 1149 of 13 October 2017, the following is stipulated in pursuance of in Order no. 453 of 11 May 2017 on the Danish Transport, Construction and Housing Authority's tasks and authorities, access to complain and publication of certain of the Danish Transport, Construction and Housing Authority's regulations:

1. Applicability

- 1.1 This BL lays down regulations on airport charges for using the airports in Denmark that are open for commercial air traffic and where the annual traffic exceeds five million passenger movements, which means the sum of arriving passengers and departing passengers, cf. however 1.2 and 1.3.
- 1.2 Notwithstanding the provision in 1.1 this BL applies to the airport in Denmark with the most passenger movements.
- 1.3 Part 11 applies to all airports in Denmark that are open to commercial air traffic.
- 1.4 If more airports are organised in an airport network, this BL applies to all airports in the airport network unless the Danish Transport, Construction and Housing Authority decides that an airport in the airport network in question should be exempted.
- 1.5 This BL does not apply to the Faroe Islands and Greenland.
- 1.6 A list of the airports whose airport charges are regulated pursuant to this BL is published on the Danish Transport, Construction and Housing Authority's website.

2. Definitions

- 2.1 *Aeronautical WACC (Weighted Average Cost of Capital)*
A rate of return for return on invested aeronautical capital for the aeronautical assets in the individual airport or airport network. The aeronautical WACC is fixed as the cost of capital based on the CAPM method (Capital Asset Pricing Model).

¹ BL9-15 contains provisions implementing Directive 2009/12/EU of the European Parliament and of the Council of 11th of March 2009 on airport charges, Official Journal of the European Union, No L 70 of 14th of March 2009, p. 11.

² Reference documents for BL9-15 are listed in Appendix 1.

2.2 *Abnormal revenue*

Revenue that is very unusual because of its size, nature or frequency, and which would be misleading if the revenue was used as the basis for determining the airport charges.

2.3 *Abnormal costs*

Costs that are very unusual because of their size, nature or frequency and which would be misleading if they were used as the basis for determining the airport charges.

2.4 *Commercial WACC (Weighted Average Cost of Capital)*

A rate of return for return on invested commercial capital for the commercial assets in the individual airport or airport network. The commercial WACC is fixed as the cost of capital based on the CAPM method (Capital Asset Pricing Model).

2.5 *Commercial facilities and services*

Facilities and services that are geographically connected to the airport and which are not

2.5.1 Aeronautical facilities and services; cf. 2.6;

2.5.2 Facilities and services stated as exemptions in 2.6.1-2.6.3 in the definition of aeronautical facilities and services;

2.5.3 Hotel facilities.

2.6 *Aeronautical facilities and services*

Facilities and services exclusively provided by the airport managing body and associated with take-off, landing, lighting, parking of aircraft and passenger and cargo handling, including security measures, excepting facilities and services covered by the following:

2.6.1 Commission Implementing Regulation (EU) no 391/2013 of 3 May 2013 laying down a common charging scheme for air navigation services.

2.6.2 Order no. 933 of 9 December 1997 on access to the ground handling market in Danish airports, except from centralised infrastructures that are aeronautical facilities approved by the Danish Transport, Construction and Housing Authority pursuant to section 8 of the Order.

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

2.7. *Airport*

Any land area specifically adapted for the landing, taking-off and manoeuvring of aircraft, including the ancillary installations which these operations may involve for the requirements of aircraft traffic and services, including the installations needed to assist commercial air services.

2.8. *Airport user*

Any natural or legal person responsible for the carriage of passengers, mail and/or freight by air to or from the airport concerned.

2.9 *Airport managing body*

A body which, in conjunction with other activities or not as the case may be, has as its objective under national laws, regulations or contracts the administration and management of the airport or airport network infrastructures and the coordination and control of the activities of the different operators present in the airports or airport network concerned.

2.10 *Airport network*

A group of airports duly designated as such by the Member State and operated by the same airport managing body.

2.11 *Airport charge*

A levy collected for the use of facilities and services which are exclusively provided by the airport managing body and which are related to landing, take-off, lighting, parking of aircraft, and processing of passengers and freight. The scheme of charges must state the airport charges for the airport.

2.12 *Reference year*

The calendar year two years prior to the year when the current regulatory period expires. The reference year is referred to as year "n-3".

2.13 *Regulatory period*

A period of up to six years, in which the airport charges apply. The regulatory period starts on 1 January in the year after the expiry of the current regulatory period. The regulatory period may be up to six years if the parties set airport charges by negotiation. The regulatory period is two years if charges are not agreed by the parties. The first year in the regulatory period is referred to as year "n".

