

A

Bill

for regulating and managing the Hajj and Umrah

WHEREAS it is expedient to provide for a comprehensive framework for regulating plan, licensing, managing, operation and monitoring of Hajj and Umrah activities including formulation of policy therefore;

It is hereby enacted as follows:-

1. Short title, extent and commencement.- (1) This Act shall be called the *Hajj and Umrah (Regulation) Act, 2022*.

(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,-

(i) **"affectee"** means a pilgrim or an intending pilgrim who individually or collectively suffered hardship or financial loss as a result of any act, omission, default, fraud or negligence of an organizer;

(ii) **"appellate committee"** means a committee constituted under this Act to hear and decide appeals against the decision of the complaint disposal committee;

(iii) **"blacklisting"** means to impose ban on a person or service provider for doing Hajj or Umrah business permanently or for a specific time;

- (iv) **"company"** means a company as incorporated under Companies Act, 2017 (XIX of 2017) and registered under this Act for the purpose of rendering services to pilgrims for performance of *Hajj* or *Umrah*;
- (v) **"compensation"** means the money payable to the affectee by the defaulting service provider or organizer;
- (vi) **"competent authority"** means the secretary as defined in the Rules of Business, 1973;
- (vii) **"complaint"** means any grievance lodged with the division concerned by an affectee in writing relating to *Hajj* or *Umrah* services against the service provider;
- (viii) **"complaint disposal committees" or "CDCs"** means a committees constituted under this Act for disposal of complaints relating to *Hajj* or *Umrah*;
- (ix) **"decision"** means an order or direction of the division concerned, the appellate committees or the CDCs, made in accordance with the provisions of this Act or rules made thereunder;
- (x) **"defaulter"** means a company, chief executive or director of any *Hajj* or *Umrah* company or an individual who committed violation of any provision of this Act or rules or regulations made thereunder;
- (xi) **"division concerned"** means the division to which business of this Act stands allocated;

- (xii) **"donations"** means sums to be received or transferred into fund as donation from any organization or person under this Act;
- (xiii) **"dues"** means any type of dues which are outstanding against an organizer in relation to pilgrim affairs;
- (xiv) **"fee"** means charges prescribed by the division concerned for enlistment or licensing or registration or authorization or process or any service under this Act;
- (xv) **"fund"** means Hajj operation fund, Umrah fund or any other fund created under this Act;
- (xvi) **"grants"** means sums received or transferred into fund as grants from the Federal Government or a Provincial Government or any organization or person for the Hajj operation fund;
- (xvii) **"Hajj group organizer" or "HGO"** means a company duly licensed or registered under this Act as service provider to the pilgrims;
- (xviii) **"Hajj package"** means the cost of Hajj and allied facilities approved by the Cabinet for Government Hajj scheme and by the division concerned for private Hajj scheme under this Act;
- (xix) **"licence"** means a permit or a certificate of registration issued by the division concerned to a company for providing services to pilgrims for performance of Hajj or Umrah;

(xx) **“organizer”** or **“service provider”** means division concerned or a person or a company registered with the division concerned for the purpose of rendering services to pilgrims for performance of Hajj or Umrah;

(xxi) **“Prescribed”** means prescribed by rules or regulations made under this Act, as the case may be;

(xxii) **“record”** includes account, book, return, statement, report, chart, table, form, invoice, letter, agreement, voucher, plan, financial and non-financial information and anything containing information, whether in writing, digital or in electronic means;

(xxiii) **“regulations”** means regulations made under this Act;

(xxiv) **“rules”** means rules made under this Act;

(xxv) **“service provider agreement”** or **“SPA”** means the agreement signed, executed or concluded between the division concerned and company for operation of Hajj or Umrah; and

(xxvi) **“Umrah group organizer”** or **“UGO”** means Service provider duly licenced or registered or enrolled by the division concerned.

3. Hajj policy and plan.- (1) All affairs of the Hajj shall be regulated through Hajj policy and plan which includes, *inter-alia*, allocation and distribution of Hajj quota, Hajj expenses, Hajj packaging, selection of welfare staff, training and monitoring, etcetera .

(2) The Hajj policy and plan under sub-section (1) shall be prepared by a policy committee headed by the secretary of the division concerned and shall consist of nine members to be appointed by the Federal Government for a term of three years, in the prescribed manner.

(3) The Hajj policy and plan under sub-section-(1) shall be approved by the Federal Government and notified in the official Gazette by the division concerned.

4 Government Hajj scheme:- Notwithstanding anything contained in this Act, the division concerned shall have authority to organize, execute and manage Hajj affairs as an independent operator under Government Hajj scheme.

