

AZAD GOVERNMENT OF THE STATE OF JAMMU AND KASHMIR

Law, Justice, Parliamentary Affairs and Human Rights Department
KREKKKEKEK

“Muzaffarabad”

Dated: 25.06.2021

No. LD/Legis-Act/369-82/2021. The following Act, passed by the Azad Jammu and Kashmir Legislative Assembly on 27th day of May, 2021 and received the assent of the President on the 15th day of June, 2021, is hereby

published for general information.

[Act XVIII of 2021]

Act

to provide for the development, regulation and control of the profession of travel agencies, tour operators and tourist guides in Azad Jammu and Kashmir

Whereas, it is necessary and expedient to provide for the development, regulation and control of the profession of travel agencies, tour operators and tourist guides in Azad Jammu and Kashmir;

It is hereby enacted as follows:-

1. Short title, Extent and Commencement.- (1) This Act may be called

the Azad Jammu and Kashmir Travel Agencies, Tour Operators and

Tourist Guides Act, 2021.

(2) It extends to the whole Azad Jammu and Kashmir.

(3) It shall come into force at once.

2. Definitions.- In this Act, unless there is anything repugnant in the

subject or context,-

(a) “Committee” means the Travel Agencies, Tour Operators and Tourist Guides Regulatory Committee set up by the Government under Section 3;

(b) “Government” means the Azad Government of the State of Jammu and Kashmir;

(c) “License” means a license granted under this Act to any person to operate as a Travel Agency, Tour Operator or Tourist Guide;

(d) “Prescribed” means prescribed under the rules;

(e) “Rules” means rules made under this Act;

(g)

(h)

“Travel Agency” means a person, by whatever name called,

who,-

(i) makes, directly or indirectly, on commercial basis arrangements for the passage of the tourists, or use of transport, or transportation of their baggage or goods by road, rail or air;

(ii) has been delegated general authority in respect of sales for the airlines or other carriers, either directly or through a sub-contract;

“Tourist” means a person normally residing outside the territory of Azad Jammu and Kashmir or is a citizen of other country who validly enters in Azad Jammu and Kashmir and remains therein for not less than twenty four hours and not more than six months in the course of any year for purposes such as touring, recreation, sports, health, study or religious pilgrimages;

“Tour Operator” means a person, by whatever name called,

who makes arrangements for lodging, transport or other

services relating to travel of persons within Azad Jammu and

Kashmir or arranges entertainment, sightseeing, excursion and

guide services, whether the arrangements are made on the basis

of comprehensive all inclusive rates or on the basis of separate charges for each service provided; and

“Tourist Guide” means a person licensed as such under

Section 4.

Committee.- (1) The Government shall set up a Committee to be

known as the Travel Agencies, Tour Operators and Tourist Guide

Regulatory Committee consisting of the following,-

(i)

(ii)

(iii)

(iv)

Secretary, Tourism Department Chairman

Director General, Tourism and Archaeology Member/secretary
of the Committee

Department

A representative of the AJ&K Association of Member

Travel Agencies

A representative of the AJ&K Tour Member

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Operators Association

(v) A representative of the AJ&K Tourist Member

Transport Association

(vi) A representative of AJ&K Tourist Guides Member Association

(vii) A representative of educational institutes Member

providing relevant training

(viii) Three other members as the Government Member

may deem appropriate

(2) Members of the Committee other than ex-officio members shall hold office during the pleasure of the Government and shall be appointed on honorary basis without any kind of remuneration.

(3) The Committee shall perform the following functions, namely,-

(a) advise the Government in the implementation of the provisions of this Act and the rules;

(b) approve the rates of service charges of Travel Agencies or of Tour Operators or of Tourist Guides in respect of various services rendered by them to the Tourists;

(c) advise the Government from time to time in respect of license fees to be Prescribed for various services rendered by the Travel Agencies, Tour Operators or Tourist Guide;

(d) Prepare code of conduct for Travel Agencies, Tour Operators or Tourist Guide with approval of the Government; and

(e) such other functions as are connected with the objects of

this Act and as the Government may entrust to it.

Controller, Deputy Controller and Assistant Controllers.- (1) The

Director General of Tourism Department shall be ex-officio Controller for the purposes of this Act.

(2) The Government shall designate Director Tourism Department, Assistant Directors or District In-charge Officers of 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.