2.14 *Reasonable return*

The return that may be expected from a similar investment with similar risk calculated using the WACC (Weighted Average Cost of Capital).

2.15 *Charges Regulations*

The airport managing body's overall, published presentation of airport charges set in accordance with the provisions of this BL for a regulatory period.

3 Generally in the setting of airport charges

3.1 Airport charges must be cost-related, non-discriminatory and transparent and must be set taking into account the reference documents mentioned in Appendix 1.

3.2 To the extent the provisions of this BL or ICAO's recommendations and guidelines conflict with the provisions on state aid in the Treaty on the Functioning of the Union (Articles 107-109), the provisions of the Treaty shall apply.

3.3 The airport managing body may vary the quality and scope of particular airport services, terminals or parts of terminals with the aim of providing differentiated services or a dedicated terminal or part of a terminal.

- 3.4 The level of airport charges may be differentiated according to the quality and scope of the services and facilities covered by the airport charge and their costs or any other objective and transparent justification
- 3.5 In the event that more airport users wish to have access to the differentiated services and/or a dedicated terminal or part of a terminal, cf. 3.4, than it is possible due to capacity restraints, the airport managing body must give access on the basis of relevant, objective, transparent and non-discriminatory criteria.
- 3.6 The airport charges may be modulated in the interest of the public and the community, including environmental considerations. The criteria used for such a modulated shall appear from the airport managing body's scheme of charges and shall be relevant, objective and transparent. Modulated airport charges may not affect other airport charges. Especially in relation to startup discounts, the following provisions apply:
- 3.6.1 The criteria for startup discounts must be stated in the airport managing body's guidelines for startup discounts and published on the airport managing body's website together with an updated list of the destinations to which a startup discount is granted at the time in question as well as a specification of the period in which the discount is granted.
- 3.6.2 The airport managing body may enter into agreements on startup discounts with airport users who serve destinations that meet the airport managing body's definition of unserved routes as described in the airport's guidelines for startup discounts.
- 3.6.3 If subsequently more users serve a destination for which a startup discount is granted, the startup discount shall be granted to all users meeting the objective criteria laid down by the airport managing body.
- 3.6.4 In the event that the guidelines for startup discounts are amended, the airport managing body shall call a meeting with the airport users to inform them and justify the planned amendments. At the meeting, the airport users have an opportunity to comment on the contemplated amendments. Subsequently, the airport managing body must prepare a justification for the planned amendments seen in relation to the airport users' views and send it to the Danish Transport, Construction and Housing Authority.
- 3.7 Modulated airport charges, cf. 3.6, which aims to increase traffic in the airport (incentive schemes) may not affect the airport charges paid by other airlines outside the incentive scheme.
- 3.8 Differentiated airport charges, cf. 3.4, or modulated airport charges, cf. 3.6, must be approved by the Danish Transport, Construction and Housing Authority, cf. Part 9.

4. The incentive model for setting airport charges

- 4.1 The purpose of the model is to create an incentive structure that ensures that
- 4.1.1 Through a competitive level of charges and a sufficiently high service level, the airport managing body supports the highest possible national and international, including intercontinental, accessibility at all times to the benefit of both business and leisure travelers.

- 4.1.2 The airport managing body has a financial incentive to invest in the aeronautical infrastructure so that the airport capacity supports the highest possible national and international, including intercontinental, accessibility at all times to the benefit of the community.
- 4.1.3 A share of the airport managing body's excess return from commercial facilities and services annually contributes to covering the airport managing body's aeronautical costs in the form of operating expenses, mortgage and depreciation and a reasonable aeronautical return.
- 4.1.4 The charges, service and capacity levels are to the greatest extent possible set in equal cooperation between the airport managing body and the airport users.
- 4.1.5 The airport in Denmark with the most passenger movements acts according to an objective of being an important hub for transfer traffic in Northern Europe and the leading hub for transfer traffic among the Nordic countries.
- 4.2 When setting the airport charges, the negotiating parties shall first seek to reach agreement on the airport charges for the coming regulatory period through negotiation; cf. Part 7. If this is not possible, the Danish Transport, Construction and Housing Authority will establish the annual revenue framework which is the maximum amount that the airport managing body may use in each of the years in the regulatory period as a basis for setting airport charges for the use of the aeronautical facilities and services, cf. Part 8.
- 4.3 To ensure correlation between charges, capacity and service levels, the airport managing body and the airport users shall, i whether agreement can be reached through negotiation or not, cf. Part 7, or charges are set through regulation by the Danish Transport, Construction and Housing Authority, cf. Part 8, enter into a special agreement on service levels (in the following referred to as an SLA) in areas of importance to the movement of passengers and aircraft through the airport. Any SLA that is to apply to the regulatory period shall include:
 - 4.3.1 a quantification of measuring points (in the following referred to as KPIs) for each of the selected areas,
 - 4.3.2 principles for inclusion in the airport charges, and
 - 4.3.3 provisions on the settlement of any disputes about the agreement.
- 4.4 If the parties cannot agree on the determination of KPI's, cf. 4.3.1, or principles for inclusion in the airport charges, cf. 4.4.2, the Danish Transport, Construction and Housing Authority will determine the KPIs and the principles for inclusion in the airport charges. In that case, the parties are obliged to give the Danish Transport, Construction and Housing Authority the information that the Danish Transport, Construction and Housing Authority finds necessary within time limits laid down by the Danish Transport, Construction and Housing Authority.

