

Consultative document on an environment fee for visitors to Svalbard

Contents:

1.	Introduction	3
2.	Background to the proposed regulation	3
2.1	The Ministry's work on the proposed regulation	4
3.	The need for an environment fee	5
3.1	Environmental consequences of access and passage	6
3.2	Measures envisaged for abating the environmental consequences – what the environment fee will be spent on	6
4.	The Svalbard Environmental Protection Fund in more detail	7
4.1	The Ministry's comments	8
5.	Relation to other Acts and Regulations and rules of international law	9
5.1	Norwegian law	9
5.2	Rules of international law	9
6.	Practice in other countries	10
7.	The Ministry's proposal of an environment fee for visitors to Svalbard	10
7.1	Geographical scope of the environment fee	10
7.1.1	Background	10
7.1.2	The Ministry's comments and proposal	10
7.2	The amount of the environment fee	11
7.2.1	Background	11
7.2.2	The Ministry's comments and proposal	11
7.3	Delimitation as to persons – to whom shall the environment fee scheme apply	11
7.3.1	Background	11
7.3.2	The Ministry's comments and proposal	12
7.4	Responsibility for payment and practical arrangements for the payment of the environment fee	13
7.4.1	Background	13
7.4.2	Individual travellers in own boats – the Ministry's comments and proposal	14
7.4.3	Passengers on overseas cruise vessels – the Ministry's comments and proposal	14
7.4.4	Passengers on coastal cruises – the Ministry's comments and proposal	15
7.4.5	Air passengers - The Ministry's comments and proposal	15
7.4.6	Transitional provisions	16
8.	Financial and administrative consequences	16
8.1	Information	16
8.2	In general on the effects on travel and tourism etc.	16
8.3	Revenues from the environment fee to the Svalbard Environmental Protection Fund	17
8.4	Payment by and collection from individual travellers by boat	18
8.4.1	Administrative consequences	18

8.4.2	Financial consequences	18
8.5	Payment by and collection from overseas and coastal cruise passengers	18
8.5.1	Administrative consequences	18
8.5.2	Financial consequences	18
8.6	Payment by and collection from air passengers	19
8.6.1	Administrative consequences	19
8.6.2	Financial consequences	19
8.7	Refund scheme for permanent residents	20
8.7.1	Administrative consequences for the Governor and the permanent residents	20
8.7.2	Financial consequences for the Governor and for permanent residents	20
9.	The proposed regulation	21
10.	Comments on particular provisions in the proposed regulation	22

1. Introduction

In the spring of 2005, the Ministry of the Environment circulated for broad consultation a proposal to introduce an environment fee for visitors to Svalbard. In the consultation document, a mandatory fee of NOK 150 was proposed for all persons who travel to Svalbard with the exception of students and persons whose visits are employment-related. It was proposed that air passengers who were liable for fees should make their payments at lodgings where they spent the night, tourist information offices or other suitable places in Longyearbyen. Several of the bodies consulted proposed fewer exceptions to the obligation to pay the fee and a simpler system for collecting it. In view of these proposals, the introduction of the environment fee was postponed.

The Ministry of the Environment has continued its work on the environment fee arrangement, and in the present consultation document proposes the introduction by regulation of an environment fee for journeys to Svalbard's land areas. In its new proposal, the Ministry has attached great importance to arriving at a system which is simple, cost-effective, and unbureaucratic. Regard for simpler rules has been combined with the polluter pays principle, in that all visitors will be charged a fee.

The difference from the proposal sent out for consultation in 2005, then, relates to the delimitation as to persons. In addition, changes have been made in the arrangements for collecting the fee from air passengers. According to the proposal, all visitors will pay the fee with the exception of permanent residents on Svalbard. In the Ministry's opinion, the beneficial purpose of the fee and its modest amount justify the principle that only permanent residents should be exempted from the fee. Collection of the fee from air passengers will be effected through the air ticket, so that for permanent residents the plan is for a refund scheme to be operated. Where visitors to Svalbard by boat are concerned, no changes have been made to the proposal from 2005.

The proceeds from the environment fee will be paid in to the Svalbard Environmental Protection Fund. Money from the Fund can only be spent on measures in Svalbard the purpose of which is to protect the environment. Through the Fund, the environment fee will among other things be spent on initiating measures designed to facilitate traffic in certain areas, and to carry out repairs or measures to mitigate damage that has been done. Some cultural heritage locations attract so many visitors that there is a need for management. Other likely measures include the production of informative material. Revenues from the environment fee will also go towards the surveillance of natural scenery and cultural monuments which is one of the prerequisites for ensuring efficient management of the natural and cultural environment in Svalbard.

2. Background to the proposed regulation

In the consultation document of May 2005, the Ministry of the Environment gave a thorough account of the background to the regulation proposal. It was pointed out that Svalbard's natural environment still predominantly consists of large unbroken areas of practically untouched wilderness. This gives Svalbard special qualities as a natural document. Nevertheless, it must be possible to use and experience Svalbard's wilderness-like landscape. One of the major challenges currently confronting us on Svalbard is how to cope in a positive way with the increase in tourism, open-air activities and other traffic. Various measures can be adopted to make tourism sustainable and to limit the harm it does to the environment. A

sort of tourism tax or environment fee is in use in various places in the world, designed to meet the environmental costs caused by tourism and other traffic. The introduction of an environment fee thus accords with the polluter pays principle, which is an important element of the Government's environmental policy.

Furthermore, the consultation document described the goals of the Government's management of Svalbard's natural and cultural environment. These found their most recent expression in Report no. 9 (1999-2000) on Svalbard to which the Storting gave its support in Recommendation no. 196 (1999-2000) to the Storting. This entails among other things that environmental protection in Svalbard must ensure that the presence and activity of people in Svalbard are kept within the limits called for by regard for the archipelago's characteristic wilderness. Furthermore that environmental considerations must be given most weight within the framework of the Svalbard Treaty should they come into conflict with other interests, and that the management of the region must be based on the "precautionary principle". When the Storting debated the proposed Svalbard Environmental Protection Act, both the Energy and Environment Committee and the Foreign Affairs Committee referring to the principles for the management of the Svalbard environment to which the Storting gave its support when dealing with Recommendation no. 196 (1999-2000) to the Storting.

Concerning the question of introducing an environment fee, it was proposed as early as in Report no. 22 (1994-1995) to the Storting that public expenses for necessary environmental measures should be met by means of a modest fee for journeys to protected areas. The outcome of the consultation was that the introduction of such a fee was postponed pending the preparation of a new environment act.

