

THE AIRPORTS (ECONOMIC REGULATION) ACT

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(under section 4(5))

NOTICE (Omitted)
(under section 4(6))

ORDERS
(under section 6(1))

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47/2006

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NOTICE
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The Airports (Economic Regulation) (Charges and Fees) Notice, 2003 L.N. 51/2003

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The Airports (Economic Regulation) (Expansion Fund) (Sangster International Airport) Regulations, 2003 L.N. 26/2003

The Airports (Economic Regulation) (Licence) Regulations, 2003 L.N.
142A¹/2003

The Airports (Economic Regulation) (Expansion Fund) (Norman Manley International Airport) Regulations, 2003 L.N.
142A²/2003

THE AIRPORTS (ECONOMIC REGULATION) ACT

ORDER
(under section 6(1))THE AIRPORTS (ECONOMIC REGULATION) (EXPANSION FUND)
AIRPORT IMPROVEMENT FEE (NORMAN MANLEY INTERNATIONAL
AIRPORT) ORDER, 2003*(Made by the Minister on the 21st day of January, 2003)*L.N. 24/2003
47/2006

1. This Order may be cited as the Airports (Economic Regulation) (Expansion Fund) Airport Improvement Fee (Norman Manley International Airport) Order, 2003.

2. In this Order—

“Airline Payment Arrangements” means the payment arrangements with any operator for the collection of the airport improvement fee approved by the Minister;

“Airport Expansion Fund Agreement” means such agreement—

(a) to be entered into by the Airports Authority, and the Government of Jamaica; or

(b) where applicable the Airports Authority, the Government of Jamaica, an airport operator and any other person approved by the Minister in accordance with provisions of the Act,

for the purpose of establishing the special fund under section 6(5) of the Act;

“commencement date” means the 15th day of February, 2003;

“current rate of exchange” means the spot market weighted average selling rate of exchange for United States dollars published by the Bank of Jamaica—

(a) on the last business day of the week for which payment has been computed under the Airline Payment Arrangements in respect of the airport improvement fee payable; or

(b) in other cases the said rate of exchange for the business day preceding the date on which payment is to be made;

“departing passenger” means a person using the Norman Manley International Airport for the purpose of travel from Jamaica;

“Expansion Account” means the Norman Manley International Airport Expansion Account established pursuant to paragraph 6;

“major international airport” means the Norman Manley International Airport and the Sangster International Airport;

*THE AIRPORTS (ECONOMIC REGULATION) (EXPANSION FUND) AIRPORT
IMPROVEMENT FEE (NORMAN MANLEY INTERNATIONAL AIRPORT) ORDER, 2003*

“operator” means, in relation to an aircraft, the person who at the relevant time has the management of the aircraft;

“relevant account bank” means the bank in which the Expansion Account is held.

3.—(1) An airport improvement fee of ten dollars in the lawful currency of the United States shall be payable in relation to every departing passenger—

- (a) embarking on an international flight (commercial or non-commercial) at a major international airport;
- (b) embarking on an international flight (commercial or non-commercial) at a major international airport to connect at another major international airport, using airside facilities only;
- (c) arriving on a domestic flight at a major international airport, who then embarks on an international flight and has not paid such a fee under paragraph (a) or (b),

and shall be for the account of the first major international airport of embarkation.

(2) The airport improvement fee shall be—

- (a) collected, on behalf of the Government, in respect of airline tickets sold, written or issued by the operator of an aircraft for an international flight to depart from a major international airport;
- (b) remitted in full to the Government by that operator in accordance with the provisions of the Airline Payment Arrangements and for the purposes of this sub-paragraph, the amount of the fee may be remitted in the lawful currency of the United States of America, or the equivalent amount in Jamaican currency converted at the current rate of exchange; and
- (c) paid within fifteen days by that operator and, if any fees, or any part thereof are not paid within this period, the same shall incur interest at the most recently published six-month treasury bill average yield rate for Jamaica, compounded monthly until the date of payment.

(3) The airport improvement fee may be paid by a passenger referred to in paragraph (1) in the lawful currency of the United States of America or the equivalent amount in Jamaican currency converted at the spot market weighted average selling rate of exchange for United States dollars published by the Bank of Jamaica in respect of the last business day immediately preceding the date on which the airline ticket is issued, sold or written, whichever is earliest.