5 Power to grant licence to Hajj group organizer.- (1) The competent authority shall have exclusive power to grant, issue, renew, extend, amend, suspend, review, reissue or rescind a licence in respect of any private limited company and found duly qualified by division concerned in the prescribed manner.

(2) The competent authority may, in the prescribed manner, after serving a show cause notice and providing the opportunity of being heard, suspend or rescind a licence of an HGO on the ground of violation of any provision of this Act, rules or regulations made thereunder or terms and conditions of licence and may encash and forfeit his entire, or a part of, bank guarantee on such violations.

6. Maintenance of record.- (1) The division concerned shall maintain complete record of all licences issued to all the HGOs including information of licences suspended or rescinded.

(2) Hajj group organizers licenced under this Act shall in the manner as may be prescribed seek prior permission of the division concerned before discontinuance, transfer to the extent of management and shares or re-organization of its business or change of its address, as the case may be:

Provided that in case of transfer the transferee shall be liable to clear all liabilities and debt outstanding against the transferor HGO.

7. Criteria for enrollment .- The division concerned shall pre-qualify an HGO for enrolment in the manner as may be prescribed.

8. Allotment of Hajj quota.- (1) The enrolment of an HGO under this Act shall not accrue any right for allotment of Hajj quota.

(2) The Hajj policy committee shall have exclusive powers to allocate, distribute, redistribute and revoke Hajj quota in the manner as may be prescribed

9. Umrah policy.-(1) All affairs of the Umrah shall be regulated through Umrah policy which includes, *inter-alia*, Umrah expenses, Umrah packaging, training and monitoring etc.

(2) The Umrah policy under sub-section-(1) shall in the manner as may be prescribed be prepared by a policy committee as constituted under this Act,

(3) The Umrah policy under sub-section -(1) shall be approved by the Federal Government and notified in the official Gazette by the division concerned.

10. Power to grant licence to Umrah group organizer.- (1) The competent authority shall have exclusive power to grant, issue, renew, extend,

amend, suspend, review, reissue or rescind a licence in respect of any private limited company and found duly qualified by division concerned in the prescribed manner.

(2) The competent authority may, in the prescribed manner, after serving a show cause notice and providing the opportunity of being heard, suspend or rescind a licence of a UGO on the ground of violation of any provision of this Act, rules or regulations made thereunder or terms and conditions of licence and may encash and forfeit his entire, or a part of, bank guarantee on such violations.

11. Maintenance of record.- (1) The division concerned shall maintain complete record of all licences issued to all the UGOs, including information of licences suspended or rescinded.

(2) UGO shall, in the manner as may be prescribed, seek prior permission of the division concerned before discontinuance, transfer to the extent of management and shares or re-organization of its business or change of its address, as the case may be:

Provided that in case of transfer, the transferee shall be liable to clear all liabilities and debt outstanding against the transferor UGO.

12. Criteria for registration.- The division concerned may, subject to any rules or policy made in this behalf from time to time, register and grant licence to such UGO as it thinks fit for undertaking Umrah operation on deposit of such security and on such terms and conditions as may be prescribed.

13. Liability of Hajj or Umrah .- The Hajj or Umrah organizer shall be liable for any act, commission, omission, negligence or default in the provision of services which leads to hardship to any pilgrim by the HGO or UGO in violation of agreement during performance of the Hajj or Umrah, as the case may be.

14. Composition and powers of complaint disposal committees.-(1)
There shall be a four-members CDC chaired by an officer not below the rank of BPS-20 or equivalent for disposal of all complaints pertaining to violation of agreements during performance of Hajj or Umrah resulting in hardship to the pilgrims.

(2) The CDC shall have powers to decide complaints subject to provisions of this Act and rules made thereunder.

15. Appellate committees.- There shall be three-members appellate committees chaired by an officer not below the rank of BPS-21 or equivalent to hear and dispose of appeals against decision of CDCs.

16. Penalty.- (1) The CDC may impose penalty on an HGO or UGO in case of violation of agreement committed by them.

(2) The major penalty shall include permanent or temporary blacklisting of HGO or UGOs, suspension, cancelation or rescinding of licence for specific period, reduction of Hajj quota for a period decided by CDC, in case of HGOs or forfeiture of performance guarantee.

(3) The minor penalty shall include reduction of less than five percent quota in case of HGO for a period as may be decided by CDC, fine proportionate to violation or warning on account of violation of clauses of agreement.

(4) The CDC shall have authority to pass order for the compensation to the aggrieved pilgrims or intending pilgrim to the extent of the claims that happens to be proved.

