

A BILL to provide for establishment of a Pakistan Pilgrim Commission for making arrangements for the pilgrimage, administration of all matters concerning the welfare of pilgrims and to formulate policies in connection therewith;

WHEREAS it is necessary and expedient to provide for the development, regulation and control of the pilgrimage business in Pakistan, for improving the service for pilgrims, devising a mechanism and developing parameters for the registration of pilgrim organizers, ensuring highest level of efficiency and service standards from the said pilgrims organizers and ensuring safe and secure pilgrimage and welfare of the pilgrims and for matters connected therewith or incidental thereto;

It is hereby enacted as follows:-

1. **Short title, extent and commencement.**- (1) This Act may be called the Pakistan Pilgrimage Commission Act, 2010.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

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

(a) “authorized officer” means any officer authorized by the Federal Government not below the rank and status of a Joint Secretary;

(b) “commission means Pakistan Pilgrimage Commission established under section 3”

(c) “competent authority” means the Secretary, Ministry of Religious Affairs;

(d) “Dispute Resolution Committee” means the Committee constituted under section 25;

(d) “defaulter” means and includes any individual, Company and Chief Executive or Directors of any company carrying out the business of transaction of pilgrims and against whom a complaint has been filed, in lieu of which

penalty has been imposed or due to commission of fraud, an amount is payable to the affectees;

(e) “dues” means any amount outstanding against any Pilgrim organizer in relation to Commission, Federal Government or the pilgrims;

(g) “fund” means the pilgrim welfare fund established under section 16 of this Act;

(h) "member" means a member of the Commission nominated under Section 4, and includes the Chairperson and a Vice-Chairperson;

(i) “Pilgrim organizer” means an individual or any company carrying out the business of Pilgrimage and as defined in the Companies Ordinance, 1984 (XLVII of 1984), enrolled with the Federal Government under section 6;

(j) “package” means set of services with regard to visa processing, reception, accommodation, transport, food, qurbani, boarding and lodging, or any other service connected with overall facilitation of the Pilgrims;

(k) “Pilgrim” means any Muslim who travels from any point of exit or other place in Pakistan or elsewhere for the purpose of pilgrimage to Holy places or performance of Hajj, Umra or Ziarats;

(l) Pilgrimage means traveling from any point of exit or other place in Pakistan or elsewhere to Holly places for the performance of Hajj, Umra or Ziarat;

(m) “prescribed” means as prescribed by rules made under this Act;

Chapter II

3. Pakistan Pilgrim Commission. (1) The Federal Government by notification in the official Gazette shall constitute a Commission by the name of the Pakistan Pilgrim Commission and shall perform the functions on the basis of Policy guidelines issued by Federal Government.

(2) The Commission shall be a body corporate, by name the aforesaid, having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, to create a charitable trust or endowment, and to contract and shall by the said name sue and be sued,

(3) The Commission shall have its headquarters at Islamabad and as and when the Commission considers it functionally necessary, additional regional offices may be opened in provinces in consultation with the Federal Government.

4. Composition of Commission,- (1) The Commission shall consist of the following members, namely:--

- (i) Minister for Religious Affairs as member who shall also act as chairman of the Commission;
- (ii) Secretary Ministry of Religious Affairs as member;
- (iii) two persons not below the rank of Joint Secretary to the Government of Pakistan nominated by that Finance division, Foreign affairs Division and, as, ex officio members;
- v) seven members shall be nominated by the Ministry of Religious Affairs from among the following categories of persons, namely:--

- (a) two members who have special knowledge of public administration, finance, education, culture or social work and Law;
- (b) one Muslim women member;
- (c) two members who have special knowledge of Muslim theology and law;
- (d) two members nominated by Hajj Organizer Association of Pakistan (HOAP).

5. Notification of members: - As soon as may be after the nomination of the members of the Commission under Section 4, the Federal Government shall publish in the Official Gazette the names of all such members.

