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THE PAKISTAN HOTELS AND RESTAURANTS ACT, 1976.

"ACT LXXXI OF 1976

[1st December, 1976]

An Act to provide measures for controlling and regulating the standards of service and amenities for tourists in hotels and restaurants.

WHEREAS it is expedient to provide measures for controlling and regulating the standards of service and amenities for tourists in hotels and restaurants and for matters ancillary thereto or connected therewith;

AND WHEREAS the Provincial Assemblies of the Punjab, Sind and North-West Frontier Province, and Parliament, exercising the powers of the Provincial Assembly of Baluchistan under Article 234 of the Constitution of the Islamic Republic of Pakistan, have passed resolutions under Article 144 of the Constitution to the effect that Parliament may by law regulate the standards of service and amenities for tourists in hotels and restaurants;

It is hereby enacted as follows:—

1. Short title, extent, application and commencement.— (1) This Act may be called the Pakistan Hotels and Restaurants Act, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall apply to all the hotels and restaurants in Pakistan.

(4) It shall come into force at once.

2. Definitions.— In this Act, unless there is anything repugnant in the subject or context,—

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“apprentice” means any person who has contracted with a hotel or a restaurant to perform the stipulated apprenticeship in such hotel or restaurant ;

“Committee” means the committee set up by the Federal Government under section 4;

“Controller” means a Controller appointed under section 3 and includes a Deputy Controller and an Assistant Controller and such other person as may

be authorised by the Federal Government by notification in the official Gazette to perform all or any of the functions of the Controller;

“customer” means a person availing facilities offered in a restaurant on monetary consideration ;

“fair rates” means the rates fixed under section 10 and includes revised rates ;

“guest” means a person who is in possession or enjoyment of accommodation provided to him in a hotel on monetary consideration ;

'For Statement of Objects and Reasons, see Gaz., of P., 1976, Ext., Pt. III, pp. 1353-54.

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“hotel” means a lodging, or boarding and lodging, establishment with a minimum of ten lettable bed rooms, provided for tourists on monetary consideration, which conforms to any of the prescribed minimum criteria, but does not include—

(i) a home or hostel which is exclusively or mainly used for the aged or invalid persons or students and is run by or under the control of a charitable or educational institution ; or

(ii) any rest house, hostel or circuit house exclusively meant for visiting Government officials or officials of other organisations, though run on a commercial basis ;

“manager” means the person incharge of the management of a hotel or a restaurant;

“owner” means the person who holds title to a hotel or restaurant and is entitled to receive the whole or any part of the earnings received from a guest or customer on account of accommodation or services provided in the hotel or restaurant, and includes a keeper or assignee for the time being discharging the responsibility of the owner in respect of such hotel or restaurant;

“prescribed” means prescribed by rules made under this Act ;

“public rooms” means rooms in a hotel which are meant for the common use of all guests ;

“restaurant” means a public eating house providing standard and variety of cuisines on monetary consideration to tourists which conforms to the minimum prescribed criteria ;

“service” means any service provided in a hotel or restaurant ; and

“tourist” means a person, whether a citizen of Pakistan or not, who stays

over-night or more as a guest in a hotel at a place other than his normal place of residence.

3. Appointment of Controller, Deputy Controllers and Assistant Controllers.—(1) The Federal Government may, by notification in the official Gazette, appoint a person to be the Controller for the purposes of this Act and such number of Deputy Controllers and Assistant Controllers as may be necessary for the performance and discharge of such functions and duties as may be assigned to them by or under this Act and may, by general or special order provide for the distribution or allocation of work to be performed by them.

(2) Subject to the provisions of this Act, the Controller shall perform his functions and discharge his duties under the general supervision and control of the Federal Government.

(3) Subject to the provisions of this Act and of such orders as may from time to time be made by the Federal Government in this behalf, the Deputy Controllers and Assistant Controllers shall perform their functions and discharge their duties under the general supervision and control of the Controller.