In Norwegian Official Reports 1999:21, "Act relating to the protection of the environment in Svalbard", the commission proposed to codify authority to issue a regulation to the effect that a visitor to Svalbard must pay a fee the proceeds of which would go into the Svalbard Environmental Protection Fund. The fee can not be collected from permanent residents. In Proposition no. 38 (2000-2001) to the Odelsting "On an environmental protection act for Svalbard", the Ministry gave a thorough account of the increasing numbers of visitors to Svalbard, the environmental problems which uncontrolled traffic can lead to, and the purpose of the fee. In the light of these factors, the Ministry supported the commission's proposal concerning authority for a fee for visitors.

When the Bill was dealt with by the Storting's Standing Committee on Energy and the Environment, a majority of the committee supported the establishment of the Svalbard Environmental Protection Fund, and that it should be funded among other things by a fee for visitors, if the fee was introduced. Several members of the committee pointed out that the fee accorded with the polluter pays principle, cf. Recommendation no. 124 (2000-2001) to the Odelsting.

2.1 The Ministry's work on the new proposed regulation

In the consultation in 2005, the Ministry of the Environment received replies from the following bodies: The Ministry of Foreign Affairs, the Ministry of Justice, the Ministry of Finance, the Ministry of Education and Research, the Ministry of Transport and Communications, the Ministry of Fisheries and Coastal Affairs, the Ministry of Trade and Industry, the Ministry of Government Administration and Reform, the Ministry of Petroleum and Energy, the Ministry of Defence, the Ministry of Children and Family Affairs, the

Ministry of Agriculture and Food, the Ministry of Health and Care Services, the Ministry of Labour and Social Affairs, the Association of Norwegian Airlines, Avinor, the Association of Arctic Expedition Cruise Operators (AECO), the Governor of Svalbard, the Directorate for Nature Management, the Norwegian Polar Research Institute, the Norwegian National Coastal Administration, Svalbard Tourism, the University of Tromsø, the Norwegian University of Science and Technology, Kings Bay, Store Norske, Longyearbyen Local Administration, the Norwegian National Association for Outdoor Recreation, SASBraathen, the Longyearbyen arbeiderforening (labour union), the Data Inspectorate, the Norwegian Meteorological Institute, the World Wildlife Fund, the Norwegian Hospitality Association, and the Central Office of Historic Monuments.

Most of the responses were in favour in principle of introducing an environment fee, but opinions differed as to how the fee should be collected and as to whom the environment fee scheme should apply. The specific comments on the fee arrangement received from these agencies are discussed in connection with the Ministry's proposal.

A fee for visitors is discussed in the Ministry of the Environment's budget proposal for 2006 in connection with the discussion of the Svalbard Environmental Protection Fund, cf. Proposition no. 1 (2005-2006) to the Storting.

On 6 April 2006, the Ministry of the Environment sent a letter containing information on a fee for visitors to the public bodies, organizations and Norwegian and foreign travel and tourism enterprises concerned. The letter described the proceedings to date concerning the proposal, the further steps planned, and notice of the intention to introduce such an arrangement on 1 January 2007.

On 25 April 2006, the Ministry met with the Ministry of Transport and Communications, the Ministry of Government Administration and Reform, Avinor, and representatives of the Association of Norwegian Airlines.

3. The need for an environment fee

The need for an environment fee relates principally to the current increase in the volume of visitors to Svalbard and to the environmental problems which increased traffic can entail. One of the major challenges we are at present confronting on Svalbard is coping in a positive way with the increase in tourism, open-air activities, and other traffic. Examples of other traffic include persons travelling on business, scientists and students. Where the environmental consequences are concerned, research and research-related travel should be regarded in the same way as other activities on Svalbard.

As for tourism, there was in the 1990s a sharp increase in tourism. Developments in tourism are commonly described in terms of numbers of guest nights in Longyearbyen. The number of guest nights levelled out in 2001-2003, but in 2004 77,926 guest nights were registered, an increase of 9.7% over 2003.

Cruise traffic is spreading tourism in Svalbard, as can be seen in the increase in the number of ports of call, from 63 in 1996 to 180 in 2003. Most of the increase in the number of shore calls over the past three years has taken place outside the vicinity of Longyearbyen. Most of this spread is accounted for by externally operated cruise vessels, and this presents a challenge to the administration of tourism and its environmental consequences.

3.1 Environmental consequences of access and passage

One important feature of Svalbard is the almost complete absence of roads. All traffic outside settlements has to be in the terrain or by sea or air. Traffic can entail noise and other disturbances to animal life, wear and tear of the vegetation and soil, and increased litter. This is a problem, because physical conditions in the Arctic are such that the consequences of such impact can be longer-lasting and more extensive than in more southerly latitudes. Because of low temperatures, a short growing season, and few biological catabolists, biological and biochemical growth processes are often slow. Waste and pollutant substances are therefore only broken down very slowly in Svalbard.

Minor damage to the terrain from snowmobile tracks has been registered in several places in Svalbard. Locally, wear has also been caused by hikers. Some wear and tear has also been registered around the more or less permanent base camps used by tour operators as points of departure for skiing or hiking excursions.

Where cruise tourism is concerned, large cruise ships can present serious risks of pollution should they run aground or be wrecked, because they may be carrying large quantities of bunker fuel. An environment fee will principally be intended to compensate for the pressure on the environment that results from visits ashore. Impact which can be attributed to the cruise traffic includes disturbance of animal life, and wear and tear on vegetation, soil and cultural monuments. Disturbance of animal life has been registered: Geese and eider duck, for instance, show definite reactions to landings and boat traffic, especially in the nesting season. The pressure of traffic is already noticeable at several walrus colonies on the east coast, disturbing walrus and interfering with research.

Wear and tear in the terrain and damage to vegetation are especially noticeable in the vicinity of cultural monuments. The effects of human disturbance and wear can be longer-lasting and more complex in arctic regions than is the case in more temperate latitudes. The cultural monuments themselves are also exposed to damage if traffic becomes excessive. Besides, many of the cultural monuments, such as skeleton remains or iron remains of the technical heritage, are unprotected and an easy prey to souvenir-hunters. Cultural remains are a non-renewable resource of great value as sources of information and for the exciting experiences they afford. It is therefore of great importance to prevent human activities from diminishing that value.

3.2 Measures envisaged for abating the environmental consequences – what the environment fee will be spent on

To ensure effective management of environmental protection, environmental conditions must be continuously monitored, and the causes of environmental impact surveyed. These are among the measures which the environment fee is intended to fund.

In some cases, active intervention, for instance in the form of maintenance and care, will be necessary to restore the environment to its original state. It may prove necessary to take steps to facilitate traffic in certain areas, and to carry out repairs or adopt abatement measures where damage has occurred.

Other measures envisaged include information. Information on the cultural heritage is particularly important in Svalbard. The remains are often not aesthetic objects as such. Some cultural heritage localities receive so many visits that there is a need for organization. Among

the objects of such organization will be: To provide information on the remains, to protect them from wear, and to direct tourists to particular localities in order to protect others. Signposting is a possibility that needs to be considered. Some cultural remains may be in need of protective measures, for instance to offset coastal erosion. Surveillance of exposed cultural heritage localities is another possible measure.