Licensing of Travel Agency, Tour Operator or Tourist Guides.-

(1) Any person intending to open an office of a Travel Agency or a Tour Operator in the geographic boundaries of Azad Jammu and Kashmir shall apply to the Controller on the prescribed form for the grant of a License.

(2) Any person operating or intending to operate, as a Tourist Guide shall apply to the Controller on the Prescribed form for grant of a License, in one or more of the categories mentioned in Schedule to this Act.

(3) Subject to sub-Section (3), on receipt of an application under sub-section (1) and (2), the Controller may, on payment of the prescribed fee by the applicant, grant to the applicant a License in the prescribed form.

(4) A License shall not be granted to an applicant if,-

(a) the applicant, or the manager or any partner or director has been convicted of an offence which involves moral turpitude;

(b) the applicant is a minor or insane person;

(c) the financial position of the applicant is such as would prevent the applicant from acting as a Travel Agency or Tour Operator or Tourist Guide efficiently;

(d) the applicant has no experience of travel arrangements required to operate the business of a Travel Agency or Tour Operator and has not employed persons who have had

such experience; or

(e) the applicant does not have an office of a Prescribed minimum standard or does not have experienced and trained employees or licensed guides or does not provide such transportation facilities as may be Prescribed.

(5) The Controller shall maintain register in which the names, attested copy of national identity cards, addresses with contact numbers, nature, composition and the field of operation of all licensed Travel Agencies and Tour Operators shall be entered. The register shall be maintained in both paper and electronic formats and information relevant to the public shall be accessible.

(6) The License shall, unless earlier cancelled or suspended under Section 11 or Section 12, remain valid for one year and may be renewed from year to year or, at the option of the Travel Agency or Tour Operator, for a period up to five years in such manner, and on payment of such fee, as may be Prescribed:

Provided that a licensed Travel Agency can also hold a License of Tour Operator after complying with the terms and conditions for grant of License as Tour Operator.

Exemption from application.- This Act shall not apply to,-

- (a) enterprises operated by the State;
- (b) national carriers of Pakistan, foreign and private airlines, duly authorized to operate to, from or via Azad Jammu and Kashmir.

Prohibition to act without license etc.- Subject to Section 5,-

(i) No person shall act as Travel Agency or Tour Operator unless such person holds a License, provided that a licensed Travel Agency can also hold the License of a Tour Operator after complying with terms and conditions for grant of License as Tour Operator.

(ii) No person shall act, as a Tourist Guide unless such person holds a License of category mentioned in Schedule to this Act.

(iii) No airline or other carrier shall delegate general authority in respect of sales, either directly or through a sub contract, to a person who does not hold a License.

Business Guarantee.- (1) A licensed Travel Agency or Tour Operator

shall maintain in bank, a bank guarantee or cash security of such minimum amount to the controller, as may be Prescribed.

(2) No amount shall be payable out of a bank guarantee or cash security maintained by a licensed Travel Agency or Tour Operator under sub-section (1) except by the order of the Government.

(3) The Government may, after making such inquiry as it may deem fit and after giving a Travel Agency or Tour Operator an opportunity of showing cause against the order proposed to be made, order payment out of the bank guarantee or cash security of the Travel Agency or Tour Operator, of any sum owed by the agency or Tour Operator to a Tourist, carrier company or hotel or lodging house and not settled by it within thirty days from the date of its becoming due.

(4) A Travel Agency or Tour Operator from whose bank guarantee or cash security, payment of any amount has been made under sub-section (3) shall, within a period of fifteen days of such payment, deposit the said amount into the bank guarantee or cash security, as the case may be.

Service Charges.- (1) The rates of service charges from the tourists shall be set out in a rate list drawn up by a licensed Travel Agency or Tour Operator or Tourist Guide, from time to time and shall be submitted to the Committee, who shall approve the same unless they are excessive.

(2) Accopy of the rate list referred to in sub-section (1) for the time being in force shall be posted at some conspicuous part of the office of the Travel Agency or Tour Operator.

(3) The guides employed on a fixed salary on full time basis by any Travel Agency or Tour Operator licensed under a law for the regulation and control of the profession of travel and tourist agencies shall not charge any fee from a Tourist.

Alterations.- A licensed Travel Agency or Tour Operator shall, on payment of the prescribed fee, shall enter every change in license

regarding its nature or composition or its field of operation in the

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register maintained under sub-section (5) of Section 5, within fifteen days of the day on which such change occurs.

