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AZAD GOVERNMENT OF THE STATE OF JAMMU AND KASHMIR
Law, Justice, Parliamentary Affairs and Human Rights Department
LE
"Mucallarabad"
Date: 25.06.202)

No. LD/Legis-Act/363-96/2021, The following Act, passed by the Azad Jammu and Kashmir Legislative Assembly on 27% day of May, 2021 and received the assent of the President on the 15" day of June, 2021, is hereby published for general information,

[Act XIX of 2021]

Act

,o amend and consolidate the law relating to controlling and regulating the standards of service and amenities in hotels and restaurants

Whereas it is expedient to amend and consolidate the law relating to controlling and regulating the standards of service and amenities in hotels, rest houses/guest houses and restaurants and for matters ancillary thereto or connected therewith;

It is hereby enacted as follows:-

1. Short title, Extent, Application and Commencement.- (1) This Act may be called the Azad Jammu and Kashmir Hotels and Restaurants Act, 2021.

It extends to the whole of Azad Jammu and Kashmir.

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(ill pes It shall apply to all the hotels, guest houses and restaurants in

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Azad Jammu and Kashmir.

4) It shall come into force at once
Z. Definitidns.- In this Act, unless there is anything repugnant in the subject or context,-

(a) "Apprentice" means any person who has contracted with a hotel or a restaurant to perform the stipulated apprenticeship in such hotel or restaurant;

(b) 'Aggrieved Person' means any person feeling itself to be effected from a decision or order made under this Act;

(c) "Committee" means the committee set up by the Government

under Section 4;

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"Company" means a company as defined in Companies Ordinance, 1984;

"Controller", "Deputy Controller" and Assistant Controller

means the Controller', "Deputy Controller' and Assistant

Controller appointed under Section 3;

"Customer" means a person availing facilities offered in' a

Hotel/restaurant for monetary consideration;

"Fair rates" means the rates fixed under Section 11 of this Act

and includes revised rates;

"Guest" means a person who is in possession or enjoyment of accommodation and/or facilities provided to him in a hotel on monetary consideration;

"Government" means the Azad Government of the State of Jammu and Kashmir;

"Hotel" means a_ lodging, or boarding and lodging, establishment with a minimum of five let table bed rooms, provided for guests on monetary consideration, which conforms to any of the prescribed minimum criteria, but does not

include,-

Ck qs» a home or hostel which is exclusively or mainly used for

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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 organizations, though run on a commercial basis;

"Manager" means the person in-charge of the management of 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;

(m) "Prescribed" means prescribed by rules made under this Act;

(n) "Public rooms" means rooms in a Hotel which are meant for the common use of all guests;

(o) "Restaurant" means a public eating house providing standard and variety of cuisines on monetary consideration to tourists and guests which conforms to the minimum Prescribed criteria;

(P) "Service" means any service provided in a Hotel or a Restaurant; and

(q) "Tourist" means a person, whether he is,-

(i) a State Subject of Jammu and Kashmir or not,

(ii) 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. Controller, Deputy Controller and Assistant Controllers.- (1) The Director General of Azad Jammu and Kashmir Tourism Department

shall be ex-officio Controller for the purposes of this Act.

(2) The Government shall appoint Director AJ&K Tourism Department, Assistant Directors or District In-charge Officers of Azad

Gipson or Kashmir Tourism Department as ex-officio Deputy Controller and Assistant Controller for purposes of this Act and rules made thereunder.

(3) 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 Government.

(4) Subject to the provisions of this Act and of such orders as may from time to time be issued by the Government in this behalf, the Deputy Controller 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 possible, after commencement of this Act, the Government shall set up a Hotels and Restaurants Committee, consisting of not less than 7 and not more

than 10 members, to aid and advise the Government in relation to

such matters relating to the administration of this Act as may be Prescribed.

Registration of Hotels and Restaurants.- (1) The Owner or Manager

of every Hotel or Restaurant shall, within a period of two months from the commencement of this Act, apply to the Controller for registration of Hotel or Restaurant on payment of such fee as may be Prescribed.

(2) A Hotel or Restaurant shall not be registered, unless,-

(a) it conforms to Prescribed standards of quality, health, hygiene and comfort, and relevant International Standardization Organization (ISO) standards mentioned in "Schedule 1";

(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 accident arising out of electricity or gas

Gil awh. _¥ and safety of the tourists is ensured;

(d) in the case of a new hotel its approval will be taken at project stage.

(3) The Controller, or an officer authorized 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 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 member of the staff, articles or appliances or foodstuff.