Most of the informative material produced by the Governor is intended for visitors. There is a constant need for new material and for the renewal of existing material. The information centre in the research park figures very prominently in the information strategy. One of the most important functions of the centre is to acquaint tourists with the natural environment and the cultural heritage.

Proceeds from the fee could also be spent on professionalizing guides and tour party leaders in Svalbard.

For more on the use of revenues from the environment fee, see below in the section on the Svalbard Environmental Protection Fund.

4. The Svalbard Environmental Protection Fund in more detail

The Ministry gave a more detailed account of the Svalbard Environmental Protection Fund in its consultation document of 2005. Revenues from the fee will accrue to the Svalbard Environmental Protection Fund. The Fund was established in the Svalbard Environmental Protection Act, and the Ministry established it in the Fiscal Budget for 2005. The Fund will in principle comprise a fee for visitors to Svalbard, money collected through the sale of hunting and fishing licences, the value of unlawfully handled flora and fauna, environmental compensation fixed by the Governor, and coercive fines. The Ministry plans to fix the amounts charged for hunting and fishing licences etc. in 2006.

Where the administration of the Fund is concerned, the Environmental Protection Fund will be a state fund. It will have a board, appointed by the Ministry, which will allocate money, and a secretariat. The Ministry thinks it is important to ensure that the board has local affiliations and representation. The secretariat will be under the Governor of Svalbard. Its duties will principally be to announce when financial grants from the Fund can be applied for, to process the applications received, and to make recommendations to the board. When the board has taken its decision, the secretariat will distribute the money. Applicants to the Svalbard Environmental Protection Fund can be private or public entities, organizations, institutions and enterprises, or private individuals.

Money from the Fund can only be spent on measures in Svalbard the purpose of which is to protect the environment. The management of the Fund will be based on rules and guidelines laid down by the Ministry. In the administration of the Fund's money, importance will be attached to seeing that the means provided benefit the groups that have contributed to the financing of the Fund. Its money should in the main be devoted to measures in the field, especially care and maintenance, the abatement of harm to the environment, and studies aimed at revealing the state of the environment and the causes of any changes. The Fund can also be devoted to information, training and organizational measures. The Fund will also meet the expenses incurred by the secretariat in connection with the management of the Fund. Concrete examples of measures are the upkeep of cultural remains, the documentation and conservation of the cultural heritage, the repair of damage from traffic, the care of protected

areas, fencing, waste disposal, surveillance, information to the public, and the training of guides.

A number of the respondents to the consultation document in 2005 commented on the administration and object of the fund and the use of its money. The Ministry of Trade and Industry and Longyearbyen Local Administration note that the Environmental Protection Fund's board ought to be locally based and have local representatives. In the opinion of the Ministry of Trade and Industry, it would be natural for the environmental work carried out by Svalbard Tourism to be funded by the Environmental Protection Fund. Longyearbyen Local Administration is concerned that the fee should not be spent on what up to now have been central government tasks and should continue to be covered out of the Governor's budget. Longyearbyen Local Administration also maintain that a significant proportion of the Fund must be earmarked for measures within settlements, including rescue preparedness. The Governor holds that it ought to be possible to devote money from the Fund to support for travel. The Norwegian Polar Research Institute proposes that Section 1 of the Environmental Fee Regulation be amended from "*care and maintenance work, informative measures and the like*" to "*preventive measures, care and maintenance work and informative measures*". The Norwegian Polar Research Institute queries the use of Fund money for *signposting and laying out biotopes for threatened species*.

4.1. The Ministry's comments

The Fund shall not be used to meet the regular administrative expenses of environmental administration. Nor shall it grant funds for the running of institutions and organizations, payments on previous investments, or to meet deficits. In the opinion of the Ministry, to grant money from the Fund in such cases would not be in accordance with the purpose of the various fees or of the Fund.

As mentioned above, the Ministry agrees that it is important to ensure that the Fund's board has a local base and representation. The Ministry is not in favour of partly financing Svalbard Tourism's operations out of the Fund, but the Svalbard Tourist Board may of course apply for funds for environmental projects. It follows from the preparatory works of the Svalbard Environmental Protection Act that money from the Fund can not be used to meet the costs of the Governor's administration and regular assignments, cf. Proposition no. 38 (2000-2001) to the Odelsting. The Governor may, however, apply to the Fund for money for special measures. In view of the objectives of the environment fee, the Fund should principally be devoted to measures in the field, so that the question will not arise of earmarking a significant proportion of the fund for measures within settlements. As to whether money from the Fund can be spent to meet travel expenses, the Ministry does not find that it accords with the purpose of the fee to grant means from the Fund for travel support alone. It will, however, be possible to spend money from the Fund on a project in which travel accounts for a minor part of the project's costs. The Ministry agrees with the Norwegian Polar Research Institute's comment that preventive measures should figure prominently among the measures on which the fee is to be spent, and proposes to include this in Section 1 of the draft Regulation. Concerning the use of Fund money to adapt biotopes for threatened species, the Ministry agrees with the Polar Research Institute that this is hardly a likely measure today. But in the Ministry's view there should be an opening for spending money from the Fund for instance to protect localities for threatened species. As for the use of Fund money for signposting, the Ministry notes the restrictive practice there has been on Svalbard and believes that it should

be maintained. It should nevertheless be permissible to set up temporary signs, for instance, in particular cases.

5. Relation to other Acts and Regulations and rules of international law

5.1 Norwegian law

The common unrestricted right of way in outfield land also applies in Svalbard. This follows from Section 73 of the Svalbard Environmental Protection Act, which states that “The public right of access to and passage through the natural environment also applies in Svalbard, subject to the limitations imposed by this Act”. It is the Ministry’s view that provided the fee is not linked to passage through or access to protected areas or other outfield land, it can not be regarded as payment for use of the common right. The Svalbard Environmental Protection Act commission reached the same conclusion when it considered the question, cf. Norwegian Official Reports 1999:21, p. 161.

An important instrument for the regulation of tourism is the Tourism Regulations of 18 October 1991. It regulates tourism and other travel in order to protect the natural and cultural environment, and ensure that regard is had for security and that other rules are observed. The regulation imposes notification and insurance obligations on various groups and persons when they visit specified areas in Svalbard. Before each summer and winter season, tour operators must report planned tour operations in Svalbard to the Governor. Tourist carriers must give notice of plans to drop people in areas outside the permanent settlements. For sea voyages, to or within natural parks and nature reserves, notice must be given of the sailing schedule, including landings. Individual travellers who are not permanent residents must give notice of itineraries that entail travel outside the permanent settlements, except in certain areas. Travel to or in natural parks or nature reserves must also be notified to the Governor, who can in such cases require changes in the travel plans.