4. The airport improvement fee shall not be payable by—

- (a) children under the age of 2 years;**
- (b) airline crew (cockpit or cabin) on duty;**
- (c) in transit passengers, being persons arriving in Jamaica on an aircraft, who—**
 - (i) use airside services only;**
 - (ii) land in Jamaica from an aircraft which is landed on an airfield involuntarily by unforeseen circumstances.**

5. Expenses or charges incurred in collecting the Airport Improvement Fee and establishing and managing the Expansion Account shall be deducted from the amounts collected and deposited to the Expansion Account, in accordance with such arrangements as the Minister may approve from time to time.

6.—(1) An account to be called the Norman Manley International Airport Expansion Account shall be established at such bank or banks as the Minister may approve.

(2) The operator shall have the responsibility to collect any airport improvement fee not collected in accordance with paragraph 3(2)(a) and he shall—

- (a) collect such fee in the lawful currency of the United States of America; and**
- (b) remit such fee within fifteen days to the airport operator.**

(3) The airport operator shall forthwith lodge the fee remitted under sub-paragraph 2(b) to the Expansion Account.

(4) All sums collected by way of airport improvement fee shall be paid into the Expansion Account.

THE AIRPORTS (ECONOMIC REGULATION) ACT

ORDERS
(under section 6(1))

THE AIRPORTS (ECONOMIC REGULATION) (EXPANSION FUND) AIRPORT
IMPROVEMENT FEE (SANGSTER INTERNATIONAL AIRPORT) ORDER, 2003

(Made by the Minister on the 21st day of January, 2003)

L.N. 25/2003

1. This Order may be cited as the Airports (Economic Regulation) (Expansion Fund) Airport Improvement Fee (Sangster International Airport) Order, 2003.

2. In this Order—

“Airline Payment Arrangements” means the payment arrangements with any operator for the collection of the airport improvement fee approved by the Minister;

“Airport Expansion Fund Agreement” means such agreement as is entered into by the Airports Authority, MBJ Airports Limited, the Government of Jamaica, the Security Agent and the relevant account bank as approved by the Minister.

“Commencement Date” means the 15th day of February, 2003;

“Concessionaire” means the MBJ Airports Limited, a company incorporated under the Companies Act;

“Concession Agreement” means the agreement dated 20th December, 2002 (as amended from time to time) entered into between the Airports Authority and the Concessionaire in relation to the operation and development of the Sangster International Airport or such authorized transferee from the Concessionaire as shall have entered into the Deed of Accession to the Airport Expansion Fund Agreement;

“Current Rate of Exchange” means the spot market weighted average selling rate of exchange for United States dollars published by the Bank of Jamaica—

- (a) on the last business day of the week for which payment has been computed under the Airline Payment Arrangements in respect of the airport improvement fee payable; or
- (b) in other cases the said rate of exchange for the business day preceding the date on which payment is to be made;

“departing passenger” means a person using the Sangster International Airport for the purpose of travel from Jamaica;

THE AIRPORTS (ECONOMIC REGULATION) (EXPANSION FUND) AIRPORT IMPROVEMENT FEE (SANGSTER INTERNATIONAL AIRPORT) ORDER, 2003

“Expansion Account” means the Sangster International Airport Expansion Account established pursuant to paragraph 5.

“major international airport” means the Norman Manley international Airport and the Sangster International Airport;

“operator” means in relation to an aircraft, the person who at the relevant time has the management of the aircraft;

“Relevant Account Bank” means the bank in which the Expansion Account is held.

3.—(1) An airport improvement fee of five dollars in the lawful currency of the United States of America shall be payable in relation to every departing passenger—

- (a) embarking on an international flight (commercial or non-commercial) at a major international airport;
- (b) embarking on an international flight (commercial or non-commercial) at a major international airport to connect at another major international airport, using airside facilities only;
- (c) arriving on a domestic flight at a major international airport, who then embarks on an international flight and has not paid such a fee under paragraph (a) or (b),

and shall be for the account of the first major international airport of embarkation.

(2) The airport improvement fee shall be—

- (a) collected, on behalf of the Government in respect of airline tickets sold, written or issued by the operator of an aircraft for an international flight to depart from a major international airport;
- (b) remitted in full to the Government by that operator in accordance with the provisions of the Airline Payment Arrangements and, for the purposes of this sub-paragraph, the amount of the fee may be remitted in the lawful currency of the United States of America, or the equivalent amount in Jamaican currency converted at the current rate of exchange;
- (c) paid within fifteen days by that operator and, if any fees, or any part thereof are not paid within this period, the same shall incur interest at the most recently published six-month treasury bill average yield rate for Jamaica, compounded monthly until the date of payment.