(4) The Controller shall within 90 days of the receipt of an application decide the application for registration including, in case of a Hotel, Fair rates thereof and the classification of the Hotel.

(5) No Hotel or Restaurant established after the commencement of this Act shall function unless registered and classified in accordance

with this Act and Rules made there under.

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(6) Where a Hotel or Restaurant was functional prior to the

commencement of this Act, it shall be allowed to function till the

decision of the Controller,

Classification of Hotels.- Subject to such general or particular

directions as the Government may issue, the Controller shall,

according to the Prescribed minimum criteria, by notification, 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;

(da) four star hotels, being hotels which conform to the Prescribed

minimum criteria of hotels of that class, but do not conform to

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Ayo 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.

Classification of Restaurants.- Subject to such general or particular directions as the Government may issue, the Controller shall, according to the Prescribed minimum criteria, classify Restaurants by notification.

Issue of license.- (1) Every owner shall, after registration of his Hotel or Restaurant under Section 5, obtain a license 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 getting the Hotel or Restaurant registered and obtaining a license under this Act.

(3) A license granted under this Section shall, unless sooner

suspended or cancelled, remain in force for a period of three year from

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the date of issue and may thereafter be renewed for a period of three year at a time on payment of the Prescribed {ce.

(4) The license shall remain valid for a period of three years subject to the annual surveillance audits and in case of any major non-compliance, the approval may be withdrawn:

Provided that no renewal shall be granted unless the department confirms food safety, health, hygiene and comfort standards, as required to be examined at the time of granting of license and during the licensing period. If an application for renewal of a license is made before the expiry of the period of its validity, the license shall continue in force until orders are passed on such application.

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 set-out.

(2) The registration and license 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 this Act or, in the case of a Hotel, to the Prescribed minimum criteria for the class assigned to it under; or

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

Obligation of the Transferes, etc., of # Hotel and Restaurant
Where a Hotel or Restaurant repledged and licensed under this Act is transferred or assigned to, or devolves to any other person, it shall be incumbent upon that person to report such transfer, within one month of its taking effect, to the Controller and obtain a fresh license under this Act,

Controller to Approve Fair Rates.- (1) Every Hotel shall submit to the Controller its rates for boarding, Lodging and other Services provided in a Hotel having, regard to the Prescribed principles governing Fair rates and the classification of Hotels,
(2) A Hotel may either submit a consolidated rate for Lodging, boarding and Service, or for Lodging and Service only or rates separately for,-

(a) Lodging, with reference to the nature of the accommodation

and the number of guests to be accommodated;

board, partial or full; and

3 (b)

(yes (c) other Service.

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(3) Every Hotel shall offer separate rates 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) Every Restaurant shall submit to the Controller its rates for meals and Service offered.

(5) The Controller shall approve the rates submitted to him under sub-section (1) to (4) unless he finds them excessive as compared to the quality and/or finds them to be unfair in which case he shall not

approve them along with reasons.

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he specihiod therein,

(7) Uni sueh tine se Voir rites are approved in relation any
Hotel or Mestounint under this tection, the rates, Ih any, Charged ty
such Hotel or Mestourait, Jimmediately before tie het becunes
applicable to it, for equivalent dodging, board or Se Yin Wy thet
provided, shall be deemed to be the Pair tates fized under this
Sector,

(4) Notuithatanding anything contained above the Controller m7
fiz Nair rates vaniges for Hotels and Mestaurants of a particular at in
a particular ares,

Controller to Fix JAmit of Persons to be Aecormmodated In any
Room.- (1) The Controller may fiz the maximum number of yucsts to
be accommodated in each room or other unit of secommodation in 4
Hotel,

(2) No room for which an order has been made under subsection (1)

vshall be used to accommodate any number of guests in exocss of the

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ph_efumber specified in the order, except with the previous permission of
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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
gucels specified in such order,

Rates, ete., to he displayed. (1) The approved rates, the maziraurn
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 approved 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.

Reservation of accommodation at the instance of Controller.-

(1) Subject to such directions as may be given in this behalf by the

Government, the Controller may by order direct the Owner or the

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(2) Nothing in this Section shall prevent the Owner or the

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of the Hotel from letting any accommodation

the receipt of such notice.

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.

Se 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 anytime 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.

Controller's Powers 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,-

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(i) injurious to the health and wellbeing of guests or customers or a hazard to their safety as mentioned in the Schedule-I of this Act;

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

(iii) offensive to good taste.