In the spring of 2005, a working party under the Interministerial Committee on Polar Affairs submitted a report on the consequences of ship traffic and, in the event, stricter regulation, including the cruise traffic around Svalbard. In the light of the emergency preparedness situation on Svalbard, the party recommends the introduction of a requirement concerning the quality of bunker oil that may be carried on board. Concerning emissions from cruise traffic, the working party recommends that the Governor, when approving tour plans, ask the operators to state what practice the ships adopt with regard to emissions and refuse handling. The environmental protection authorities should moreover urge the cruise operators’ organization AECO to include this aspect among its internal guidelines. The working party recommends the laying down of size limits for ships (length/weight) and limits on the number of persons a ship may have on board when sailing within the eastern nature reserves. The working party recommends that an adequate survey be obtained of the stocks of eider duck and geese in the nesting areas where protection may be called for, and that the survey be used as a basis for drawing up a proposal placing restrictions on traffic in the form of new bird reserves or corresponding protective measures.

5.2 Rules of international law

The exercise of Norwegian authority and Norway’s administration of Svalbard are based on the Svalbard Treaty of 1920. Article 2 of the Treaty confirms Norway’s right and to a large extent also duty to see that Svalbard’s natural environment is protected. The provisions must moreover be regarded as a special request from the parties to the Treaty for protection of Svalbard’s natural environment. The Treaty does not presuppose that activities undertaken

will be exempt from Norwegian regulation and control. What the Treaty does secure for the parties is equal rights to certain types of activity. By virtue of her sovereignty, Norway can regulate permission to undertake also the types of activity that are mentioned in the Treaty.

Proposition no. 38 (2000-2001) to the Odelsting contains a report by Professor Dr. Juris Geir Ulfstein on the international law aspects of the introduction of a fee for visitors. The report refers to Article 1 of the Svalbard Treaty which gives Norway sovereignty over Svalbard subject to the stipulations of the Treaty. This implies in principle that Norway is free to lay down such regulations, including taxes and fees, as may be found useful. The report makes clear that neither international law in general nor special conventions other than the Svalbard Treaty to which Norway adheres prevent the introduction of a fee for visitors.

6. Practice in other countries

Around the world one can find various types of fee and tax connected with arrival and departure, overnight stays or other services, and airports and the like. On the Seychelles the tourist trade and tourists pay an environment tax approaching USD 100 per person. The fee on the Galapagos Islands is also USD 100. There are examples of numerous countries, including the USA, where fees are charged for access to national parks or other protected areas.

7. The Ministry's proposal of an environment fee for visitors to Svalbard

7.1 Geographical scope of the environment fee

7.1.1 Background

In the general consultation in 2005, the Ministry proposed that the fee should only be payable when one goes ashore on the archipelago. Since it is people who go ashore who cause the most serious environmental problems, the Ministry regarded it as natural not to have to pay a fee until one goes ashore in the archipelago. This interpretation also avoids any problems that might arise in connection with the rules about innocent passage in the Convention on the law of the sea.

A number of bodies commented on the Ministry's proposal concerning geographical scope in the consultations. The Ministry of Foreign Affairs supports the Ministry of the Environment's proposal out of regard for the Convention on the Law of the Sea. The Governor supports the proposal because it is not usual for cruises to visit Svalbard without setting passengers ashore.

The World Wildlife Fund and the Svalbard Tourist Board do not support the Ministry's proposal concerning geographical scope, believing that tourists on cruise ships along the coast ought to pay the fee, since they are also potential polluters.

7.1.2 The Ministry's comments and proposal

In the light of the interpretation of the Convention on the Law of the Sea on which the preparatory works for the Svalbard Environmental Protection Act were based, the Ministry finds that a fee can not be charged if the passengers do not go ashore. The security and environmental aspects of maritime traffic in general lie outside the core area of what the environment fee is intended to cover, see also chapter 5.

7.2 The amount of the environment fee

7.2.1 Background

According to Norwegian Official Reports 1999:21, p. 195, the amount of the fee ought to be fixed in the light of the fact that the purpose of the fee is that a visitor to Svalbard is to contribute towards the cost of care and maintenance, organization, information, etc. In the general consultation the Ministry proposed a fee of NOK 150 per person per entry

Among the bodies which commented specifically on the amount of the fee, the Ministry of Trade and Industry, the Ministry of Foreign Affairs, the Svalbard Tourist Board and the Norwegian National Association for Outdoor Recreation supported the proposal. The Directorate for Nature Management believes that the fee ought not to be lower than NOK 150, and that such a modest amount is not likely to have any damaging effects on Svalbard's commercial sector. The World Wildlife Fund proposes that the fee be differentiated according to the kind of activity engaged in and in which geographical areas it is pursued. The Governor would prefer a fee of NOK 100, assuming that everyone except permanent residents will pay it.

7.2.2 The Ministry's comments and proposal

In its proposal, the Ministry took the "polluter pays" principle as a point of departure. The visitors must help to meet the costs of environmental impact of which they are the cause.

The Ministry sees the importance of not setting the fee so high that it becomes a financial obstacle for visitors or has an impact on earnings in the local tourist trade. Compared to the price of cruises or flights to Svalbard, a fee of NOK 150 will not determine whether or not one makes the journey.

In the Ministry's opinion, this will apply especially to persons travelling in connection with work, but also to other visitors such as persons visiting permanent residents. The Ministry thus sees no need for a lower fee even if it is now proposed to make the fee payable by everyone except permanent residents.

As for the suggestion of a fee differentiated according to which type of traffic places the greatest strain on the environment, the Ministry would point out that what is being sought is the simplest fee system possible. The Ministry does not see that the advantages of such a differentiation would outweigh the complications relating for instance to the collection of the fee.

7.3 Delimitation as to persons – to whom shall the environment fee scheme apply

7.3.1 Background

According to the wording of Section 78 of the Svalbard Environmental Protection Act, "visitors" to Svalbard shall be subject to the environment fee arrangement, except for "permanent residents". Section 3 of the Svalbard Environmental Protection Act defines a permanent resident as "a person whose name is validly entered in Svalbard's population register", and a visitor as "any person other than a permanent resident".

According to both Norwegian Official Reports 1999:21 and Proposition no. 38 (2000-2001) to the Odelsting, the Ministry can consider whether other groups than permanent residents can be exempted from the fee.

In the general consultation, the Ministry proposed that persons coming to work or study should not have to pay the fee, with the exception of participants on courses and at conferences. In their replies, the Association of Norwegian Airlines and the University of Tromsø supported the proposed delimitations. Longyearbyen Local Administration wanted visitors to permanent residents also to be exempt from the fee, in view of the importance to the well-being of the permanent residents of visits by friends and relatives from the mainland.