5. Consultation

- 5.1 The airport managing body and the airport users or their representatives shall, unless otherwise agreed at the latest consultation, hold consultations at least once a year on how the airport charges system should function, on the amount of the airport charges and on the quality of the available facilities and services.

- 5.2 If a multi-annual agreement has been made between the airport managing body and the airport users, consultations must be held in accordance with such agreement.
- 5.3 Notwithstanding 5.2, the Danish Transport, Construction and Housing Authority may, with a view to promoting the exchange of information, order the airport managing body to hold more frequent consultations with the airport users.
- 5.4 The airport managing body shall consult the airport users before plans on a new infrastructure or significant changes to the existing infrastructure are determined.
- 5.5 The information listed in 6.3, 6.5.1-6.5.5 and 6.5.7 shall be presented reasonably in advance of the consultations. Notwithstanding 2.13, in this context "year n" equals the year of the consultation in question. Prior to the presentation, participants in the consultation shall sign a confidentiality agreement if they wish to gain access to the information.

6. Information in connection with negotiations on charges

- 6.1 A non-disclosure agreement shall be signed by the parties prior to their participation in the negotiations as well as their receipt of information, cf. 6.3, 6.4 and 6.5.
- 6.2 Not later than on 1 September one year prior to the expiry of the regulatory period (year n-2), the airport managing body shall report to the Danish Transport, Construction and Housing Authority on the cost differences forming the basis for the differentiated airport charges of the airport managing body that are differentiated according to the quality and scope of such services and their costs or any other objective and transparent justification, cf. 3.3 and 3.4.
- 6.3 Not later than on 1 September one year prior to the expiry of the regulatory period (year n-2), the airport users who participate in the negotiations or who are represented at the negotiations, shall submit the following information to the airport managing body and the Danish Transport, Construction and Housing Authority:
 - 6.3.1 A three-year traffic forecast (divided into EU, non-EU, Schengen, non-Schengen and domestic traffic), starting in the year of the expiry of the regulatory period (year n-1 to n+1).
 - 6.3.2 A ten-year forecast of the composition and the expected exploitation of their aircraft fleet. The first year in the forecast will be the year before the expiry of the regulatory period (year n-2 to n+7).
 - 6.3.3 A report on the airport user's development plans in the airport and the capacity or service requirements derived from the plans over a period starting in the year before the expiry of the regulatory period and ten years ahead (year n-2 to n+7).
- 6.4 Not later than on 1 November one year prior to the expiry of the regulatory period the Danish Transport, Construction and Housing Authority presents the following for the purpose of setting airport charges:

- 6.4.1 A ten-year traffic forecast based on the forecasts mentioned in 6.3.1 and 6.3.2 following an initial, written consultation of the parties. The first year of the forecast will be the year prior to the expiry of the regulatory period (year $n-2$ to $n+7$). The traffic forecast is determined as an interval.
- 6.4.2 The aeronautical WACC. The Danish Transport, Construction and Housing Authority shall hold initial consultations with the airport managing body and the airport users before the aeronautical WACC is determined.
- 6.4.3 The commercial WACC. The Danish Transport, Construction and Housing Authority shall hold initial consultations with the airport managing body and the airport users before the commercial WACC is determined.
- 6.4.4 A percentage equal to the maximum amount of the charge for transfer passengers in relation to the locally departing passenger charge if airport charges are not set in agreement between the parties. The percentage is determined as an interval and both the airport managing body's information on costs per transfer passenger and per locally departing passenger in the reference year according to 6.2 and any additional expected accessibility effects.
- 6.5 Not later than on 1 December in the year prior to the expiry of the regulatory period (year $n-2$), the airport managing body shall submit the following to the airlines participating in the negotiations and to the Transport, Construction and Housing Authority:
 - 6.5.1 A ten-year plan for the development of aeronautical and commercial investments in the airport based, inter alia, on the information in 6.3.1-6.3.3. The first year of the plan will be the year prior to the expiry of the regulatory period (year $n-2$ to $n+7$).
 - 6.5.2 An annual historical statement covering the reference year and the latest five years before the reference year (year $n-8$ to $n-3$) of the excess return on the aeronautical and the commercial facilities and services respectively, cf. 8.4.4, including the amount of the revenue, operating expenses, depreciation and rate of return on invested capital. The statement shall correlate the audited annual reports and specify the principles used to allocate revenue, operating expenses and depreciation between the aeronautical and commercial activities.
 - 6.5.3 Documentation for
 - 6.5.3.1 Efficiency gains, including relevant key ratio, for the current regulatory period (however limited to the years prior to the year for the expiry of the current regulatory period (year $n-1$)),
 - 6.5.3.2 Achievement of KPIs, cf. 4.3.1, in the period where the current SLA applies,
 - 6.5.3.3 Costs that are determined by the authorities for the current and coming regulatory period.
 - 6.5.4 A statement covering the reference year and the next eight years following the reference year (year $n-3$ to $n+5$) of:

- 6.5.4.1 Operating expenses for aeronautical activities distributed on general categories and activities and commercial activities, respectively.
- 6.5.4.2 Depreciation on both new and existing aeronautical assets respectively distributed on general categories and activities and commercial assets as well as documentation of such assets, and
- 6.5.4.3 Capital invested and capital used for aeronautical assets distributed on general categories and activities and commercial assets, respectively, made up by the end of each of the years, including the reasonable rate of return on the capital invested as calculated on the basis of the WACC determined by the Danish Transport, Construction and Housing Authority, cf. 6.4.2 and 6.4.3.
- 6.5.5 An account of known future changes in the airport managing body's level of expenses for the period starting from the reference year and eight years ahead (year $n-3$ to $n+5$).
- 6.5.6 The airport managing body's proposal for new airport charges, including justification of the method used for calculating airport charges, as well as a statement of the various services and infrastructure facilities made available in return for the proposed airport charges.
- 6.5.7 The expected effect of the planned aeronautical investments on the airport capacity.

7 Airport charges negotiations

- 7.1 Airport charges shall to the greatest extent possible be determined according to agreement between the airport managing body and the airport users.
- 7.2 Negotiations are initiated on 1 December in the year prior the expiry of the current regulatory period (year $n-2$) and must be concluded by 1 June of the year in which the current regulatory period expires (year $n-1$).
- 7.3 The parties to the negotiations are the airport managing body and the airport users who are physically established (based) at the airport as well as airport users who independently or jointly represent at least 3% of the passenger movements or take-offs of the airport. The minimum requirement for participating in the negotiations is calculated over a period of the four most recent completed quarters prior to the commencement of the negotiations, cf. 7.2.
- 7.4 Prior to the negotiations on airport charges, the airport managing body calls a meeting with all airport users to inform them about the negotiation process and the time schedule. At the meeting, the airport users have the opportunity to comment on the process and make proposals for the coming negotiations.
- 7.5 The role of the Danish Transport, Construction and Housing Authority in the negotiation process:
 - 7.5.1 The Authority may participate as an observer in the negotiations with advisers.

- 7.5.2 The Authority may, on its own initiative or at the request of one of the parties in the negotiations, decide to enter into the negotiations as a mediator.
- 7.5.3 The Authority may order the parties to provide the documentation and information that the Danish Transport, Construction and Housing Authority finds necessary to ensure transparency during the negotiations.
- 7.6 The airport charges may be agreed for a period of up to six calendar years.
- 7.7 Existing costs relating to compliance with authority requirements, including requirements relating to security, safety and environmental matters, are included on the same terms as other costs when airport charges are set.
- 7.8 If the airport charges have been set according to agreement between the airport managing body and the airport users, the parties shall prepare a charges agreement. The charges agreement shall at least include:
- 7.8.1 A description of current airport charges (including the level of charges) as well as a description of the coming airport charges (including the level of charges applying before any price adjustment) in the regulatory period. Individual airport charges shall be specified in detail in the description.
- 7.8.2 A description of all differentiated airport charges, cf. 3.3-3.5.
- 7.8.3 Provisions on how significant changes in the assumptions for the charges agreement are handled.
- 7.8.4 Provisions on the settlement of any disputes about the agreement.
- 7.9 The airport managing body determines whether – and if relevant when – the negotiations do not lead to a charges agreement and notifies the Danish Transport, Construction and Housing Authority who will then start setting charges pursuant to Part 8.
- 7.10 At the end of the negotiations in the year prior to the expiry of the current regulatory period (year n-1), the airport managing body shall call a meeting with the airport users to inform them about the contemplated changes of the airport charges on the basis of the negotiations. At the meeting, the airport users have an opportunity to comment on the contemplated changes. The meeting shall be held in such manner that the provisions of Part 9 on the process for approval of airport charges are observed.