4. Setting-up of Advisory Committee. As soon as may be after the commencement of this Act, the Federal Government may set up a Hotels and Restaurants Committee, consisting of as many members as the Federal Government may determine, to aid and advise the Federal Government in relation to such matters relating to the administration of this Act as may be prescribed.

5. Registration of hotels and restaurants—(1) The owner of every hotel and restaurant shall, within a period of two months from the commencement of this Act, or from the opening of the hotel or restaurant, or from the date on which this Act becomes applicable to such hotel or restaurant, whichever is later, apply to the Controller for registration of his hotel or restaurant and for determination of fair rates in relation thereto and, in the case of a hotel, also for its classification, on payment of such fee as may be prescribed.

(2) No hotel or restaurant shall be registered, unless—

(a) it conforms to the prescribed standard of health, hygiene and comfort, provided that the Controller may allow provisional registration subject to such conditions as he may deem fit and, for good and sufficient reasons, modify, alter or withdraw any such condition at any time ;

(b) it furnishes at its expense certificates of medical fitness from a Medical Officer of the civil hospital of the area in respect of its staff in such form as may be prescribed ;

(c) its building is structurally safe and adequately protected against fire or an accident arising out of electricity or gas and safety of the tourists is ensured.

(3) The Controller, or an officer authorised by him in this behalf, or a member of the committee may, at any time, inspect the premises of a hotel or restaurant, call for any information, plan or data in respect of any matter concerning such hotel or restaurant or, at the cost of the owner, carry out, or require the owner to carry out, test of any articles or appliances or foodstuff.

6. Classification of hotels—Subject to such general or particular directions as the Federal Government may issue, the Controller shall, according to the prescribed minimum criteria, by notification in the official Gazette, classify hotels, according to the star classification system, as—

(a) one star hotels, being hotels which conform to the prescribed minimum criteria

of hotels of that class, but do not conform to the prescribed minimum criteria of a higher star class hotel ;

(b) two star hotels, being hotels which conform to the prescribed minimum criteria of hotels of that class, but do not conform to the prescribed minimum criteria of a higher star class hotel ;

(c) three star hotels, being hotels which conform to the prescribed minimum criteria of hotels of that class, but do not conform to the prescribed minimum criteria of a higher star class hotels ;

(d) four star hotels, being hotels which conform to the prescribed minimum criteria of hotels of that class, but do not conform to the prescribed minimum criteria of a higher star class hotel ; and

(e) five star hotels, being hotels which conform to the prescribed minimum criteria of hotels of that class.

7. Issue of licence— (1) Every owner shall, after registration of his hotel or restaurant under section 5, obtain a licence from the Controller on payment of such fee as may be prescribed.

(2) No owner shall carry on his business or, in the case of a hotel, use the classification star sign, without first getting the hotel or restaurant registered and obtaining a licence under this Act.

(3) A licence granted under this section shall, unless sooner suspended or cancelled, remain in force for a period of one year from the date of issue and may thereafter be renewed for a period of one year at a time on payment of the prescribed fee:

Provided that if an application for renewal of a licence is made before the expiry of the period of its validity, the licence shall continue in force until orders are passed on such application.

8. Refusal and cancellation of registration and license— (1) The Controller may refuse to register a hotel or restaurant if it does not conform to the minimum prescribed criteria.

(2) The registration and licence of a hotel or restaurant may be cancelled or suspended, or the star classification of a hotel may be lowered, if—

(a) its owner is declared insolvent by a competent court;

(b) its business is wholly or partly discontinued or suspended without the approval of the Controller, except where such suspension or discontinuance is for the purposes of making repairs, improvements, renovations or expansion or, in the case of seasonal business, is for the period of the slack season, and the fact of such suspension or discontinuance in each case has been duly reported to the Controller in advance;

(c) its owner or any person acting on his behalf contravenes any of the provisions of this Act or the rules or orders made thereunder ;

(d) it ceases to conform to the requirements of registration under section 5 or, in the case of a hotel, to the prescribed minimum criteria for the class assigned to it; or

(e) its owner fails to enter the names and other particulars of guests in the prescribed register.