The Governor and the Directorate for Nature Management argued that the proposed system would give rise to many difficult questions of definition, and preferred a system whereby everyone paid except permanent residents. Avinor noted that there was some unclarity as to whether one would be charged the fee when on a combined tour, but that for the sake of equality such visitors, too, should pay. The Association of Arctic Expedition Cruise Operators held that considerations of equality counted against the far-reaching exceptions proposed by the Ministry, and recommended that only permanent residents should be exempt from the fee. The Norwegian Hospitality Association and the Svalbard Tourist Board maintained that regard for the polluter pays principle indicated that no exceptions ought to be made to the obligation to pay the fee. In the view of the World Wildlife Fund, the proposed scheme would give rise to cases of doubt, and the fee ought at any rate to be paid by members of official Norwegian delegations and their guests.

7.3.2 The Ministry's comments and proposal

Underlying the Ministry's proposal in the consultation document was the idea that it could be unreasonable to charge persons who had to go to Svalbard to do their jobs a fee. To do so could have consequences for Svalbard's commercial sector. Various bodies had pointed this out in the course of the Ministry's preparation of the proposal.

The majority of the bodies consulted are now opposed to the Ministry's delimitation proposal, preferring a more comprehensive fee scheme. The Ministry agrees that a system whereby all visitors, but not permanent residents, pay the environment fee accords best with the polluter pays principle. In order to ensure respect and understanding for the environment fee, it is important that all visitors contribute to meeting the costs of preventing harm to Svalbard's cultural and natural heritage, and the costs of providing for the greatest range of enjoyable experience possible on visits to Svalbard. Such a personal delimitation would not discriminate between the uses of the natural setting by different groups, but would help to ensure that persons to whom money can be made available, such as scientists, have also contributed to the Fund. If all visitors except permanent residents are required to pay the environment fee, difficult delimitations and doubtful cases can be avoided, while the collection of the fee will be much simpler and less expensive. Altogether this could mean a substantial increase in the Fund's revenues. Several of the bodies consulted have pointed out that such a low fee is not likely to have any consequences for Svalbard's commercial sector. The Ministry therefore believes that the beneficial purpose and modest amount of the environment fee indicate that only permanent residents should be exempt from the fee.

7.4 Responsibility for payment and practical arrangements for the payment of the environment fee

7.4.1 Background

According to the wording of Section 78 of the Svalbard Environmental Protection Act, responsibility for payment of the fee rests with “visitors” to Svalbard. In principle, then, it is the individual traveller who is liable to pay.

However, the Section also authorises the issuing of a regulation obliging travel organizers to collect the fee. The Legislation Department of the Ministry of Justice writes in a letter dated 19 July 2004 that “The difference between instructing a travel organizer to collect the fee and instructing the individual to pay the fee will in practice be quite small. We assume therefore that Section 78 must be understood as leaving scope for practical arrangements whereby travel organizers are given a responsibility for the payment of the fee.”

The Ministry proposed in the consultation that individual travellers in their own boats should pay the fee when notifying the Governor of the visit if they intend to go ashore. For passengers on overseas cruise liners and on coastal cruises, the Ministry proposed that responsibility for payments should rest with the tour operator. Regarding airline passengers, the Ministry proposed to give them the responsibility for making the payment themselves at their place of lodging or as the case may be at other places indicated, and that they be given information about the obligation to pay while on the aircraft, with information also being given on the intercom.

The Association of Norwegian Airlines is in favour of the Ministry of the Environment’s pragmatic and problem-solving approach to fee collection, and of placing responsibility for payment with the individual traveller. Kings Bay supports the proposal to have fees charged to cruise liner tourists collected from the tour operator in question. The Governor is sceptical towards the fee collection scheme, because the exceptions will prevent the most efficient, fair, unbureaucratic and inexpensive collection possible. The system will at the same time be impossible to keep a check on. The Governor and the Directorate for Nature Management wish to see the fee added to the cost of the airline ticket, with a refund scheme applicable to permanent residents. Otherwise, the Directorate for Nature Management supports the Ministry’s proposal regarding collection from cruise tourists and other visitors in their own boats. In the view of the Association of Arctic Expedition Cruise Operators, a differentiated system of fee collection, with automatic payment for cruise tourists and more “voluntary payment” for other visitors would be regarded as unfair. The World Wildlife Fund would prefer a solution whereby cruise ships pay the fee in advance or during their stay in Svalbard, enabling an environmental certificate to be issued to the passengers in Svalbard. Longyearbyen Local Administration finds that the best solution must be to pay the fee at lodgings where visitors spend the night.

The Svalbard Tourist Board points out that it would require considerable resources to put the Ministry of the Environment’s proposal into practice. The Ministry of Trade and Industry and the Norwegian National Association for Outdoor Recreation note that the arrangement the Ministry envisages, placing responsibility for payment of the fee on each individual, places a heavy responsibility on the authorities for ensuring that information on the fee reaches all visitors, while also necessitating a simple method of payment. The Ministry of Trade and Industry also notes that those who collect the environment fee should receive some compensation for their work in that connection.

In the light of the responses to the consultation, the Ministry has been seeking to work out a simpler fee collection system. The system the Ministry is seeking should be as automated as possible and require the fewest possible control measures. To put in place a clear and simple set of rules, it will be important to make the fee-collection unbureaucratic and cost-effective. Taking this as its point of departure, the Ministry now proposes to link payment of the environment fee to the purchase of a ticket for a journey to Svalbard, principally an air or cruise ticket. Exceptions will be made for visitors in their own boats, who are obliged under the Tourism Regulations to give notice of their visit. A system of this nature will not cover absolutely every visitor to Svalbard, but regard for a simple collection scheme must take precedence. Visitors who are not covered by the fee obligation as now defined can in the event on a voluntary basis pay the environment fee to the Fund's secretariat. This collection system implies that the airlines and cruise operators must add the fee to the cost of the airline tickets and cruise tickets. The airlines and cruise operators are responsible for the payment of the fee.

7.4.2 Individual travellers in own boats who are under a notification obligation according to Section 7 of the Tourism Regulation– the Ministry's comments and proposal

Individual travellers in their own boats must as a general rule, according to Section 7 of the Tourism Regulations, notify the Governor of the journey. If they intend to go ashore, this group can pay the fee when notifying the Governor of the journey. Replying to the consultation, the Governor supported such a solution for this category of visitor. Although it entails a departure from the principle that payment of the fee is to be linked to the purchase of a ticket, an exception for this group would not in the Ministry's opinion complicate collection, since there already is a system in place which makes it simple for these visitors to pay the environment fee. The Ministry of the Environment accordingly proposes that collection from individual visitors in their own boats take place in connection with notification to the Governor.

7.4.3 Passengers on overseas cruise ships – the Ministry's comments and proposal

With regard to payment of the fee for passengers on overseas cruise ships, the point of departure will be that the obligation to pay is linked to the purchase of the cruise ticket, with the fee added to the price of the ticket and collected by the cruise companies. Responsibility for the payment will rest with the cruise operator.