8. Charges are not agreed on by the parties (fall back)

- 8.1 The regulatory period is two years if charges are not set by the parties.
- 8.2 If charges are not agreed between the parties, the Danish Transport, Construction and Housing Authority will set one 10-year traffic forecast in accordance with 6.4.1
- 8.3 If charges are not agreed between the parties, the Danish Transport, Construction and Housing Authority will set annual revenue caps, cf. 4.2. The revenue caps are set not later than on 1 August of the year of the expiry of the current regulatory period (year n-1) and shall cover two calendar years after the expiry of the current regulatory period.

8.4 The annual revenue caps for the aeronautical facilities and services are composed of the sum of the following amounts:

8.4.1 A cost cap that is set with a view to covering aeronautical operating expenses in the reference year, adjusted for any abnormal costs in the reference year. The cost cap is subsequently projected in line with the development in passengers and an average of the price index from the second quarter of the year and four years back in order to gain a cost cap for each of the two years in the period of regulation. The price index is calculated as a weighted index with 70% wages and 30% material. The wage index is the index of companies and organisations published by Statistics Denmark (ILON12). The material index is the index of the domestic supply of goods published by Statistics Denmark (PRIS11). The Danish Transport, Construction and Housing Authority may require the airport managing body to make the cost cap more efficient for the purpose of calculating the revenue cap. Any efficiency requirements are fixed as a percentage of the cost cap. When assessing the necessity and, if relevant, the size of the efficiency requirement, the Danish Transport, Construction and Housing Authority will take into account an evaluation of the estimated efficiency potential. This may include comparisons with other European airports. If the Danish Transport, Construction and Housing Authority has stipulated an explicit efficiency requirement, the amount of such requirement is deducted from the cost cap. Where known authority requirements in the coming regulatory period or service level targets agreed, cf. the coming SLA, involve increased or reduced costs in relation to the reference year, the cost cap is adjusted for each year of the regulatory period. Costs for substantial and unforeseen authority requirements that may arise during a regulatory period are treated in accordance with the provisions of Part 10.

8.4.2 A cost cap set with a view to covering depreciation and impairment of non-current assets. The cost cap is set as the expected annual depreciation and impairment of non-current assets in each of the two years in the coming regulatory period. Depreciation is determined on the basis of the recognised cost of the asset. The recognised cost of the assets is calculated excluding any accounting revaluation of the assets to a higher value. Depreciation on assets planned to be initiated during the coming regulatory period is included in the cost cap with effect from the date of the expected initialization.

8.4.3 An amount for return on capital invested in aeronautical assets.

The return on investment is calculated as a reasonable rate of return on the budgeted average invested capital in each year in the coming regulatory period. The budgeted invested capital is determined at the beginning and end of each of the years in the regulatory period as the book value of non-current assets, excluding any accounting revaluation of the assets as per 31st of December of the reference year plus expected investments and less expected depreciation excluding any accounting revaluation of the assets in the subsequent years. Assets under construction may only be included if finance costs are not included in the capitalised capital costs.

- 8.4.4 A transfer of the excess return from the commercial area which shall be deducted from the revenue cap. The excess return is determined as revenue less operating expenses, depreciation and a reasonable rate of return on invested capital. The determination of the excess return is made on the basis of the reference year, adjustments being made for any abnormal revenue and costs in the reference year, while revenue on any sale of business areas is allocated over a number of years. The excess revenue is subsequently projected at the development in passengers, resulting in an excess return for each of the two years in the regulatory period. The transfer is determined as a share of 40% of the excess return.
- 8.5 If charges are not agreed between the parties, the Danish Transport, Construction and Housing Authority will set a one percentage which the charge for transfer passengers will not exceed in relation to the locally departing passenger charge, cf. 6.4.4.
- 8.6 The airport managing body prepares proposals for airport charges based on the revenue caps and the traffic forecast, cf. 6.4.1, and the transfer percentage cf. 6.4.4, for the revenue cap period. The proposal for airport charges must as a minimum include the following:
- 8.6.1. A specification of airport charges for each of the years of the regulatory period.
- 8.6.2 Documentation showing that the total expected revenue from aeronautical services does not exceed the revenue cap for each of the years.
- 8.6.3 An explanation of significant deviations in the relative relationship of individual airport charges to the previous charges period that cannot be attributed to an overall adjustment of the airport charges.
- 8.7 The airport managing body shall convene a meeting with the airport users to inform them about and justify the contemplated change of the airport charges. At the meeting the airport users have an opportunity to comment on the contemplated changes. The meeting shall be held in such manner that the provisions in Part 9 on approval of airport charges are observed.