9. Obligation of the transferee, etc., of a hotel and restaurant. Where a hotel or restaurant registered and licensed under this Act is transferred or assigned to, or devolves upon, any person, it shall be incumbent upon that person to report, within one month of its taking effect, to the Controller the fact of such transfer, assignment or devolution and obtain a fresh licence under this Act.

10. Controller to fix fair rates—(1) The Controller may fix fair rates to be charged for board, lodging and other service provided in a hotel at such amount as, having regard to the prescribed principles governing fair rates and the classification of hotels, he deems just.

(2) The Controller may either fix a consolidated rate for lodging, board and service, or for lodging and service only or fair rates separately for—

(a) lodging with reference to the nature of the accommodation and the number of guests to be accommodated ;

(b) board, partial or full ; and

(c) other service.

(3) Fair rates may be fixed separately for daily and monthly guests.

Explanation.— A guest who agrees to reserve accommodation, or for whom accommodation is reserved, for a period of one month or more shall be deemed to be a monthly guest, provided he actually stays for one month or more or has actually paid in advance for one month ; and where the reservation is not for any specified period or is for a period less than a month, the guest shall be deemed to be a daily guest.

(4) The Controller may fix fair rates to be charged for board and other service provided in a restaurant at such amount, as having regard to the prescribed principles governing fair rates and to all the circumstances, he deems just.

(5) The Controller may from time to time revise the fair rates fixed by him under this section.

(6) An order fixing or revising fair rates shall take effect on the first day of such month following the month in which the order is made as may be specified therein.

(7) Until such time as fair rates are fixed in relation to any hotel or restaurant under this section, the rate, if any, charged by such hotel or restaurant, immediately before this Act becomes

applicable to it, for equivalent lodging, board or service to that provided, shall be deemed to be the fair rates fixed under this section.

11. Controller to fix limit of persons to be accommodated in any room.—(1) The Controller may fix the maximum number of guests to be accommodated in each room or other unit of accommodation in a hotel.

(2) No room for which an order has been made under sub-section (1) shall be used to accommodate any number of guests in excess of the number specified in the order, except with the previous permission of the Controller in writing.

(3) The Controller may from time to time revise any order made by him under sub- section (1) so as to increase or reduce the number of guests specified in such order.

12. Rules of establishment of hotel and restaurant. Every owner shall prepare the rules of the establishment in respect of his hotel or restaurant conforming with the provisions of this Act and the rules made thereunder and get them approved by the Controller.

13. Fair rates, etc., to be displayed.—(1) The fair rates, the maximum number of guests that may be accommodated in a room or unit of accommodation in a hotel and the rules of the establishment shall be displayed in a conspicuous manner in the office and in the public rooms, if any, of every hotel.

(2) The fair rates and the rules of the establishment shall be displayed in a conspicuous manner in the office and the hall and rooms of every restaurant.

14. Reservation of accommodation at the instance of Controller.— (1) Subject to such directions as may be given in this behalf by the Federal Government, the Controller may by order direct the owner or the manager of a hotel to reserve in the hotel such accommodation as may be specified in the order.

(2) Subject to any direction by the Federal Government in this behalf, the Controller may allot the accommodation reserved under sub-section (1) to any person and such person shall thereupon be deemed to be a guest at the hotel in relation to the accommodation allotted to him.

(3) Where any accommodation is reserved under sub-section (1), the owner or the manager of the hotel shall make the accommodation so reserved, or such portion of it as the Controller may direct, available to the Controller for occupation by the person to whom it has been allotted, at the expiry of forty-eight hours from the service upon him of a notice in writing in this behalf by the Controller.

(4) Nothing in this section shall prevent the owner or the manager of the hotel from letting any accommodation reserved under sub-section (1) to a guest other than the person to whom such accommodation is allotted by the Controller, upon the condition that if and when a notice is received from the Controller under sub-section (3) such guest will vacate the accommodation within forty eight hours of the receipt of such notice.