(3) The airport improvement fee may be paid by a passenger referred to in paragraph (1) in the lawful currency of the United States of America or the equivalent amount in Jamaican currency converted at the spot market weighted average selling rate of exchange for United States dollars published by the Bank of Jamaica in respect of the last business day immediately preceding the date on which the airline ticket is issued, sold or written, whichever is earliest.

4. The airport improvement fee shall not be payable by—

- (a) children under the age of 2 years;
- (b) airline crew (cockpit or cabin) on duty;
- (c) in transit passengers, being persons arriving in Jamaica on an aircraft, who—
 - (i) use airside services only;
 - (ii) land in Jamaica from an aircraft which is landed on an airfield involuntarily by unforeseen circumstances.

5.—(1) An account to be called the Sangster International Airport Expansion Account shall be established at such bank or banks as the Minister may approve.

(2) The operator shall have the responsibility to collect any airport improvement fee not collected in accordance with paragraph 3(2)(a) and he shall—

- (a) collect such fee in the lawful currency of the United States of America; and
- (b) remit such fee within fifteen days to the airport operator.

(3) The airport operator shall forthwith lodge the fee remitted under paragraph 2(b) to the Expansion Account.

(4) All sums collected by way of airport improvement fee shall be paid into the Expansion Account.

THE AIRPORTS (ECONOMIC REGULATION) ACT

NOTICE
(under section 8)

THE AIRPORTS (ECONOMIC REGULATION) (CHARGES AND FEES)
NOTICE, 2003

(Made by the Civil Aviation Authority on the 12th day of May, 2003)

L.N. 51/2003

1. This Notice may be cited as the Airports (Economic Regulation) (Charges and Fees) Notice, 2003.

2. An application by an approved airport operator for the permission to levy charges shall be made in the form prescribed in Part I of the First Schedule and shall contain the particulars listed in Part II of that Schedule.

First
Schedule.

3. An application shall be accompanied by the fee prescribed in the Second Schedule.

Second
Schedule.

FIRST SCHEDULE

(Regulation 2)

Part I

Form No. 1

THE AIRPORTS (ECONOMIC REGULATION) ACT

APPLICATION FOR PERMISSION TO LEVY AIRPORT CHARGES

1. Name and address of the airport to which permission is to relate.
2. Name, position and telephone and extension number of the person who can be contacted about this application.
3. Details of the airport operator:
 - Name
 - Address of Registered Office
 - Telephone No.
 - Company Registration No. or other status
 - Address of principal office in Jamaica
(if different from above).
4. (a) The names of the shareholders of the airport operator, the class and number of shares held (save that individual shareholding of less than ten percent of the total number of shares, need not be disclosed) and details of any loans by shareholders to the company.
- (b) If the airport operator is not a company, the legal status of the airport operator and the name of the owner(s) of the beneficial interest therein and the extent of such interest.

FIRST SCHEDULE, *contd.*

5. If the airport operator is not the airport owner details of any contractual or other arrangement with the owner under which the airport is to be operated.
6. Details of the airport owner (if different from 3):
 - Name
 - Address of Registered Office
 - Telephone No.
 - Address of principal office in Jamaica
(if different from above).
7. (a) Names of beneficial shareholders in the company owning the airport, the number of each class of shares held (only individual shareholding of ten percent or more shares in any class need be shown) and details of any loans by shareholders to the company.
 (b) In case the airport owner is not a company the legal status of the airport owner and the name of the owner(s) of the beneficial interest therein and the extent of such interest.
8. If airport owner is not the airport operator and is a subsidiary of another company, the name and address of—
 - (a) the parent company;
 - (b) the Ultimate Holding Company;
 - (c) any other subsidiaries of the parent company of the Ultimate Holding Company.
9. If the airport owner is not the airport operator, the names and addresses of any subsidiaries of the airport owner.
10. Names and addresses of the Registered Offices of any associated companies of the airport operator.
 The applicant should state whether any of the associated companies are engaged in either “relevant activities” or “operational activities” as defined in section 2(1) of the Act.
11. Names of any other airports managed by the airport operator, owned by the same person or owned by members of the same group of companies.
12. Names and positions of principal executive officers of the airport operator.
13. The application should be accompanied by the following:
 - (i) A copy of the airport operators Business Plan inclusive of any Capital Expansion Programme, the proposed funding of the programme and the Passenger Forecast.
 - (ii) Details of the proposed Performance Standards and Target to be achieved by the Airport Operator in all areas of its operations.
 - (iii) Details of each airport charge levied at the time of the application and details of the proposed changes to those charges.
 - (iv) Copies of any contractual or other arrangement with the owner of the airport under which the airport is to be operated.
 - (v) A copy of any concession agreement, leases, management contract or other contractual documents under which the airport is to be operated should be attached.