6 Term of office,- (1) The term of office of the members of the Commission (other than the ex officio members and members filling casual vacancies) shall be three years, commencing on the day following the publication of the list of members under Section 5:

Provided that the term of the members of the Commission may be extended by the Federal Government by a notification in the Official Gazette for a period not exceeding six months at a time but, in any case, not exceeding beyond a total period of one year.

7. Remuneration and conflict of interest: (1) All Members, other than ex-officio members, shall be paid such remuneration for their respective terms of office as may be determined by the Federal Government in advance of their appointment which remuneration shall not be varied to their disadvantage during their term in office.

(2) No person shall be appointed by the Federal Government as a Member if he has any direct or indirect financial interest in, or has any connection which might reasonably be viewed as giving rise to a conflict of interest with any person involved in any regulated activity. No person appointed as a Member shall during his term in office have or maintain any direct or indirect financial interest in any person involved in any pilgrimage activity. Members shall not at any time during their term of office engage themselves in any other services, business, vocation or employment with any other person.

(3) Every Member who knowingly contravenes any of the provisions of sub-section (2) and sub-section (3) shall, be guilty of misconduct.

8 Reconstitution of Commission,- (1) The Federal Government shall take or cause to be taken all necessary steps for the reconstitution of a new Commission at least four months before the expiry of the term, or the extended term, as the case may be, of the Commission.

(2) An outgoing member shall be eligible for re-nomination on the Commission for not more than two terms,

9 Functions of Commission: - (1) The duties of the Commission shall be--

- (i) to collect and disseminate information useful to pilgrims, and to arrange orientation and training programmes for pilgrims;
- (ii) to advise and assist pilgrims during their stay at the embarkation points in Pakistan, while proceeding to or returning from pilgrimage, in all matters including vaccination, inoculation, medical inspection, issue of pilgrim passes and foreign exchange, and to liaise with the local authorities concerned in such matters;

- (iii) to give relief to pilgrims in distress or problem while being in pilgrimage.
- (iv) to finalize the annual Haj plan with the approval of the Federal Government, in line with the Policy guidelines issued by Federal Government from time to time, and execute the plan, including the arrangements for travel by air or any other means, and to advise in matters relating to accommodations;
- (v) to approve the budget estimates of the Commission and submit it to the Federal Government at least three months before the beginning of the financial year for its concurrence;
- (vi) to co-ordinate with the Federal Government in relation to facilitate the pilgrims to secure travelling facilities for pilgrims';
- (vii) to generally look after the welfare of the pilgrims;
- (viii) to publish such proceedings of the Commission and such matters of interest to pilgrims as may be determined by the Commission;
- (ix) (ix) regulate the allotment of quota to pilgrim organizers as may be prescribed;
- (x) approve allotment of quota of Hajj, Umrah and Ziarat amongst the registered Pilgrim organizers;
- (xi) approve criteria for categorization of Pilgrim organizers;
- (xii) prepare code of conduct for Pilgrim organizers;

- (xiii) execute Hajj, Umrah and Ziarat plans in line with the Policy guidelines for the facilitation of the pilgrims;
- (xiv) ensure strict enforcement of Service Provider Agreement and undertaking as specified; and
- (xv) such other functions as are connected with the objects of this Act.

(2) The Federal Government shall afford all reasonable assistance to the Commission in the discharge of the duties specified in Sub-section (1).

10 Meetings of Commission,- (1) The Commission shall meet at least three times in a year before the commencement of the Haj season to plan and make arrangements for Haj and once after that to review all arrangements made by the Commission.

(2) In addition to the meetings specified in Sub-section (1), the Commission may hold meetings as and when requisitioned by at least one-third of its members or when considered necessary by the Chairperson.

(3) The decision of the commission shall be taken by majority of votes of the members present and, in the event of an equality of votes, the Chairman or other person presiding shall have a casting vote.