15. Charge in excess of fair rates prohibited.—(1) Notwithstanding any agreement to the contrary, no owner shall charge a guest or customer any amount in excess of the fair rates.

(2) Any agreement for the payment of any charges in excess of the fair rates shall be void in respect of such excess, and shall be construed as if it were an agreement for payment of the fair rates.

(3) Any sum paid by a guest in excess of the fair rates shall be recoverable at any time within a period of six months from the date of payment from the owner or the manager of the hotel to whom it was paid, or from the legal representative of either of these persons, and without prejudice to any other mode of recovery which may be open to him, the guest may deduct such amount from any sum payable by him for his accommodation.

16. Controller's power to prohibit certain trades and occupations. The Controller may, by order in writing, prohibit, within one hundred yards of a hotel or restaurant, the carrying on of any trade, profession, occupation or industry which in his opinion is likely to be—

(i) injurious to the health and well being of guests or customers or a hazard to their safety ;

(ii) a nuisance as defined in the Pakistan Penal Code (Act XLV of 1860) ; or

(iii) offensive to good taste.

17. Eviction of guests.—(1) Except as hereinafter provided, no guest at a hotel shall be evicted or refused board or other service so long as he pays, or is ready and willing to pay, the fair rates and observes the displayed rules of the establishment and conforms with the provisions of this Act and the conditions prescribed thereunder.

(2) A guest or a customer who has been guilty of conduct which amounts to nuisance, or is a source of annoyance to other guests or customers, or threatens or intimidates any other guest or customer, or is likely to endanger the person or life of any individual in a hotel or restaurant, may be evicted by the owner or manager of the hotel or restaurant, provided that, if the owner or manager has good reason to apprehend an immediate breach of peace or commission of an offence by the guest or customer, he may use such force as may be necessary to restrain the guest or customer from so doing and shall immediately intimate the fact to the local police.

(3) Any guest or customer aggrieved by eviction or refusal of board or other services under sub-section (1) or sub-section (2) may lodge a complaint with the Controller who shall, after holding summary enquiry in the prescribed manner, pass such order as he may deem fit.

18. Procedure and powers of Controller—(1) The Controller shall not refuse registration, or cancel or suspend the licence, of a hotel or restaurant, except after holding summary enquiry in the prescribed manner.

(2) For the purpose of holding an enquiry under sub-section (1) or any other enquiry which he may deem necessary for the purposes of this Act, the Controller shall have the same powers as are vested in a civil court in respect of—

- (a)
- (b)
- (c)
- (d)

proof of facts by affidavit ;

summoning and enforcing the attendance of any person and examining him on oath ;

compelling the production of documents and other material evidence; and

issuing commissions for the examination of witnesses.

19. Additional powers of Controller.—For the purposes of this Act, the Controller may,—

- (i)
- (ai)
- (iii)
- (iv)
- (v)

call for such information, reports, or returns from an owner or a manager as may be necessary for satisfying himself that the provisions of this Act, the rules and orders made thereunder are being duly complied with ;

require an owner or a manager to produce before himself or an officer designated by him for the purpose any book of account, document or other papers in his possession or power which contain or are believed to contain information relating to the hotel or restaurant of which he is the owner or manager ;

require an owner or a manager to undertake through an agency qualified to do so scientific tests of water, food and other articles of human consumption at the cost of the owner, to determine their quality and conformity with the requirements of health and hygiene ;

declare the site of any restaurant not registered under this Act, a fit site for a restaurant and issue directive to the management of such a restaurant to improve, within a period of six months from the date of such order, the conditions, services and facilities at the restaurant to conform to the prescribed minimum criteria ;

call for any other information relating to development of hotel industry.