I hereby certify that to the best of my knowledge and belief the foregoing information is correct and that no relevant information has been withheld.

Signature:

Signatory's Name
(BLOCK LETTERS)

On behalf of

Position

Date

This form should be returned to: The Civil Aviation Authority
4 Winchester Road, Kingston 10
P.O. Box 8998, C.S.O. Kingston
Jamaica, W.I.

Part II

Every application for a permission to levy charges shall include the following particulars—

- (a) the name and address of the airport for which permission is sought;
- (b) the name, company registration number and address of the registered office and the principal office in Jamaica of the applicant;
- (c) the names of the shareholders of the applicant, the class and number of shares held (save that individual shareholdings of less than ten percent of the total number of shares need not be disclosed) and details of any loans by shareholders to the company;
- (d) if the applicant is not the owner of the airport details of any contractual or other arrangements with the owner under which the airport is to be operated;
- (e) the name, company registration number and address of the registered office and the principal office in Jamaica (if different from the registered office) of the owner of the airport;
- (f) in respect of a company owning the airport, the names of its shareholders, and the class and number of shares held (save that individual shareholdings of less than ten percent of the total number of shares need not be disclosed) and details of any loans by shareholders of the company;
- (g) if a company owning the airport is not the applicant and is a subsidiary of another company, the name and address of the parent company and of any ultimate holding company and of any other subsidiaries of the parent company or ultimate holding company;
- (h) if a company owning the airport is not the applicant, the names and addresses of any subsidiary companies of the owner of the airport;
- (i) the names and addresses of the registered offices of any associated companies of the operator of the airport, showing in respect of each whether it is engaged in "relevant activities" or "operational activities" as defined in section 2 of the Civil Aviation Act;
- (j) the names of any other airports managed by the applicant, or which are owned either by the same person or by members of the same group of companies;
- (k) the names and positions of the principal executive officers of the airport operator; and
- (l) such additional information as the Authority may reasonably require for the discharge of its duties in relation to the application.

SECOND SCHEDULE

(Paragraph 3)

The airport operator shall on making an application to the Authority for a Permission to Levy Charges pay a fee of US\$10,000.00 in respect of each scheduled Airport.

The fees to be paid are specified in the lawful currency of the United States of America and may be paid in that currency or in the equivalent amount of the lawful currency of Jamaica.

THE AIRPORTS (ECONOMIC REGULATION) ACT

REGULATIONS
(under section 21)

THE AIRPORTS (ECONOMIC REGULATION) (EXPANSION FUND) (SANGSTER
INTERNATIONAL AIRPORT) REGULATIONS, 2003

(Made by the Minister on the 21st day of January, 2003)

L.N. 26/2003

1. These Regulations may be cited as the Airports (Economic Regulation) (Expansion Fund) (Sangster International Airport) Regulations, 2003.

2.—(1) In these Regulations—

“Advance Works” means those works or services forming part of the Phase 1A Works, which have been completed by or on behalf of the Airports Authority as is defined in the Airport Expansion Agreement;

“Airport Expansion Fund Agreement” means such agreement as is entered into by the Airports Authority, MBJ Airports Limited, the Government of Jamaica, the Security Agent and the relevant account bank as approved by the Minister;

“Approved Construction Contract” has the meaning given to it in the Airport Expansion Fund Agreement;

“Approved Contractor” has the meaning given to it in the Airport Expansion Fund Agreement;

“Airport Improvement Fee” means the fee imposed on departing passengers in accordance with the Airports (Economic Regulation) (Expansion Fund) Airport Improvement Fee (Sangster International Airport) Order, 2003;

“Concession Agreement” means the Agreement dated 20th December, 2002 as (amended from time to time) entered into between the Airports Authority and the Concessionaire in relation to the operation and development of the Sangster International Airport or such authorized transferee from the Concessionaire as shall have entered into a Deed of Accession to the Airport Expansion Fund Agreement;