(4) The Commission shall observe such rules of procedure in regard to the transaction of business at its meetings as may be determined by regulations.

11 Powers of the Federal Government to issue policy guidelines.- (1) The Federal Government may, as and when it considers necessary, issue policy guidelines to the Commission on matters of policy not inconsistent with the provisions of this Act or the rules and the Commission shall comply with the policy guidelines in the exercise of its powers and functions and in making decisions.

12 Enrollment of Pilgrim Organizers.- The Commission shall enroll new Pilgrim organizers and the same shall be subject to the parameters as prescribed under the rules and in the light of **Saudi Taleemat** where applicable.

13 Prohibition to act without licence, etc. – No person shall function or act as an organizer unless he holds a valid license from the Commission.

14 Grant of License: (1) Any Pilgrim Organizer intending to organize pilgrim activities shall first apply to the Commission on the prescribed form attached as Schedule I to this Act together with a certificate from Securities and Exchange Commission of Pakistan certifying that it is a private limited company having a paid up capital to the extent and manner as prescribed by the Federal Government from time to time.

(2) On receipt of an application under sub-section (1), the Commission may, after considering the application made under section (1) and any additional information required in this behalf by the applicant and upon payment of the prescribed fee and subject to such terms and conditions, if any, as it deems fit, grant or may, if it deems fit, refuse to issue such licence after giving reasonable grounds for doing so.

(3) A license shall not be granted to an applicant if –

- (a) the applicant pilgrim organizer or any of its director, has been convicted of an offence which, in the opinion of the Federal Government, involves moral turpitude or has been involved in fraudulent activity;
- (b) a pilgrim organizer , or any director of the company has been blacklisted on account of poor performance by the Federal Government or the Ministry of Hajj and Umrah, Kingdom of Saudi Arabia;

- (c) the financial position of the applicant is, in the opinion of the Federal Government, such as would prevent the applicant from acting as an organizer efficiently and effectively;
- (d) the applicant has had no experience in the past of such arrangements as are required to organize the business of pilgrimage;
- (e) the applicant does not have an office of a prescribed minimum standard or has not engaged experienced and trained employees or does not provide such transportation facilities as may be prescribed; and
- (f) the company is found to be not compliant with the provisions of the Companies Ordinance, 1984, (XLVII of 1984), Securities and Exchange Commission Act, 1997 (XLII of 1997) or rules, regulations made by the Federal Government in this regard from time to time.

(4) Violation of the terms and conditions of license and imposition of penalties shall be regarded as a disqualification for the grant of a license under the provisions of this Act.

(5) The Commission shall maintain the record of all the pilgrim organizers including their names, addresses, nature, composition and the field of operation of all licensed pilgrim activities;

(6) The license shall, unless earlier cancelled or suspended under section 19 or 20, shall remain valid for one year and shall be renewed on yearly basis, in such a manner; and on payment of such fee, as the Federal Government may prescribe from time to time.

(7) The Pilgrim Organizer shall, at the time of seeking the renewal of its license, furnish a corporate compliance certificate issued by the Securities and

Exchange Commission of Pakistan.

(8) The Commission may require an applicant for a pilgrim organizer licence to provide such additional information or document as it may deem necessary for the purpose of determining the application.

(9) High standards of performance, immaculate delivery of services and as prescribed shall be observed by the organizers and shall form basis for seeking renewal of license

15 Restriction on Pilgrim Organizer.- (1) No person shall, -

(a) carry out or transact the business of organizing travel for the purpose of pilgrimage to the Holy Land;

(b) advertise that he carries out or transacts the business of organizing travel, or that he organizes travel, for the purpose of pilgrimage to the Holy Land

(c) make or continue to make any representation to the effect that he carries out or transacts the business of organizing travel, or that he organizes travel, for the purpose of pilgrimage to the Holy Land;

unless he is the holder of a valid pilgrim organizer licence issued by the Commission.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall on conviction-

(a) in respect of a first offence, be liable to a fine not less than one hundred thousand rupees or to imprisonment for a term not exceeding one year or to both; and

(b) in respect of the second or any subsequent offence, be liable to a fine not less than five hundred thousand rupees or to imprisonment for a term not exceeding five years or to both .