20. Apprenticeship scheme and training policy of employees. The Controller shall—

- (i)
- (ai)

(iii)

ensure that apprentices in a hotel or restaurant do not exceed ten per cent of the employees in any specified trade ;

fix, with due regard to the salaries of the regularly employed staff, the stipend to be paid to an apprentice over and above the cost of his training and determine the duration of his apprenticeship ;

lay down the age limit, educational qualifications, standards of physical fitness and psychological and mental health of apprentices ;

(iv) direct the programming for training various categories of employees of hotels and restaurants at a recognised vocational institution at the various specialised courses run there so that the percentage of qualified trained staff in a hotel or restaurant attains, within a reasonable time, the minimum standard as may be determined by the Controller ; and

(v) lay down the maximum percentage of untrained staff that may be employed at a hotel or restaurant at any time.

21. Provision of medical facilities—(1) The owner of every hotel registered and licensed under this Act shall provide the following medical facilities for guests, namely:

(i) One and two star hotels:

(a) A doctor on call available in close proximity of the hotel premises.

(b) First aid equipment and a reasonable stock of life saving drugs.

(c) Two employees trained and qualified in first aid.

(d) Ensure availability of an ambulance, van or car to rush patients to a hospital in emergencies.

(ii) Three star hotels:

(a) As in sub clauses (a) to (c) in clause (i).

(b) A drug store or chemist's shop with twenty-four hours' service, if no existing in close proximity.

(c) An ambulance or van.

(iii) | Four and five star hotels:

(a) A doctor on call available in close proximity of the hotel premises.

(b) A separate consulting room with reasonable stock of life saving drugs and first aid equipment.

(c) Four employees trained and qualified in first aid.

(d) An ambulance or a van convertible into an ambulance in emergency.

(e) A drug or chemist's shop with twenty-four hours' service, if not existing in close proximity.

(2) The management of a hotel shall take all possible care and provide all necessary medical aid without any loss of time to a guest suffering from any serious attack, including heart attack and haemorrhage, or an accident.

22. Offences and Penalties.— (1) Any owner who fails to apply for registration within the time specified in section 5 shall be liable to pay to the Controller a penalty of such sum not exceeding five thousand rupees as the Controller may impose and, in the case of a continuing failure, an additional penalty which may extend to one thousand rupees for every day after the first during which he has persisted in the failure.

(2) Any owner or manager who serves any food or beverage which is injurious to health, or who does not take sufficient care to ensure protection of food and beverage against contamination through flies or in any other way, or serves any food or beverage in unclean or contaminated utensils, shall be liable to pay to the Controller a penalty of such sum not exceeding one thousand rupees as the Controller may impose.

(3) Any owner or manager who fails to comply with any order passed or direction given under the provisions of this Act by the Controller or any other authority prescribed in this behalf shall be liable to pay to the Controller a penalty of such sum not exceeding one thousand rupees as the Controller may impose.

(4) Any owner or manager who charges a guest or customer any amount in excess of the fair rates shall, in addition to refund such guest or customer the amount charged in excess of fair rates, be also liable to pay to the Controller a penalty of such sum not exceeding one thousand rupees as the Controller may impose for such excess charging for the first time and, in the case of any such subsequent excess charging, a penalty not exceeding two thousand rupees.

(5) If a restaurant not registered under this Act fails to carry out the directive issued under clause (iv) of section 19 within the period specified therein, the Controller may suspend the operation of such restaurant and may also impose a penalty of such sum not exceeding five thousand rupees as the Controller may impose on the owner of such restaurant.

(6) If the owner or manager of a hotel or restaurant not licensed under this Act advertises it as a hotel or restaurant, or in any manner whatsoever uses the star sign, he shall be liable to pay to the Controller a penalty of such sum not exceeding one thousand rupees as the Controller may impose and, in the case of his continuing to so advertise or use the star sign, an additional penalty which may extend to two hundred rupees for every day after the first during which he so continues or uses star sign.

(7) Any owner who fails to comply with the provisions of section 21 shall be liable to one or more of the following penalties, namely:—

(a) Penalty of such sum not exceeding two thousand rupees as the Controller may impose ;

(b) forfeiture of licence ; and

(c) cancellation of registration.