“Commencement Date” means the 15th day of February, 2003;

“Concessionaire” means MBJ Airports Limited a company incorporated under the Companies Act;

“Expansion Account” means the account established under the Airports (Economic Regulation) (Expansion Fund) Airport Improvement Fee (Sangster International Airport) Order, 2003;

“Joint Account” means an account held in the names of the Government and the Security Agent in accordance with the Airport Expansion Fund Agreement;

“Security Agent” means the person appointed by the Minister under the Airport Expansion Fund Agreement;

“Senior Debt Funding Agreements” means any loan or facility agreement comprised within the Permitted Funding Documents approved by the Airports Authority under the Concession Agreement.

(2) References in these Regulations to the “Advance Works” “Phase 1 Works” “Phase 1A Works” “Phase 1B Works” or “Phase 2 Works”, or “the Works” are references to those works, respectively, as described in the Concession Agreement.

3. Expenses or charges incurred in collecting the Airport Improvement Fee, and establishing and managing the Expansion Account and the Joint Account shall be deducted from the amounts collected and deposited to the Expansion Account, in accordance with such arrangements as the Minister may approve from time to time.

4. Subject to the provisions of these Regulations, the moneys standing to the credit of the Expansion Account—

- (a) shall, with the Minister’s approval, be available to make payments under approved Senior Debt Funding Agreements to the extent that loans under those Agreements are applied—
 - (i) to direct payment by or on behalf of the Concessionaire to the Approved Contractor in respect of the Phase 1A Works or the Phase 1B Works;
 - (ii) to direct payment by or on behalf of the Concessionaire to the Approved Contractor in respect of the Phase 2 Works;
 - (iii) to the financing of expenditure by the Concessionaire in connection with the Advance Works under the Concession Agreement;
- (b) may, with the Minister’s approval, be used to make payments directly to an Approved Contractor in respect of Phase 1A Works or Phase 1B Works or Phase 2 Works under an Approved Construction Contract, if the following conditions are satisfied—

- (i) the direct payments are made in discharge of unpaid moneys properly due and payable under the Approved Construction Contract for the relevant Phase 1A Works, Phase 1B Works or Phase 2 Works; and
- (ii) the Security Agent authorizes the direct payment to the Approved Contractor against monthly certificates for the Works approved by the independent engineer of the lenders appointed under the Permitted Funding Documents;
- (c) may be used to make other capital improvements at Sangster International Airport, as the Minister may approve from time to time.

5.—(1) Subject to paragraphs (2), (3) and (4) funds may be transferred at monthly intervals from the Expansion Account to the Joint Account and the aggregate amount of such funds shall not exceed—

- (a) the principal amount advanced under the approved Senior Debt Funding Agreements for the capital expenditure of a project approved by the Minister and actually incurred from time to time and interest accrued thereon; and
- (b) any approved expenditure referred to in regulation 4 (b).

(2) The Security Agent shall authorize disbursements from the Joint Account in respect of payments under paragraphs 4(a), (b) and (c) in accordance with the provisions for such payments in the Airport Expansion Fund Agreement.

(3) The Security Agent shall not authorize the release of funds for prepayments or accelerated payments under the Senior Debt Funding Agreements or in circumstances where the lenders freeze or otherwise restrict transfers from the Concessionaire's accounts except as provided in the Airport Expansion Fund Agreement unless arrangements satisfactory to the Minister have been made.

(4) Transfers to and disbursements from the Joint Account shall be suspended upon termination of the Concession Agreement and otherwise as provided in the Airport Expansion Fund Agreement.

6.—(1) The collection of the Airport Improvement Fee, the Expansion Account and the Joint Account shall be subject to an audit on an annual basis at the cost of the Concessionaire on or around each anniversary date of the Commencement Date.

(2) The audit shall be carried out by an independent firm of auditors appointed by the Concessionaire and approved by the Minister and shall include the following—

- (a) the collection of the Airport Improvement Fee;
- (b) the deposit of the Airport Improvement Fee in the Expansion Account;
- (c) the transfers from the Expansion Account to the Joint Account;
and
- (d) disbursements from the Joint Account.

7.—(1) The Auditor-General shall be entitled to audit the Expansion Account and the Joint Account.

(2) For the purposes of paragraph (1), the Auditor-General shall be granted full rights of access to the Expansion Account and the Joint Account and all related or connected accounts, reports, documents and transactions.