16 Alterations.- A licensed Pilgrim organizer shall, on payment of the prescribed fee, will be eligible for effecting any change in its nature, composition, its field or

geographical area of operation as indicated in the register maintained under section 11, within fifteen days of the day on which such change occurs.

17 guarantee. – (1) Every applicant to whom a pilgrim organizer licence is issued shall deposit with the Commission as soon as may be after the issuance of the licence, and in any case not later than such period as may be prescribed, a guarantee in the form of

(a) a bank guarantee in such form and for such amount as may be approved by the Federal Government; and

(b) a cash deposit to such amount as may be determined by the Federal Government

(2) The Commission may require any pilgrim organizer to furnish a fresh bank guarantee or to deposit further cash to such amount and in such manner as the Commission may determine as security for the time being for the continuance of the pilgrim organizer licence

(3) The security deposit required under subsection (1) shall be held as security for the due compliance with the terms and conditions imposed by the Federal Government under subsection 4(3) and for the due performance of the obligations imposed under section 13

(4) Where any pilgrim organizer fails to comply with any of the terms and conditions or to perform any of the obligations referred to in subsection (3), he shall forfeit to the Commission such part of the security deposit as may be prescribed.

(5) It shall be lawful for the Federal Government from time to time to deduct from the security deposit such amount or amounts as may be required

(a) to cover the amount of any forfeiture under subsection (4)

(b) to pay any sum claimed under section 13;

(c) to repay any sum which may have been paid by the Federal Government in

good faith to any person claiming a right to or interest in such sum.

18 Fixed assets guarantee: - In addition to the cash guarantee as mentioned in section-15, and if specifically required, the Commission may require the pilgrim Organizer or its Directors to provide fixed assets guarantee to the Commission in the manner and to the extent as the Commission may prescribe.

19 Valuer: - The valuation of the fixed assets, if required shall be done by a 'valuer' duly appointed by the Commission and the fee payable to the valuer as prescribed shall be paid by the Pilgrim Organizer.

20 Penalty for contravening term and condition of licence.- (1) Any pilgrim organizer who contravenes any term or condition of his licence shall be guilty of an offence and shall on conviction-

(a) in respect of a first offence, be liable to a fine not exceeding one hundred thousand rupees or to imprisonment for a term not exceeding one year or to both; and

(b) in respect of the second or any subsequent offence, be liable to a fine not exceeding five hundred thousand rupees or to imprisonment for a term not exceeding five years or to both

(2) The Federal Government may revoke the licence of any pilgrim organizer who has been found guilty under subsection (1)

(3) The Federal Government may, upon any pilgrim organizer being charged with an offence under subsection (1), suspend his pilgrim organizer licence pending the disposal of the case

21. Discontinuance of business, etc. - (1) A Pilgrim Organizer shall inform the Commission before he discontinues or transfers his business or reorganizes his business, as the case may be. The Commission may, keeping in view the facts of each case and in the interest of parties, if any, refuse such discontinuance, transfer or reorganization.

(2) The Securities and Exchange Commission of Pakistan shall be informed in all such cases.

22. Suspension or cancellation of licence. - (1) On receipt of a complaint against an organizer, the Commission may, by order in writing, for reasons to be recorded, suspend the license of the hajj, umrah and ziarat organizer for a period not exceeding six months.

(2) The Commission may, after affording the organizer concerned, an opportunity of showing cause against the action proposed to be taken against it, by order in writing, cancel its licence permanently, if the 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; or
- (b) contravenes the provisions of section 5 and 6; or
- (c) charges leveled against it are of serious nature and stand established.