Discontinuance of business.- In the case of discontinuance or

transfer of business, dissolution, re-organization or winding up of a licensed Travel Agency or Tour Operator, the Controller shall be informed by the agency or operator within thirty days of such discontinuance, transfer, dissolution, re-organization or winding up, and on receipt of the information, the Controller may either cancel the license granted to the Travel Agency, Tour Operator or, in the case of transfer of business or re-organization, grant a new License to the transferee Travel Agency, Tour Operator or to the Travel Agency, Tour Operator as re-organized.

Suspension or cancellation of license.- The Controller may, after

affording a licensed Travel Agency or Tour Operator, an opportunity of

showing cause against the action proposed to be taken against it, by

order in writing, suspend the License of the Travel Agency or Tour

Operator for a period not exceeding six months or cancel its License if

the agency or operator,-

(a) violates the provisions of this Act or the Rules or the terms and conditions of the License or the Prescribed code of conduct;

(b) suspends its business without intimation to, or permission of, the Government and does not resume it within six months from the date of such suspension or within the time specified by the Government;

(c) contravenes the provisions of sub-section (1) or sub-section (4) of Section 8; or

(d) becomes a person to whom a License cannot be granted under sub-section (4) of Section 5.

Complaints.- Any traveler or tourist having a complaint against any

Travel Agency or Tour Operator may approach the Committee or the

Controller, which shall dispose of the same in the Prescribed manner.

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,-

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(a) 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 sub-section (2), where such order has been passed by the Controller.

(2) There shall be an Appellate Tribunal to hear and dispose of

appeals filed against the order passed under clause (c) of sub-section

1 and decision of Appellate Tribunal shall be final. The composition of

the Tribunal shall be as follows:

1. Additional Chief Secretary General Ex-officio Chairman

2. Secretary Services & General Ex-officio Member

Administration Department

3. Secretary Tourism Ex-officio Member

Provided that the Government may appoint additional ex-officio members as may deem necessary.

(3) No order against an Owner or a Manager shall be passed unless he has been given an opportunity of showing cause against him and of being heard.

Penalty.- (1) Any Travel Agency or Tour Operator which contravenes or fails to comply with the provisions of this Act or the rules or violates the Prescribed code of conduct shall, without prejudice to any other action that may be taken against it under this Act be punishable with fine which may extend to fifty thousand rupees.

(2) Any Tourist Guide who contravenes the provision of this Act or the Rules or, being a Tourist Guide, contravenes the terms or conditions of the License issued to him, or violates the Prescribed code of conduct, shall be punishable with fine which may extend to five thousand rupees.

(3) No Appellate Tribunal shall take cognizance of an offence punishable under this Act except upon a complaint made in writing by Director General, Tourism Department or any other person as may be

authorized by the Government.

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Delegation of powers.- The Government may, by notification in the

official Gazette, direct that all or any of its powers under this Act shall, under such conditions, if any, as may be specified, be exercisable by any officer or authority subordinate to it.

Issuance of Ticket.- A licensed Travel Agency or Tour Operator shall

obtain a passport of a traveler or tourist for issuance of air ticket and confirmation of seats from airlines and therefore can hold the passport of passenger for organizing group tours for State Subjects of Azad Jammu and Kashmir to foreign country or countries.

Power to make rules.- (1) The 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 of the

foregoing power, such rules may provide for all or any of the following matters namely,-

(a) the fees payable for the issue and renewal of a License, depending on the nature of the services to be rendered by an applicant to tourists and the number of branch offices the

applicant proposes to establish;

(b) the form in which an application for a License is to be made;

(c) the form of the License;

(d) the code of conduct;

(e) the conditions to which a License shall be subject.

Repeal.- The Azad Jammu and Kashmir Council Travel Agencies Act, 1976 (Act VI of 1976) and the Azad Jammu and Kashmir Council Tourist Guides Act, 1976 (Act VII of 1976) are hereby repealed.

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(Gulfraz Ahmed Khan)
Section Officer (Legislation)

SCHEDULE

SEE SECTION 5 (2)

CATEGORIES

Mountain Guides (covering trekking, mountaineering, adventure sports and recreational activities, etc.);

Cultural Guides (covering art, culture, history, archeology and religions, etc.);

Marine Guides (covering diving, fishing, water sports areas, etc.); and

Any other related categories and/or sub-categories.