THE AIRPORTS (ECONOMIC REGULATION) ACT

REGULATIONS (under section 21)

THE AIRPORTS (ECONOMIC REGULATION) (LICENCE) REGULATIONS, 2003

(Made by the Minister on the 2nd day of December, 2003)

[30th September, 2003]

L.N.
142A/2003

1. These Regulations may be cited as the Airports (Economic Regulation) (Licence) Regulations, 2003.

2. In these Regulations—

“aircraft” means any man-made device for aerial navigation within the atmosphere and includes aeroplanes, helicopters and balloons;

“airport operator” means any person approved by the Minister to carry on operations at a major international airport pursuant to section 4 of the Airports (Economic Regulation) Act;

“airside facilities” means facilities used by connecting passengers to international flights without being landed in Jamaica;

“commercial flight” means a scheduled or non-scheduled flight available to the public for the carriage of passengers, cargo, or mail for remuneration or hire and includes pilot training flights and aerial flights;

“domestic flight” means a flight, other than an international flight, which moves between points within domestic boundaries;

“international flight” means a flight which—

(a) lands in Jamaica, coming from a place outside of Jamaica;

(b) takes off from Jamaica and goes to a place outside of Jamaica;
or

(c) being part of an air service to or from a place outside of Jamaica, takes off from an airport or aerodrome in Jamaica and lands at another airport or aerodrome in Jamaica;

“landing charges” means the landing charges authorized by the Civil Aviation Authority pursuant to the licence;

“licence” means the permission to levy charges granted by the Civil Aviation Authority pursuant to section 8 of the Airports (Economic Regulation) Act;

“major international airport” means the Sangster International Airport and the Norman Manley International Airport;

- “operator” means, in relation to an aircraft, the person who at the relevant time has the management of the aircraft;
- “parking charges” means the parking charges authorized by the Civil Aviation Authority pursuant to the licence;
- “passenger loading bridge” means a mechanically operated adjustable ramp used to provide direct access between an aircraft and terminal buildings or ground transport vehicles;
- “passengers loading bridge charges” means the passenger loading bridge charges authorized by the Civil Aviation Authority pursuant to the licence;
- “passenger service charges” means the passengers service charges authorized by the Civil Aviation Authority pursuant to the licence;
- “security charges” means the security charges authorized by the Civil Aviation Authority pursuant to the licence;
- “US Dollars” means the lawful currency of the United States of America;
- “visiting non-commercial flight” means a flight by a visiting non-commercial aircraft;
- “visiting non-commercial aircraft” means a flight by an aircraft that is not locally registered and that is not for commercial, industrial or other lucrative purposes;
- “weight of aircraft” means the maximum permissible take-off weight specified in the certificate of air-worthiness or other prescribed document in respect of any aircraft.

3. Where reference is made in these Regulations to specified charges, the reference shall be construed to mean such charges as are imposed by the airport operator, subject at all times to the maximum limits authorized under Condition B1 of the licence.

4. Unless otherwise specified in these Regulations, all charges payable under Condition B1 of the licence shall be paid in US Dollars.

5.—(1) Subject to paragraph (3) the owner or operator of any visiting non-commercial aircraft shall pay the landing and parking charges for international arrivals calculated in accordance with the charges specified in the licence for visiting non-commercial flights in respect of the first landing of the aircraft in Jamaica at a major international airport.

(2) Where the first landing is not at a major international airport, the landing charges for domestic arrivals shall be applicable.

(3) Where the aircraft has not departed from Jamaica, the landing charges for domestic arrivals shall be applicable to all subsequent landings at a major international airport.

6.—(1) In respect of airline tickets issued by the operator of an aircraft for an international flight to depart from a major international airport, the operator of that aircraft shall collect on behalf of the airport operator and shall remit in full to the airport operator in accordance with arrangements approved by the Minister from time to time and within the agreed period, the specified passenger service charges and security charges contained in the licence.

(2) The passenger service charges and the security charges for international commercial flights shall apply and shall be for the account of the first airport for—

- (a) every passenger embarking on an international commercial flight at a major international airport; and
- (b) every passenger embarking from a major international airport to connect at another major international airport using airside facilities only.

(3) Every passenger embarking on a visiting non-commercial flight at a major international airport shall pay the passenger service charges and the security charges for visiting non-commercial flights.