The basic principle will then be that it is the cruise company, as the case may be through its agent, which must see that the environment fee is paid in to the Fund's secretariat on behalf of such of its passengers as go ashore.

Payment can most practically be made direct to the Fund's secretariat and linked to the obligation to report according to the 7th paragraph of Section 7 of the Tourism Regulations. The reason is that it will be much simpler to administrate payment through an agent or direct from the operator should he have no agent. Agents already have all the information after the season that they need to be able to pay the environment fee. An agent will also through the cruise company know which passengers switched over from air travel in Longyearbyen. These passengers will already have paid the environment fee through their air ticket, so coordination will be necessary to prevent them from paying the fee when buying the cruise ticket.

7.4.4 Passengers on coastal cruises – the Ministry’s comments and proposal

Most passengers on coastal cruises arrive in Svalbard on scheduled flights, and will thus have paid the environment fee when buying the air ticket. So for this category of visitors no special collection arrangement is envisaged.

7.4.5 Air passengers - the Ministry’s comments and proposal

Also where payment of the fee by air passengers is concerned, the point of departure will be to link the obligation to pay with the purchase of the air ticket. Responsibility for payment will be placed on the tour operator and paid in Longyearbyen as part of the airport fee. This is a practical solution which makes payment of the environment fee as automatic and simple as possible for visitors.

Avinor and The Association of Norwegian Airlines, in a letter dated 26 May 2006, oppose this collection system and states that the airlines should not be responsible for the collection of a fee on behalf of the government. Avinor and The Association of Norwegian Airlines would prefer a solution where the fee is to be paid at Svalbard, for instance at the airport. The Ministry refers to its former proposal that the fee should be paid at lodgings where visitors spend the night. However, very few were in favour of this solution. The Ministry of Transport and Communications writes in a letter dated 28 June 2006 that the best solution must be to add the fee to the cost of the airline tickets and that the fee is to be paid to Avinor together with the charges for state aviation facilities and services. For more on this point, see chapter 8 below.

Work on the environment fee has shown that it will cause difficulties if the fee is not linked to all air tickets to Svalbard. The Ministry therefore proposes that everyone who buys an air ticket to Svalbard must have the fee added to the price of the air ticket. One can thereby avoid the problems linked to the various exceptions that had been proposed earlier.

Some of the passengers on overseas cruise liners join the ships at Longyearbyen, often after arriving on charter or regular flights. In consequence of the Ministry’s proposal, the fee for this group of visitors will be linked to the air ticket. In many cases these are probably package tours for which air and cruise tickets are bought together. This calls for coordination on the part of the cruise operators to prevent passengers from paying the fee together with the payment for their cruise tickets and thus paying twice.

One exception must nevertheless be made from the obligation to pay the fee. It follows from the Svalbard Environmental Protection Act that permanent residents on Svalbard are not required to pay the fee. A refund system accordingly needs to be set up so that permanent residents can have their expenses refunded. The Ministry refers to the Governor’s proposal in response to the consultation of a refund arrangement, which the Governor pointed out would be the fairest, most efficient and least expensive way of dealing with the exception for permanent residents.

The Ministry has attached importance to arriving at a refund scheme that is simple and straightforward for the permanent residents. As the secretariat for the Environmental Protection Fund, the Governor can administrate such a scheme. Permanent residents would then have to contact the Governor and claim a refund by presenting a receipt for the journey, or a part of a ticket or a receipt for an electronic payment for a journey. On the Governor’s or the Fund’s home pages, the Governor can make a form available on which one can enter one’s name, the name or number of the flight, and the bank account number to which the refund is

to be paid. Such forms can also be made physically available at the airport and at the Governor's office, and at the airport there can be a mailbox or the like for posting forms. Alternatives can be for permanent residents to send receipts for their journeys by mail or e-mail to the Governor, or in the event to go in person to the Governor's office. By checking the population register, to which the Governor has access, the Governor would then be able to pay the refund.

The Governor has assessed the resources needed by the Governor/the Environmental Protection Fund's secretariat in connection with a refund arrangement. The Governor has drawn up an estimate suggesting that some 15,000 permanent residents would arrive at Svalbard by air each year. Assuming a manual refund arrangement, a little under one man-year would be needed to administrate the refund arrangement; for more on this point see chapter 8 below.

7.4.6 Transitional provisions

According to the proposed regulation, the obligation to pay is in principle tied to the date on which the ticket is bought. In other words, anyone buying a ticket after 010107 must pay the environment fee.

This will mean lower revenues for the Fund in the first year. Since the collection is to take place through Avinor this may cause problems, because they invoice the airlines according to the numbers of passengers and do not know when air tickets were bought. The Ministry has been informed on the basis of experience in earlier years that about 20% of the air tickets to Svalbard for the present year were sold the year before. Avinor can thus make a general 20% deduction when invoicing the airlines the first year.

8. Financial and administrative consequences

8.1 Information

The Ministry of the Environment has already started work on a brochure containing information on the environment fee and the Svalbard Environmental Protection Fund. Funds have already been set aside for this purpose in the Ministry's budget.

8.2 In general on the effects on travel and tourism etc.

Since 1995, regular surveys have been conducted among visitors to Svalbard, building up a store of information on them. An inquiry carried out in 1995 showed willingness to pay in the region of NOK 250 as a contribution towards preserving the natural environment in Svalbard. The fee will amount to a very small proportion of travellers' total expenses. The Ministry assumes that all visitors to Svalbard incur travel expenses on such a scale that they must also be held to be able to pay a small fee.

In the Ministry's opinion, it is not very likely that a small environment fee will cause travel organizers to prefer not to offer journeys to Svalbard. The Ministry notes that Svalbard offers a unique wilderness setting. Experience in other countries has shown that destinations that are unique, and can thus not be replaced by others, have not seen any decline in tourist traffic following the introduction of similar fees. Appreciation of the need for a fee increases in areas where the natural scenery is vulnerable and the fee has been imposed for environmental reasons.

Regarding other local business and industry than travel and tourism and research and educational institutions, the Ministry believes that the modest amount and beneficial purpose of the fee indicate that also this category of causers of wear on the environment must pay. As previously mentioned, all visitors to Svalbard incur travel expenses of such an order that they must be assumed to be capable of paying a modest fee.

Norwegian Official Reports 1999:21 states that the proposed act may add to the administration's assignments, including the administration in the event of a fee for visitors and of an environmental protection fund. For more on this, see the discussion of the consequences of the various methods of payment.

8.3 Revenues from the environment fee to the Svalbard Environmental Protection Fund

According to Norwegian Official Reports 1999:21, a fee of NOK 150 will amount to roughly NOK 9 million per year if one assumes that there are about 60,000 visitors to Svalbard per year. The Governor has estimated that with a fee arrangement as proposed in the consultation in 2005, revenues going to the Environmental Protection Fund would approach NOK 7 million. Proposition no. 1 (2005-2006) to the Storting envisages an income for the Environmental Protection Fund of NOK 5.4 million in 2006. This presupposed that a fee for visitors would enter into force in the course of 2006.