23. Contravention by companies, etc. If the person contravening, or failing to comply with, any provision of this Act or any rule, order or direction made or issued thereunder is a company or other body corporate, every director, secretary or other officer or agent thereof, unless he proves that the contravention or failure took place without his knowledge or that he exercised due diligence to prevent its taking place, shall be liable to the penalty provided for such contravention or failure.

24. Mode of recovery.—(1) Any sum imposed as penalty under this Act shall be recoverable as an arrear of land revenue.

25. Appeal and Revision. Any person aggrieved by an order under this Act may, within thirty days of the date of the order, prefer an appeal to—

(a) the Deputy Controller, where such order has been passed by an Assistant Controller ;

(b) the Controller, where such order, not being an order passed in appeal under clause (a), has been passed by a Deputy Controller ;

(c) the prescribed appellate authority, where such order, not being an order passed in appeal under clause (b), has been passed by the Controller.

(2) The Federal Government may of its own motion, or on the application of any owner or manager aggrieved by an order passed under sub-section (1) within the prescribed time and in the prescribed manner, pass such order in relation thereto as it thinks fit:

Provided that no order against an owner or a manager shall be passed unless he has been given an opportunity of showing cause against it and of being heard.

26. Indemnity. No suit, prosecution or other legal proceeding shall lie against the Federal Government, the Controller, a Deputy Controller, an Assistant Controller, the Provincial Government, any officer or authority subordinate to the Federal Government or a Provincial Government, or a member of the Committee in respect of anything which is in good faith done or intended to be done under this Act.

27. Power to exempt. The Federal Government may, by notification in the official Gazette, exempt any hotel or restaurant from the operation of all or any of the provisions of this Act for such period, and on such conditions, if any, as may be specified in the notification.

28. Delegation of powers.—(1) The Federal Government may, by notification in the official Gazette, direct that all or any of its powers under this Act shall, subject to such

conditions, if any, as may be specified in the notification, be exercised—

(a) by any officer or authority subordinate to the Federal Government ; or

(b) by any Provincial Government or by any officer or authority subordinate to such Government.

(2) A Provincial Government may, with the approval of the Federal Government, constitute a Hotels and Restaurants Committee to perform, within the Province, all or any of the functions of the Committee.

29. Power to make rules.—(1) The Federal Government may, by notification in the official Gazette, make 'rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality to the foregoing power, such rules may provide for—

(a) fixation and revision of criteria for the registration and classification of hotels and restaurants ;

(b) lowering or altering the classification of a hotel, if in the opinion of the Controller it fails to maintain the prescribed standard of classification already assigned ;

(c) the manner of issuance of “Sign Shields” including star classification of hotels and restaurants for display in hotels and restaurants at conspicuous places ;

(d) principles governing fair rates;

(e) determining the format, content and display of fair rates for hotels and restaurants ;

(f) matters in relation to which the Committee may render aid and advice ;

(g) meetings of the Committee ;

(h) fixation of fees for registration and licenses ;

(i) form of a certificate of medical fitness referred to in section 5 and the time at which it shall be submitted to the Controller ;

Gj) manner of holding summary enquiry ; and

(k) any other matter which is to be or may be prescribed.

30. Other laws not applicable. Nothing contained in the Sarais Act, 1867 (XXII of 1867), or the Karachi Hotels and Lodging-Houses (Control) Act, 1950 (LXV of 1950), shall apply to a hotel or restaurant to which this Act for the time being applies.

31. Repeal. The Pakistan Hotels and Restaurants Ordinance, 1976 (XXXIX of 1976), is hereby repealed.

'For the Pakistan Hotel and Restaurants Rules, 1977, see S.R.O. No. 1150(D/77 dated 6/12/77, Gaz., of 2017-2067.

*This Section has been omitted in its application to the Islamabad Capital Territory, see Ordinance No. 27