9. Process for approval of airport charges

- 9.1 The scheme of charges of the airport managing body and the airport charges collected by the airport managing body covered by this BL must be approved by the Danish Transport, Construction and Housing Authority.
- 9.2 The Danish Transport, Construction and Housing Authority shall receive the application for approval of airport charges and the scheme of charges not later than on 1 September in the year prior to the expiry of the current regulatory period (year n-1). This time limit may be postponed by the airport managing body if accepted by the parties that have participated in the negotiations. However, the time limit cannot be postponed to less than four weeks prior to the expiry of the regulatory period. A time postponement according to this provision requires that the deadline for the implementation of the scheme of charges is observed; cf. 9.6-9.7. In special cases the Danish Transport, Construction and Housing Authority may grant an exemption from this provision when it is assessed to be compatible with the considerations that form the basis for the provisions in question, including international rules in the area.

- 9.3 The airport managing body's application for approval of airport charges shall at least include the following:
- 9.3.1 Documentation stating that a consultation has been held.
 - 9.3.2 An account of any significant objections from the airport users to the changes of the airport charges contemplated by the airport managing body; cf. 7.10.
 - 9.3.3 A justified statement as to whether the contemplated changes of the airport charges reflect a negotiated outcome. In the affirmative, the parties' charges agreement is enclosed; cf. 7.8.
 - 9.3.4 An explanation of significant deviations in the relative relationship between individual airport charges in relation to the previous charges period.
- 9.4 The airport managing body's application for approval of the proposed airport charges pursuant to 8.6 shall in addition to the documentation etc. mentioned in 9.3, at least include the following:
- 9.4.1 The proposal for new airport charges, including reasons for the method used for calculating the airport charges.
 - 9.4.2 A statement of the various services and infrastructure facilities made available in return for the proposed airport charges.
- 9.5 It is a condition for approval that the airport charges are cost-related, transparent and non-discriminatory.
- 9.5.1 Based on the application the Danish Transport, Construction and Housing Authority assesses whether the contemplated changes of the airport charges reflect a negotiated outcome.
 - 9.5.2 The Danish Transport, Construction and Housing Authority assesses whether the airport charges are cost-related, including whether, based on the parties' SLA pursuant to 4.3, a connection exists between charges, service and capacity levels.
- 9.6 The airport charges will enter into force two months at the earliest after the Danish Transport, Construction and Housing Authority's approval of the airport charges, cf. however 9.6.1.
- 9.6.1 This time-limit may be changed if agreed upon by the airport managing body and the airport users. The Danish Transport, Construction and Housing Authority assesses whether this agreement is a negotiated result.
- 9.7 The approved scheme of charges enters into force on 1st of January.

- 9.8 If the Danish Transport, Construction and Housing Authority cannot approve the airport charges, new airport charges must be prepared and presented for approval within a deadline fixed by the Danish Transport, Construction and Housing Authority. If the airport charges still cannot be approved, new airport charges are set by the Danish Transport, Construction and Housing Authority following consultation with the airport managing body and the airport users.
- 9.9 Until the Danish Transport, Construction and Housing Authority has approved or stipulated new airport charges, the previous airport charges apply. The Danish Transport, Construction and Housing Authority fixes the date from which the new airport charges are to apply, also after consultation with the airport managing body and the airport users.