23. Obligation of pilgrim organizer where pilgrim is detained in the Holy Land or elsewhere:- (1) Every pilgrim organizer or his agent resident in Pakistan shall be responsible for the due performance of the following obligations in respect of every aircraft chartered or arranged for by him for the conveyance of pilgrims to or from the Holy Land

(a) that where any pilgrim is detained in the Holy Land or elsewhere for a period longer than twenty-four hours from the hour and date when accommodation on such aircraft was to have been available, the pilgrim organizer shall pay to the Pakistani Ambassador or Consul in the Holy Land or elsewhere such sum as the Commission may from time to time determine to be sufficient as subsistence allowance for each such pilgrim until such pilgrim has an opportunity of being conveyed back to Pakistan; and

(b) that where any pilgrim provided with a return ticket issued in Pakistan is detained in the Holy Land or elsewhere owing to no accommodation being

offered by an aircraft for which his ticket is available, for a period longer than the maximum number of days determined by the Federal Government from time to time to be calculated from the hour and date when such accommodation on an aircraft was to have been available, such pilgrim organizer shall pay to the Commission in respect of each such pilgrim any sum which the Commission may claim as the cost of repatriating such pilgrim.

(2) The period referred to in subsection (1) shall not begin to run so long as the aircraft is prevented from carrying pilgrims on the homeward voyage by war disturbance or vis major of any kind

(3) A certificate of such detention purporting to be signed and sealed with the consular seal of the Pakistan Ambassador or Consul in the Holy Land or elsewhere shall be admissible as evidence of all facts stated therein and shall be received in evidence without prior proof of signature in any court of law in Pakistan or in any arbitration

24 Pilgrims welfare fund. – (1) For the welfare of the pilgrims, the Commission shall establish a “Pilgrims Welfare Fund” which may be regulated as may be prescribed under the rules.

(2) The profits accruing from cash guarantee deposits or through investments shall form part of the “Pilgrims Welfare Fund” to be regulated as per the rules.

(3) The expenditure from Pilgrims Welfare Fund shall be incurred in line with the rules as prescribed.

(4) A separate fund(s) may be created by the Federal Government for the welfare of Umrah and Ziarat pilgrims.

25 Hujjaj compensatory fund. - (1) The Hajj Group Organizers shall equally contribute in the fund created for the compensation of the hujjaj who have been

defrauded by delinquent organizers and shall be disbursed amongst the affectees as prescribed under the rules.

(2) Similar fund(s) may be created by the Federal Government for the welfare of pilgrims.

26 Complaints. – Any pilgrim having a complaint against a pilgrim Organizer in so far as the violation of agreement, fraud or mishandling is concerned may approach the Federal Government in writing, on a prescribed form as determined by the Federal Government.

27 Penalty.- Any pilgrim organizer 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 including its Chief Executive, Principal officer(s) and employees under this Act or any other law for the time being in force may face blacklisting of the company which may be permanent for future operations under the Federal Government or forfeiture of guarantees or punishable with fine which may extend to five hundred thousand rupees or both.

28 Reference to law enforcing agencies.- The Commission on its own motion or receipt of a complaint from any pilgrim on account of commission of fraud by any pilgrim_organizer shall be empowered to refer the case to any law enforcing agency for inquiry and investigation.

29 Recovery of dues out of property and through arrest of defaulters: - (1) For the purpose of recovery of dues from a defaulter, the Commission or any person authorized by it on this behalf may serve upon the defaulter a notice in the prescribed manner and require him or it to pay the said amount within such time as may be specified in the notice.

(2) If the amount referred to in the notice issued under sub-section (1) is not paid within the time specified therein or within further time so provided by the authorized officer, he may through a civil court of competent jurisdiction or through a

District Officer (Revenue) under section 19, proceed to recover from the defaulter, the said amount by one or more of the following modes, namely:-

- (a) attachment and sale of any movable or immovable property of the defaulter;
- (b) arrest of the defaulter and detention in prison for a period not exceeding six months as provided in Order XXI of the Code of Civil Procedure, 1908;
- (c) by attachment of bank account;
- (d) by sale of the company through neutral parties;
- (e) forfeiture of the cash guarantee; and
- (f) through disposal of fixed assets pledged as a guarantee by the company.