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 ffence by the Guest or Customer, he may use such force as may

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lyr SBecessay 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 subsection (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 it may deem fit,-

(i) the Hotel/Restaurant management shall display or mention its

rule of boarding, lodging and departure, the contact number (helpline) of the Controller's office and his email at some conspicuous place;

(ii) | any complaint lodged to the Controller either on telephone or via email by a Guest or tourist in case of any grievance against the Hotel management the same shall be deemed to be made in

writing and the controller shall proceed on it.

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Procedure and Powers of Controller.- (1) The Controller shall not refuse registration, or cancel or suspend the license 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) proof of facts by affidavit;
- (b) summoning and enforcing the attendance of any person and examining him on oath;
- (c) compelling the production of documents and other material evidence; and
- (d) issuing commissions for the examination of witnesses.

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

(i) call for such information, reports, or returns from an Owner or a Manager as may be necessary for satisfying himself that the being duly complied with;

: ' > provisions of this Act, the rules and orders made hereunder are (Nhe

(ii) | 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 its 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;

(iii) | 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;

(iv) 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

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facilities at the Restaurant to conform to the Prescribed

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(v) call for any other information relating to development of Hotel industry,

20, Apprenticeship Scheme and Training Policy of Employees. 'The

Controller shall,

(i) ensure that apprentices in a Hotel or Restaurant do not exceed

ten percent of the employees in any specified trade;

(ii) 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 training and determine the apprenticeship duration;

(iii) 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 recognized vocational

institution at the various specialized courses run there at so

il nuh. og "that the percentage of qualified trained staff in a Hotel or

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" 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; and

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(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;

a drug or chemist's shop with twenty-four hours'

(e)

bly Z Service, if not existing in close proximity.

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(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 hemorrhage, or an accident.

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 ten thousand rupees as the Controller shall impose and, in the case of a continuing failure an additional penalty which shall extend to twenty thousand rupees for every day after the first penalty imposed by the Controller, where the failure persists up to six months, the concerned authority may, on the request of the controller, disconnect the electricity, gas and water supplies and the Controller shall also have power to seal

the establishment through police and local administration.

(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

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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 Eable to pay to the Controller a penalty of such sum not exceeding an amount equal to at least two days rent 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 an amount equal

nh 2 Gees one week rent.

(5) If a Restaurant is not registered under this Act, or fails to carry out the directive issued under clause (iv) of Section 19 within the period specified therein, the Controller shall suspend the operation of such Restaurant and may also impose a penalty of such some not

exceeding ten thousand mupees as the controller may impose on the Owner of such Restaurant. Where the failure persisted up to six months, the concerned authority may on the request of the Controller, disconnect the Electricity, Gas and water supplies and the controller shall suspend the operation of such Restaurant and can order to seal the establishment through police and local administration.

(6) Any 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, such Owner or Manager shall be liable to pay to the Controller a penalty of such sum not exceeding ten thousand rupees as the Controller may impose and, in the case of

continuing to so advertise or use the star sign, an additional penalty

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which may extend to two thousand rupee

during which it so continues or-uses star sien

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;

(2) forfeiture of license; and

{ : : :

{c) cancellation of registration.

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 it proves that the contravention or failure took place without

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his knowledge or that it exercised due diligence to prevent its takin: place, shall be liable to the penalty provided for such contravention or failure.

Mode of Recovery.- Any sum imposed as penalty under this Act shall be recoverable as an Arrear of Land Revenue.

Appeal and Revision. (1) Any person aggrieved by an order under this Act may, within thirty days of the date of the order, prefer an appeal to,-

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

b) the Controller, where such order has been passed by a Deputy Controller; and

(c) The appellate tribunal constituted under subsection (2), where

such order has been passed by the Controller.

(2) There shall be an Appellate Tribunal headed by Additional Chief Secretary (General) and comprising Secretary Services & Generai

Administration Department and Secretary Tourism to hear and dispose of appeals filed against the order passed under clause (c) and decision of Appellate Tribunal shall be final:

Provided that the Government may appoint additional members

as may be deemed necessary.

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(3) No order against an Owner or a Manager shall be passed unless

it 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 Government, the Controller, a Deputy Controller, an Assistant Controller, an officer or authority subordinate to the 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 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. 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 by any officer or authority subordinate to Government.

29. Power to make rules.- (1) The Government may, by notification in

(gat Dine 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;

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(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;

(j) | manner of holding summary enquiry; and

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

Overriding effect. Notwithstanding anything contained in any other law, provisions of this Act shall have overriding effect.

Repeal.- The Pakistan Hotels and Restaurants Act, 1976 (Act LXXXI of 1976), as enforced in Azad Jammu and Kashmir, is hereby

(Gulfraz Ahmed Khan)
Section Officer (Legislation)

repealed.

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