(4) Every passenger arriving on a domestic flight at a major international airport who—

- (a) embarks on an international flight; and
- (b) has not paid the said charges under paragraph (2) above, shall pay the passenger service charges and the security charges for international commercial flights.

(5) The domestic flight charges in respect of passenger service charges and security charges shall apply to every passenger arriving on an international flight who then embarks on a domestic flight.

(6) The domestic flight charges shall be applicable to all passengers embarking on a domestic flight at a major international airport.

7. All specified passenger service and security charges payable by the passenger in US dollars may instead be paid by the passenger in equivalent Jamaican dollars converted at the spot market weighted average selling rate of exchange published by the Bank of Jamaica in respect of the last business day immediately preceding the date on which the airline ticket is issued.

8.—(1) If, in relation to an aircraft, the owner or operator—

- (a) has a registered office in Jamaica; or
- (b) is ordinarily a resident in Jamaica and the aircraft is normally based in Jamaica.

any charges payable by the owner or operator of that aircraft under Condition B1 of the licence in US dollars may instead be paid in Jamaican dollars at the weighted average selling rate of exchange.

(2) Without prejudice to any rule of law relating to the payment (under an order of a court) of a debt expressed in foreign currency, the equivalent in Jamaican dollars of any specified charge under Condition B1 of the licence and interest, if any, thereon may be recovered in any court of competent jurisdiction.

(3) For the purposes of Condition B1 of the licence, “the weighted average selling rate of exchange” means the spot market weighted average selling rate of exchange published by the Bank of Jamaica—

- (a) on the last business day of the month for which payment has been computed, in respect of landing, parking and loading bridge charges; and
- (b) on the last business day of the week for which payment has been computed, in respect of passenger service charges and security charges.

(4) Nothing in Condition B1 of the licence shall prevent the airport operator from accepting payment of charges in any currency other than Jamaican dollars or US dollars.

9.—(1) Charges payable in respect of landing, parking and passenger loading bridge shall be computed monthly and shall fall due and payable no later than the fifteenth day after the date of the invoice.

(2) Charges payable in respect of passenger service and security charges shall be computed weekly and shall fall due and payable no later than the fifteenth day after the date of the invoice.

10. If any charges, or any part thereof due and payable are outstanding, interest at the most recently published six-month treasury bill average yield rate for Jamaica, compounded monthly, shall be incurred until the date of payment.

11. Nothing in Condition B1 of the licence or in these Regulations shall restrict the right of the airport operator to vary the terms of payment specified herein.

12. Nothing in Condition B1 of the licence shall require the payment of passenger service charges or security charges in respect of—

- (a) airline crew (cockpit or cabin) on duty; or
- (b) children under the age of two years.

13. The airport operator may, generally or in any particular case, waive—

- (a) landing, parking or loading bridge charges or all three charges or any part thereof;
- (b) passenger service charges or security charges or both charges or any portion thereof.

14.—(1) Subject to paragraph (2), nothing contained in Condition B1 of the licence shall serve to prevent the Minister from granting exemptions to any category of passenger or to waive any specified charges in Condition B1 of the licence or part thereof in special circumstances.

(2) The extent of a waiver under paragraph (1) does not materially affect the economic viability of the airport operator.

THE AIRPORTS (ECONOMIC REGULATION) ACT

REGULATIONS
(under section 21)THE AIRPORTS (ECONOMIC REGULATION) (EXPANSION FUND) (NORMAN
MANLEY INTERNATIONAL AIRPORT) REGULATIONS, 2003*(Made by the Minister on the 2nd day of December, 2003)**[1st November, 2003]*L.N.
142A²/2003

1. These Regulations may be cited as the Airports (Economic Regulation) (Expansion Fund) (Norman Manley International Airport) Regulations, 2003.

2.—(1) In these Regulations—

“Airport Expansion Fund Agreement” means the Agreement entered into by the Airports Authority, NMIA Airports Limited, the Government of Jamaica, the Security Agent and the Account Bank approved by the Minister for the purpose of establishing the special fund mentioned in section 6(5) of the Act;

“Airport Improvement Fee” means the fee imposed on departing passengers in accordance with the Airports (Economic Regulation) (Expansion Fund) Airport Improvement Fee (Norman Manley International Airport) Order, 2003;

“Approved Construction Contract” has the meaning assigned to it under the Airport Expansion Fund Agreement;

“Approved Contractor” has the meaning assigned to it under the Airport Expansion Fund Agreement;