Information from the Governor indicates that about 50,000 visitors came to Svalbard by air in 2005. Of these, about 15,000 were permanent residents. According to Svalbard Tourism, about 30,000 visitors come to Svalbard by sea, and of those about 1/3 are crew members who do not buy tickets. On the basis of these figures, a fee of NOK 150 would amount to revenues for the Environmental Protection Fund of in the region of NOK 8.2 million per year. That includes revenues from visitors with their own boats.

A transitional scheme is implemented in 2007 on the assumption that about 20% of the air and tickets were sold before the fee regulation entered into force, the Fund's revenues in 2007 would be about NOK 6.2 million. On the basis of estimates received from the operators, the Ministry assumes that roughly 50% of the cruise tickets will have been sold before the fee regulation enters into force. The Fund's revenues will in that case amount to NOK 5.2 million.

The proceeds of the environment fee will not be paid in their entirety to the Environmental Protection Fund. Parts of the fee will meet the administrative costs of collection, and this question will be considered more closely in the discussion of the consequences of the various methods of payment/collection. The compensation payable to those in charge of collection and those who receive the funds, and to the Governor, will be discussed in the chapters concerning the consequences of the various methods of payment. Total costs can be estimated to be in the region of NOK 1 000,000. The total annual revenues to the Svalbard Environmental Fund from the environment fee will thus amount to about NOK 7 200 000.

8.4 Payment by and collection from individual travellers by boat who are under a notification obligation according to Section 7 of the Tourism Regulation

8.4.1 Administrative consequences

Individual travellers in their own boats already have to contact the Governor in fulfilment of their notification obligation, and can pay the environment fee at the same time. This will therefore not entail any additional work for this group of visitors.

The Governor must establish a payment routine, which can be made simple by having payments made directly into the Fund account. This will probably not entail any significant amount of extra work for the Governor.

8.4.2 Financial consequences

On the basis of previous statistics, it can be assumed that the Governor deals with about fifty such notifications per year. As it will not require any significant amount of extra work to collect the fee in addition to processing the notification, the Ministry assumes that this will not entail any significant financial burden. The Governor will be able to meet the expenses, if any, out of the Fund money set aside for administration.

8.5 Payment by and collection from overseas cruise passengers

8.5.1 Administrative consequences

The Ministry proposes that payments for passengers on overseas cruises are to be made through the tour operators. Since there is already an obligation to report all tour operator activities and sailings to the Governor after they have taken place, the fee payment can be linked to this report. As the Environmental Fund's secretariat, the Governor will take receipt of the payment.

8.5.2 Financial consequences

Cruise operators will have a responsibility for payments. Since it is the cruise companies' agent who is in contact with the Governor, payment of the environment fee may entail some additional work for the agent in connection with the reports.

The Governor must establish a payment routine, which can be made simple by having payments made directly into the Fund account. In 2003, 28 cruise ships visited Svalbard. Payment of the environment fee will involve a certain amount of extra work connected with the processing of the reports from these ships.

The question arises of whether the additional work for the cruise companies or in the event their agents and the Governor is of such a nature that financial compensation is called for. In the general consultation, the Ministry proposed giving the collector a fixed percentage of the amount collected, while pointing out that there is authority in law for imposing responsibility for collection on the cruise operators or as the case may be their agents without offering financial compensation. The Ministry upholds its proposal to leave an opening for some financial compensation, but based on the actual costs of the collection. However, the compensation must not be so great as to come into conflict with the purpose and legitimacy of the environment fee.

The extra processing time needed by the Governor in connection with reporting work can be set at a few man-days. Where the cruise companies are concerned, the Ministry assumes that

it will be simple for them to include the fee in their regular operating expenses, and that it will not be particularly burdensome for them to change either their systems or their tickets. The agents work linked to the report and fee payment, will probably not require any significant amount of extra time. The financial compensation must be set accordingly. The Ministry has considered an arrangement whereby the cruise companies, or as the case may be the agents, are allowed to retain 5% of the amounts they collect. On the basis of earlier statistics for the numbers of passengers on overseas cruise ships, compensation costs can be estimated at NOK 150,000.

8.6 Payment by and collection from air passengers

8.6.1 Administrative consequences

If the environment fee is collected by the airlines when air tickets are paid for, as the Ministry proposes, this will entail a certain amount of extra work for airlines and Avinor in preparing systems for collecting the fee and passing the money on. The actual implementation, too, may call for extra resources.

Avinor writes in a letter dated 29 May 2006 that they among other things must work out a payment routine and see that the money is transferred to the Environmental Fund's secretariat. The extra processing time required implies that they need extra man-days. The Association of Norwegian Airlines has pointed out that there will be similar consequences for the airlines.

The Ministry moreover proposes that passengers be given information on the environment fee while on the aircraft. This will mean an extra task for the cabin staff and will thus have consequences for the airlines.

8.6.2 Financial consequences

This collection system implies that the airlines must add the fee to the cost of the airline tickets and is responsible for the payment of the fee. The fee is to be paid together with the charges for state aviation facilities and services which are linked to departure from Longyearbyen. Avinor will be the recipient of the fee and will forward the money to the fund. Avinor will not be responsible to pay the fee into the fund if the airlines do not collect and pay the fee.

In the previous consultation document, the Ministry outlined a possible solution involving compensation for administrative consequences calculated as a fixed percentage. In its response to the consultation, however, the Ministry of Foreign Affairs explained that a compensation arrangement must fall within the scope of Article 8 of the Svalbard Treaty. For this to be the case, the compensation must in the event not exceed the actual additional expenses incurred by the travel operators in connection with the implementation of the fee scheme. In consequence of this, the Ministry proposes that compensation for additional administrative expenses be paid on the basis of documented additional expenses. Avinor and The Association of Norwegian Airlines have at this stage not been able to document their additional expenses. On the basis of earlier statistics for the numbers of airline passengers, compensation costs can be estimated at NOK 375,000 if the airlines and Avinor retain 5% of the amount they collect.

8.7 Refund scheme for permanent residents

8.7.1 Administrative consequences for the Governor and the permanent residents

In a letter of 27 April 2006, the Governor has given an account of the anticipated administrative consequences of a scheme through which permanent residents are paid a refund of NOK 150 per flight because the fee is automatically collected when they pay for their air tickets. The number of travellers who arrived in Svalbard by air in 2005 was about 50,000. Of these, some 30,000 were guests at lodgings in Longyearbyen. According to the Governor's estimate, some 5,000 visitors find private accommodation overnight. In other words, roughly 15,000 permanent residents arrive in Svalbard by air each year.