10. Changes of airport charges during the regulatory period

- 10.1 Any changes to the airport charges on which the airport managing body and the negotiating airport users agree shall subsequently be approved by the Danish Transport, Construction and Housing Authority. The provisions in 9.5-9.7 shall apply.
- 10.2 The Danish Transport, Construction and Housing Authority may upon request of either the airport managing body or the airport users change the airport charges if, in the regulatory period, significant changes occur in the conditions for:
- 10.2.1 The parties' agreement on the fixing of the charges,
 - 10.2.2 The Danish Transport, Construction and Housing Authority's approval of the airport charges, or
 - 10.2.3 The Danish Transport, Construction and Housing Authority's setting of the revenue cap according to the fall-back model.
- 10.3 Changes to the conditions, cf. 10.2, may be, but are not limited to, significant and/or unexpected changes in:
- 10.3.1 The level of activity of the airport,
 - 10.3.2 The operating revenue or expenses of the airport managing body,
 - 10.3.1 The need for investments in the airport's infrastructure, service facilities or other development, and
 - 10.3.4 The implementation by the airport managing body of investment plans.
- 10.4 Changes to the airport charges pursuant to 10.2 require that the airport managing body and the airport users have attempted to reach an agreement.
- 10.5 The Danish Transport, Construction and Housing Authority may at any time demand changes to the airport charges if public interest or general traffic considerations necessitate this.
- 10.6 Changes to the airport charges pursuant to 10.2 and 10.5 are made upon consultation with the parties.

11. Publication of airport charges

11.1 The airport managing body shall publish the scheme of charges and ensure that it is immediately available to the airport users.

11.12 The airport managing body shall submit the scheme of charges to the Danish Transport, Construction and Housing Authority at the same time as the publication.

12. Exchange of information

12.1 The airport managing body as well as the airport users are obliged to submit the information, including the documents, requested by the Danish Transport, Construction and Housing Authority as part of the administration of this BL. The Danish Transport, Construction and Housing Authority may at any time request the airport managing body to submit, for example, specifications for multi-annual periods of:

12.1.1 The total costs and revenue of the airport managing body from the aeronautical facilities and services,

12.1.2 The total costs and revenue of the airport managing body from non-aeronautical facilities and services (commercial activities),

12.1.3 The total costs and revenue of the airport managing body for each single airport charge,

12.1.4 Developments in the airport's activity level within each single airport charge, and

12.1.5 The distribution principles and keys used for assets and operational expenses, including whether there has been any changes in such principles and keys during the period.

12.2 For the information mentioned in 12.1.1-12.1.3, the airport managing body shall document the connection to the annual report of the airport managing body. The distribution of aeronautical and commercial costs and the distribution within each single airport charge may be based on estimates.

12.3 If, within a fixed reasonable time-limit, the Danish Transport, Construction and Housing Authority has not received the information requested by the Danish Transport, Construction and Housing Authority pursuant to 12.1 and the Danish Transport, Construction and Housing Authority makes its decision on the existing basis.

13. Late payment

13.1 If the airport charge is not paid in time, the airport managing body may collect a cost-related service charge for each reminder.

13.2 Moreover, interest may be added in accordance with the Danish Interest Act; cf. § 71 (3) of the Danish Air Navigation Act.

13.3 The payments and the accrued interest may be subject to distraint; cf. § 71 (5) of the Danish Air Navigation Act.

14. Penalties

- 14.1 Violation of the provisions in 3.1, 3.5, 3.6, 3.7, 5.3 and 5.4, 6.1 and 6.2, 6.5, 9.1, 10.1, Part 11, 12.1 and 12.2, and 17.5.7 shall be subject to a fine. The same applies to non-compliance with an order pursuant to 7.5.3.
- 14.2 For violations committed by companies etc. (legal persons), a penalty may be imposed pursuant to the provisions of Part 5 of the Danish Criminal Code; cf. § 149(14) of the Danish Air Navigation Act.

15. Complaint procedure

- 15.1 Decisions made by the Danish Transport, Construction and Housing Authority according to this BL cannot be brought before the Danish Minister for Transport, Building and Housing or any other administrative authority, cf. the Order on the tasks and powers of the Danish Transport, Construction and Housing Authority, complaint procedure and announcement of certain of the regulations of the Danish Transport, Construction and Housing Authority.

16. Evaluation of the model

- 16.1 The model, including the terms laid down, may be evaluated by the Danish Transport, Construction and Housing Authority so that the result of the evaluation may be included in relation to the subsequent regulatory period. In connection with such evaluation, the airport managing body and the airport users will be consulted.