“Commencement Date” means the 15th day of February, 2003;

“Concession Agreement” means the agreement entered into between the Airports Authority and the Concessionaire, or such authorized transferee from the Concessionaire as shall have entered into a Deed of Accession to the Airport Expansion Fund Agreement, in relation to the operation and development of the Norman Manley International Airport;

“Concessionaire” means NMIA Airports Limited, a limited liability company incorporated under the Companies Act;

“Expansion Account” means the relevant account established under the Airports (Economic Regulation) (Expansion Fund) Airport Improvement Fee (Norman Manley International Airport) Order, 2003;

“Joint Account” means an account held in the names of the Government and the Security Agent in accordance with the Airport Expansion Fund Agreement;

“Security Agent” means the person appointed as such by the Minister under the Airport Expansion Fund Agreement;

“Senior Debt Funding Agreements” means any loan or facility agreement comprised within the Permitted Funding Documents approved by the Airports Authority under the Concession Agreement.

(2) References in these Regulations to the “Construction Works” are references to those works, respectively, as described in the Concession Agreement.

3. Expenses or charges incurred in—

- (a) collecting the Airport Improvement Fee; and
- (b) establishing and managing the Expansion Account and the Joint Account,

shall be deducted from the amounts collected and deposited to the Expansion Account in accordance with such arrangements as the Minister may approve from time to time.

4. Subject to the provisions of these Regulations, the moneys standing to the credit of the Expansion Account—

- (a) shall, with the approval of the Minister, be available to make payments under the Senior Debt Funding Agreements to the extent that loans made under those Agreements are applied—
 - (i) to direct payment of the Approved Contractor in respect of the Construction Works;
 - (ii) for direct payment by or on behalf of the Concessionaire to the Approved Contractor in respect of the Construction Works;
- (b) may, with the approval of the Minister, be used to make payments directly to an Approved Contractor in respect of the Construction Works under an Approved Construction Contract, if the following conditions are satisfied—
 - (i) the direct payments are made in discharge of unpaid moneys properly due and payable under the Approved Construction Contract for the relevant Construction Works; and
 - (ii) the Security Agent authorizes the direct payment to the Approved Contractor against certificates for the Works approved by the independent engineer of the lenders appointed under the Permitted Funding Documents;

- (c) may be used to make such other capital improvements at Norman Manley International Airport as the Minister may, from time to time, approve.

5.—(1) Subject to paragraphs (2), (3) and (4), funds may be transferred at monthly intervals from the Expansion Account to the Joint Account and the aggregate amount of such funds shall not exceed—

- (a) the principal amount advanced under the Senior Debt Funding Agreements for the capital expenditure of a project approved by the Minister and actually incurred from time to time and interest accrued thereon; and
- (b) any approved expenditure referred to in regulation 4(b).

(2) The Security Agent shall authorize disbursement from the Joint Account in respect of payments under paragraphs 4(a), (b) and (c) and in accordance with the provisions for such payments in the Airport Expansion Fund Agreement.

(3) Except as provided in the Airport Expansion Fund Agreement, the Security Agent shall not authorize the release of funds—

- (a) for prepayments or accelerated payments under the Senior Debt Funding Agreements; or
- (b) in circumstances where the lenders freeze or otherwise restrict transfers from the Concessionaire's account,

unless arrangements satisfactory to the Minister have been made.

(4) Transfers to and disbursements from the Joint Account shall be suspended upon termination of the Concession Agreement and otherwise as provided in the Airport Expansion Fund Agreement.

6.—(1) The collection of the Airport Improvement Fee, the Expansion Account and the Joint Account shall be subject to an audit on an annual basis, at the cost of the Concessionaire, on or around each anniversary date of the Commencement Date.

(2) The audit shall—

- (a) be carried out by an independent firm of auditors appointed by the Concessionaire and approved by the Minister; and
- (b) include the following—
 - (i) the collection of the Airport Improvement Fee;
 - (ii) the deposit of the Airport Improvement Fee in the Expansion Account;

- (iii) the transfers from the Expansion Account to the Joint Account; and
- (iv) disbursements from the Joint Account.

7.—(1) The Auditor-General shall be entitled to audit the Expansion Account and the Joint Account.

(2) For the purposes of paragraph (1), the Auditor-General shall be granted full rights of access to the Expansion Account and the Joint Account and all related or connected accounts, reports, documents and transactions.