30. Recovery of dues by District Officer (Revenue). - (1) If the authorized officer does not avail the remedy through civil court under section 18, he may forward to the District Officer (Revenue) of the district in which the defaulter resides or carries on business or in which any property belonging to the defaulter is situated, a certificate specifying the amount of the dues from the defaulter, and, on receipt of such certificate, the District Officer (Revenue) as Collector of the District shall proceed to recover from the defaulter, as arrears of Land Revenue.

31. Distribution of recovered amount: - The recovery made under section 18 or 19 shall be distributed equitably amongst the affectees in lieu of their claim and shall also be reimbursed to the Pakistan Missions for rescuing the lost or held up pilgrims belonging to any particular organizer.

32. Collection of dues from a defaulter.- Notwithstanding anything in the Companies Ordinance, 1984 (XLVII of 1984), where any dues payable by an organizer are outstanding (including a company that has been wound up or gone into

liquidation), the chief executive or director of the company, shall be liable for payment of the dues by the company to the extent of their share.

33. Complaints Disposal Committee.- There shall be a Complaints Resolution Committee headed by an officer not below the rank of Joint Secretary and such other officers as the competent authority may deem necessary as being the members of the Commission.

34 Disposal of complaints.- (1) On receipt of a complaint under section 25, the charges shall be framed and confronted by the Complaints Disposal Committee on the organizer and proper opportunity of being heard shall be afforded.

(2) The complaint shall be heard by a Complaints Disposal Committee headed by an officer not below the rank of Joint Secretary of the Federal Government appointed by the Competent Authority.

(3) The Complaints Disposal Committee shall have the powers to exercise all powers referred to in section 7, 13, 19, 21 and 24 which interalia include the powers either to blacklist the company or blacklist both the company and Directors, forfeit guarantees or order for sale of the company to effect recovery and consequent distribution amongst the affectees or order for change of management and in case of fraud refer the case to the Police/FIA for initiating necessary proceedings under the law.

35 Appeals and review.- (1) A Pilgrim organizer aggrieved by the decision or order of an officer of the Commission or Complaints Disposal Committee may prefer an appeal before the Federal Government within the prescribed time and in the prescribed manner; and the decision of the competent authority in such appeal shall be final.

(2) The competent authority may on hearing grant stay from any adverse action, confirm, compound or enhance the punishment/fine announced by the Complaints Resolution Committee;

Provided that no order against a hajj, umrah or ziarat organizer shall be passed unless it has been given an opportunity of being heard.

36 Delegation of Powers. - The Commission may, by notification in the official Gazette, delegate all or any of its powers to any of the officer or authority subordinate to the Federal Government.

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

- (a) the terms and conditions of grant of licence under this Act;
- (b) the fees payable for the issuance or renewal of a licence, depending on the nature of the services to be rendered by an applicant;
- (c) the form in which an application for a licence is to be made;
- (d) the code of conduct;
- (e) the form of service provider agreement and an undertaking;
- (f) the criteria for allocation of quota amongst the Pilgrim organizers for carrying out the business of hajj, Umra and Ziaraats to holy places;
- (g) the extent of refundable cash guarantee and its mode of deposit;
- (h) the extent of fixed asset guarantee and related modalities;
- (i) regulate and operate Pilgrims Welfare Fund; and
- (j) any other rules to carry out the purpose of this Act.

38 Savings.- All the rules, instructions, orders and policies issued by the Federal Government before promulgation of this Act, shall continue in force and shall be deemed to be issued under the provisions of this Act so far as applicable and with the necessary adaptations until altered, repealed or amended by the competent authority.