The Governor bases his further calculations on the assumption that the refund scheme will be handled manually, since it is not thought realistic to have automated arrangements in place and working from the very outset of the fee arrangement. The Governor reckons an estimated 5-10 minutes per refund claim. Given 15,000 refund claims per year and an average processing time of 5 minutes, this indicates $\frac{3}{4}$ man-years. On the basis of this calculation, the Governor expects that it will take $\frac{3}{4}$ to 1 man-year to administrate the actual refund scheme when refunds of the environment scheme are first initiated. The more progress that in due course is made in automating the refund scheme by means of technical solutions, the less the necessary resources will presumably be.

For permanent residents the refund scheme entails that they will have to contact the Governor as secretariat for the Svalbard Environmental Protection Fund and claim a refund by presenting a receipt for the journey, or in the event a part of a ticket or a receipt for an electronic payment for a journey. On the Governor's or the Fund's home pages, the Governor can make a form available on which one can enter one's name, the name or number of the flight, and the bank account number to which the refund is to be paid. Such forms can also be made physically available at the airport and at the Governor's office, and at the airport there can be a mailbox or the like for posting forms. Alternatives can be for permanent residents to send receipts for their journeys by mail or e-mail to the Governor, or in the event to go in person to the Governor's office.

8.7.2 Financial consequences for the Governor and for permanent residents

The Governor estimates that administration of the refund scheme when refunds of the environment fee are first initiated will require $\frac{3}{4}$ to 1 man-year. For permanent residents, air tickets will cost NOK 150 more, but this will be refunded in a way that will not add to their financial expenses.

9. The proposed regulation

Regulation relating to an environment fee for visitors to Svalbard

Laid down by Royal Decree of 2006 pursuant to section 78 of the Act of 15 June 2001 no. 79 relating to the protection of the environment in Svalbard. Submitted by the Ministry of the Environment.

§ 1. The fee and its purpose

Visitors to Svalbard shall pay an environment fee. The purpose of the fee is for those who put pressure on the environment to contribute towards the implementation of care and maintenance work, preventative measures, informative measures and the like, aimed at preserving Svalbard's unique wilderness environment and cultural heritage. The fee will be paid in to the Svalbard Environmental Protection Fund

§ 2. Geographical scope

The Regulation applies to visitors to Svalbard's land areas.

§ 3. Obligation to pay the fee

For each ticket bought for a journey to Svalbard, the tour operator will be charged an environment fee of NOK 150.

Individual travellers in their own boats who according to § 7 of the Tourism Regulations are obliged to give notice of their journeys must pay an environment fee of NOK 150 in connection with their notification to the Governor.

§ 4. Refunds

Permanent residents on Svalbard are exempt from the obligation to pay a fee according to the present Regulation, cf. litra i of the first paragraph of § 3 of the Svalbard Environmental Protection Act, and can claim a refund of the fee from the Svalbard Environmental Protection Fund.

§ 5. Exemption

The Ministry of the Environment can grant exemptions from the Regulation when special reasons so indicate.

§ 6. Coercive fine

To ensure that the provisions in the Regulation or decisions pursuant to the Regulation are complied with, the Governor can determine a coercive fine pursuant to §96 of the Svalbard Environmental Protection Act.

§ 7. Penalties

Deliberate or negligent violation of provisions laid down in or pursuant to this Regulation is punishable by fines.

§ 9. Entry into force and amendment

This Regulation enters into force on 1 January 2007. The Ministry of the Environment can amend the Regulation.

10. Comments on particular provisions in the proposed regulation

On § 1 The fee and its purpose

The section establishes both the obligation to pay the fee and the amount of the environment fee, in addition to stating its purpose. The purpose of the fee is to make possible active informative and caretaking measures in accordance with the Government's paramount targets for the conservation of Svalbard's characteristic wilderness setting. The purpose of the fee is for the visitor to Svalbard to contribute to the payment of the costs of care and maintenance, organization, information etc. The fee is not intended to be so high as to present a financial obstacle to visitors, or to have an impact on the earnings of the local travel and tourism industry. It is also pointed out that the fee will be paid in to the Svalbard Environmental Protection Fund, cf. § 98 of the Svalbard Environmental Protection Act.

On § 2 Geographical scope

It is persons who travel on land who place the highest direct burden on Svalbard's natural and cultural environment. That makes it natural only to have to pay the fee when one goes ashore in the archipelago. Such a delimitation also prevents problems from arising in relation to the rules concerning innocent passage in the Law of the Sea Convention.

On § 3 Obligation to pay the fee

Visitors with their own boats will pay the fee in advance in connection with notification to the Governor. Regarding cruise passengers, the Ministry assumes that they will have paid the fee as part of the price of their tickets. Payments by tour operators can, however, be made in arrears. The draft regulation allows for this in that the Ministry can grant exemptions, cf. § 5. Section 78 of the Svalbard Environmental Protection Act must also be read as giving scope for placing a responsibility on travel organizers for seeing that the fee is paid. In the case of visitors participating in an event arranged by a travel organizer, the most practical arrangement may be to place responsibility for collection and payment with the travel organizer. The Ministry's plan is accordingly for responsibility for the payment of the environment fee for passengers both on overseas cruise ships and on coastal cruise ships to be placed on the tour operator. All tour operator activities and sailings must be reported to the Governor after they have taken place, cf. the 7th paragraph of Section 7 of the Tourism Regulations. Payment of the fee can then be linked to this reporting routine.

On § 4 Refunds

The Ministry has attached importance to arriving at a refund scheme that is simple and straightforward for the permanent residents. The refund scheme will be handled manually, since it is not thought realistic to have automated arrangements in place and working from the very outset of the fee arrangement. Permanent residents would then have to contact the Governor and claim a refund by presenting a receipt for the journey, or a part of a ticket or a receipt for an electronic payment for a ticket. On the Governor's or the Fund's home pages, the Governor can make a form available on which one can enter one's name, the name or number of the flight, and the bank account number to which the refund is to be paid. The refund scheme will in due course be more automatic by means of technical solutions.

On § 5 Exemption

The Ministry of the Environment can for special reasons make exceptions to the regulation. It is difficult to be specific about what special reasons might justify an exception, but see the comments on § 3. The provision is intended as a safety valve.

On § 6 Coercive fine

The provision is an extension of the provision on coercive fines in the Svalbard Environmental Protection Act, cf. §96 of the Act.

On § 7 Penalties

The provision is an extension of the provision on penalties in the Svalbard Environmental Protection Act, cf. §99 of the Act, with the exception that the prescribed penalty scale is limited to fines.

On § 9 Entry into force and amendment

The regulation enters into force on 1 January 2007, i.e. roughly 2 years after the relevant players were notified of the arrangement. It is practical to empower the Ministry to amend the regulation, especially with § 3 on the amount of the fee in mind.