17. Appeal.- (1) Any person or party aggrieved by any order or decision of the CDCs, may within thirty days of the receipt of such decision or order, prefer an appeal to the appellate committee. The appellate committee shall, after hearing all concerned, decide the appeal within thirty days from the date of its filing, extendable for not more than thirty days, with prior approval of competent authority.

(2) Any person aggrieved by an order or decision of the appellate committee, may within thirty days of the receipt of such decision or order, prefer appeal to the court of district judge of appropriate jurisdiction.

18. Monitoring.- The division concerned shall, in the manner as may be prescribed, devise a comprehensive monitoring mechanism to evaluate the performance of HGO or UGO in and outside Pakistan.

19. Hajj operation fund.- (1) There shall be a Hajj operation fund for the purpose of Hajj operation, to be administered and controlled by the competent authority.

(2) The pilgrim welfare fund which exists prior to commencement of this Act shall stand transferred to and become part of the Hajj operation fund (HOF) to be maintained in a single account in any scheduled bank.

(3) Hajj dues to be deposited by the intending pilgrims in the designated branches of the scheduled banks in Shariah compliant account, profit on retention of Hajj dues and maintenance of accounts, receipts by virtue of utilization of services at all directorates of Hajj in Pakistan or abroad and

refundable performance guarantees of the HGO or any other receipts which the division concerned may prescribe shall be deposited in the account, maintained for the fund under sub section (2).

(4) The expenditure from HOF shall be made in the manner as may be prescribed.

20. Umrah fund.- (1) There shall be an Umrah fund which shall include registration fee, service charges, fine and any other receipts as may be prescribed.

(2) The expenditure from Umrah fund shall be made in the manner as may be prescribed.

21. Bank accounts.- The division concerned shall open and maintain account in the public account of Federation or Shariah compliant bank account in scheduled banks for various funds under this Act, as and when required, with the prior approval of Finance Division.

22. Investment of funds.- The division concerned shall invest in Shariah compliant mode, any surplus amount from the funds in such manner as may be prescribed, with the approval of Finance Division.

23. Audit and accounts of the funds.- Any fund under this Act, shall be maintained and annually audited in accordance with Articles 169 and 170 of the Constitution of the Islamic Republic of Pakistan.

24. Indemnity.- No suit, prosecution or other legal proceedings shall lie against the Federal Government, any of its officers and officials in respect of anything done or intended to be done in good faith under this Act or the rules or regulations made thereunder.

25. Recovery of arrears.- All amounts which are recoverable from an HGO and UGO shall be recovered as per prevailing law on the subject matter.

26. Establishment of offices.- The division concerned may establish offices in the host countries and in Pakistan as and when it considers necessary to carry out the purposes of this Act.

27. Power to make rules.- The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

28. Power to make regulations.- The division concerned may make regulations, not inconsistent with the provision of this Act and the rules made thereunder, to provide for all internal matters for which provision is necessary or expedient for carrying out the purposes of this Act.

29. Overriding effect.- The provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force.

30. Removal of difficulties.- If any difficulty arises in giving effect to any of the provisions of this Act, the Federal Government may make such order, not inconsistent with the provisions of this Act, as it may consider necessary for removal of the difficulty.

31. Saving.- Anything done, action taken, appointments made, orders passed, rules, schemes made, notifications issued or purported to have been done, taken, made, passed or issued before commencement of this Act shall be deemed to have been done, taken, made, passed or issued under this Act and shall have effect accordingly.

Statement of Objects and Reasons

Before this proposed Bill, the Hajj Policy prepared lacked legislative cover regarding penal provisions for those who violate the policy or other instructions issued under the policy. Legislative provisions are required to deal with those who deceive, cheat or misguide the pilgrims. Moreover, there is a need for a legal mechanism for registration, controlling and renewal of Hajj Group Organizers who are responsible to conduct Hajj Operation in the private sector.

2. Similarly, there is no exclusive law to regulate and address the Umrah related issues. A large number of complaints are received at various forums against Umrah Operators but there is hardly any effective law to deal / regulate these complaints. Therefore, a law to regulate the Umrah operation is required to address issues as and when these arise.

3. In order to have mandate of formulation of Hajj & Umrah Policy, regulations of Hajj & Umrah Affairs which include powers to manage the Hajj & Umrah operators viz-a-viz to licensing, registration, monitoring, resolve the complaints of the Hajj & Umrah and penalties imposed on violation, this Ministry has drafted a Hajj and Umrah (Regulation) Bill-2022.

Minister for Religious Affairs &
Interfaith Harmony Islamabad.

Islamabad, 04th February, 2022