17. Implementation and transitional provisions

- 17.1 This BL enters into force on 1st of January 2018.
- 17.2 BL 9-15, 3 edition of 8th of March 2011, Regulations on payment for using airports (airport charges) is repealed. Also, BL 9-15 A, 1 edition of 20th of November 2013, Regulations on amendment of BL 9-15, Edition 3 of 8th of March 2011, Regulations on payment for using airports (airport charges) is repealed.
- 17.3 Schemes of charges that are approved for a specific period by the Danish Transport, Construction and Housing Authority at the time when this BL enters into force shall apply until the expiry of such period.
- 17.4 Schemes of charges that are to replace a current scheme of charges, cf. 17.3, may notwithstanding 7.6 and 9.7 enter into force on a date other than 1 January, but must terminate at the end of a calendar year.
- 17.5 Schemes of charges that are to replace a current scheme, cf. 17.3, are subject to the following transitional provisions:
 - 17.5.1 The revenue cap period, which is the period for which the Transport, Construction and Housing Authority sets revenue caps in fall-back, is the calendar years 2019-2020.
 - 17.5.2 Notwithstanding 2.12, the reference year is 2017.

- 17.5.3 The regulatory period starts in 2019 on the day after the expiry of the current regulatory period and ends on or before 31 December 2024, notwithstanding 2.13 and 8.1.
- 17.5.4 Paragraph 6.2 shall not apply to the coming period of regulation. The Danish Transport, Construction and Housing Authority will set a percentage, cf. 6.4.4, on the basis of the Authority's own assessment of costs per transfer passenger and costs per local departing passenger.
- 17.5.5 Notwithstanding 6.3, information from the airport users for the purpose of the negotiations shall be presented on 19th of January 2018.
- 17.5.5.1 Notwithstanding 6.3.1, 6.3.2 and 6.3.3, the forecasts shall start in 2018.
- 17.5.6 Notwithstanding 6.4, information from the Danish Transport, Construction and Housing Authority for the purpose of the negotiations shall be presented on 19th of February 2018.
- 17.5.6.1 Notwithstanding 6.4.1, the Danish Transport forecast shall start in 2018.
- 17.5.7 Notwithstanding 6.5, information from the airport managing body for the purpose of the negotiations shall be presented on 19th of March 2018.
- 17.5.7.1 Notwithstanding 6.5.1, the ten-year plan for development of aeronautical and commercial investments in the airport shall start in 2018.
- 17.5.7.2 Notwithstanding 6.5.2, the historical statement covers the calendar years 2012-2017.
- 17.5.7.3 Notwithstanding 6.5.4, the annual statement of the information mentioned in 6.5.4.1-6.5.4.3 shall cover the years 2017-2024.
- 17.5.7.4 Notwithstanding 6.5.5, the report on known future changes in the level of costs shall cover the years 2017-2024.
- 17.5.8 Notwithstanding 7.2, negotiations shall be entered into on 19 March 2018 and shall have been concluded by 19th of September 2018
- 17.5.9 Notwithstanding 9.2, the Danish Transport, Construction and Housing Authority shall have received the application for approval of airport charges by 1 December 2018.
- 17.5.10 Notwithstanding 8.4.4, the transfer percentage of the excess return in the revenue cap is set at 35% up to and including the year 2022.

The Danish Transport, Construction and Housing Authority, 15th of November 2017

Carsten Falk Hansen

Jan Albrecht

BL 9-15, 4 Edition, reference documents

1. ICAO, Doc 9082/9 Policies on Charges for Airports and Air Navigation Services, latest edition.
2. ICAO, Doc 9562/3 Airport Economics Manual, latest edition.
3. Commission Implementing Regulation (EU) No. 391/2013 of 3 May 2013 laying down a common charging scheme for air navigation services (Text with EEA relevance).
4. Regulation (EC) No. 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air.
5. Directive 2009/12/EC of the European Parliament and of the Council of 11 March 2009 on airport charges.
6. Order no. 933 of 9 December 1997 on the access to the ground handling market at Danish airports.

The documents mentioned in 1-6 above can be accessed at the Danish Transport, Construction and Housing Authority's website www.tbst.dk, and the document mentioned in 6 can also be accessed at the website of Retsinformation, the official online legal information system of the Danish State, at www.retsinformation.dk.

The documents mentioned in 1-2 above can be obtained by contacting:

ICAO Headquarters, Montreal, Canada
International Civil Aviation Organization (ICAO)
999 Robert-Bourassa Boulevard, Montréal, Quebec H3C 5H7, Canada
Tel.: +1 514-954-8219
Fax: +1 514-954-6077
E-mail: icaohq@icao.int
Customer Services: sales@icao.int

Information on the content of the rules can be obtained by contacting:

The Danish Transport, Construction and Housing Authority
Edvard Thomsens Vej 14
DK-2300 Copenhagen S
Telephone +45 7221 8800
Fax +45 7262 6790
E mail info@tbst.dk