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BILL

further to amend the Prevention of Smuggling of Migrants Act, 2018

WHEREAS it is expedient further to amend the Prevention of Smuggling of Migrants Act 2018 (XXVIII of 2018) for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement.- (1) This Act may be called Prevention of Smuggling of Migrants (Amendment) Act, 2019.

(2) It shall come into force at once.

2. Amendment of section 2, Act XXVIII of 2018.- In the Prevention of Smuggling of Migrants (Amendment) Act, 2018, hereinafter referred to as the said Act, in section 2, after paragraph (j) the following new clauses shall be added, namely:-

"(k) "travel agent" means a person doing the profession which involves arranging, managing, or conducting affairs relating to sending persons abroad or which arise out of the affairs of persons sent to a foreign country, except for carrying out the business of recruitment being governed under the Emigration Ordinance, 1979 (XVIII of 1979), and shall include all or any of the following, namely:-

- (a) processing of applications for or relating to grant of passport or visa; or
- (b) acting as an agent for a company, firm or such type of bodies or entities for.-
 - (i) selling air travel tickets; and
 - (ii) providing means of transportation for travel to a foreign country by land or sea; or
- (c) providing consultancy visa service or guidance to the persons intending to go abroad for-
 - (i) acquiring education
 - (ii) undertaking a pleasure trip as a tourist or traveler;
 - (iii) getting medical treatment;
 - (iv) arranging cultural entertainment or musical shows;
 - (v) spreading or preaching religion; or
 - (vi) participating in sports tournaments or events; or
- (d) giving an advertisement or publicity, which relates directly or indirectly to any field of travel to a foreign country by means of publication, transmission, communication or Internet; or
- (e) holding of seminars or delivering of lectures to promote emigration or rendering assistance for such purposes; or
- (f) arranging matrimonial alliances and adoptions for the purpose of emigration; or
- (g) arranging travel of any person from Pakistan to abroad for any purpose whatsoever; or

(h) acting as freelancing type agent for any of the purposes mentioned in clauses (a) to (g).

(1) "Competent Authority" means an officer appointed by the Federal Government by notification, to be the competent authority for the purpose of this Act."

3. Insertion of new sections, Act XXVIII of 2018.- In the said Act after section 2 following new sections shall be inserted, namely:-

“(2A) Regulation of profession of a travel agent: (1) No person shall undertake the profession of a travel agent unless he obtains a license under and In accordance with the provisions of sub-section (2) of section 2A of this section Act.

(2) A person, desiring to undertake the profession of a travel agent or who is already in this profession on the commencement of this Act, shall make an application to the competent authority in such manner along with such fee and containing such documents as may be prescribed.

(3) If the competent authority is satisfied that the application made under sub-section (2) is in order, it shall issue a license under such terms and conditions and in such form as may be prescribed:

Provided that if the competent authority is satisfied that the particulars given in the application are incorrect or are incomplete or that any evidence or information required for issuing the license is not furnished, it may, after necessary inquiry and after giving the applicant an opportunity of being heard, reject the application for the reasons, to be recorded in writing:

Provided further, that the person, whose application has been rejected for grant of license, may make another application to the competent authority for grant of license after removing the defects pointed out by it.

(4) No license shall be issued to a person under sub-section (3), unless the particulars and documents given by him, in his application, are verified by the police.

(5) The validity of a license shall be for a period of five years, which shall be renewable for the said period in such manner, as may be prescribed.

2B. Endorsement of branches or offices.- If a person, who has obtained a license under this Act for the profession of a travel agent at one place in a district, subsequently opens other branch or office at a place situated in another district, he shall not be required to obtain a fresh license for such other 'branch or office. However, he shall immediately inform, in writing, to the competent authority and to the District Magistrate of the district concerned, where a new branch or office has been opened and shall obtain an acknowledgment for giving such information.

2C. Cancellation or suspension of license.- (1) the competent authority may, on an application made to it by any person or otherwise on information that licensee has,-

- a) become insolvent or bankrupt; or
- b) indulged or abetted, directly or indirectly into any act, which is prejudicial to the interest of Pakistan or to its security; or
- c) been convicted by a court for any criminal offence; or
- d) obtained or got renewed the license on misrepresentation or suppression of any material fact; or
- e) violated any of the terms and conditions of the license; or
- f) allow any other person to do the profession of travel agent from his premises or under his name; or
- g) failed to do the profession of travel agent for/continuous period of three months. cancel the license:

Provided that before cancellation of license a show cause notice to the Licensee to explain his position within seven days from the receipt of notice as to why his license should not be cancelled shall be issued.

Explanation- For the purpose of clause (f), the expression 'premises' shall mean any building, tent, vessel, land, structure, shop, booth, vehicle, boat or raft, used as human dwelling or for any other activity by a human being.

(2) If the license is cancelled for the reason mentioned in clause (c) of sub-section (1) and the conviction is set aside by the appellate court, the competent authority may restore the license to the licensee suo-moto or on an application made in this regard.

(3) Where the competent authority, for the reasons to be recorded, in writing, is satisfied that the question of cancellation of any license on any of the grounds mentioned in sub section (1), is pending with it for consideration, it may, by an order, in writing, suspend the operation of the license for such period not exceeding ninety days, as may be specified in the order. The licensee shall be required to show cause within a period of fifteen days from the date of receipt of such order as to why the period of suspension of license may not be extended till the question of cancellation of license is decided by the competent authority.

(4) Before passing an order of cancellation or suspension of a license, the competent authority shall consider the matter keeping in view the interests of the emigrants and may pass such order, as it may deem appropriate.

(5) Except as otherwise provided under this Act, where a license issued to any person has been cancelled, such person shall be debarred from undertaking the profession of a travel agent.

2D. Travel agent to inform the competent authority.- if any travel agent wants to give advertisement or publicity with regard to his profession or to hold seminar in respect thereof, he shall have to inform the competent authority, in writing, by giving complete details or contents thereof.

2E. Surrendering of license.- (1) A travel agent may surrender his license at any time after its issuance by giving two months' notice to the competent authority and on the expiry notice period, the license shall be deemed to have been cancelled.

(2) The fact of cancellation of license under sub-section (2) shall be published by the competent authority in two daily newspapers having wide circulation in the locality concerned.

(3) On the cancellation of license, the travel agent shall not be entitled to refund of fee deposited by him at the time of submitting his application for obtaining license.

(4) Notwithstanding the cancellation of license under this section, the travel agent shall be liable for his acts, omissions and commissions prior to the date of cancellation of the license and he shall be proceeded against as per the provisions of this Act.

2F. **Appeal against order of the competent authority:** Any person, aggrieved by an order passed by the competent authority rejecting application for grant of license or to comply with any term or condition of the license or suspending or cancelling or refusing to renew the license or any other order, may prefer an appeal against such order to the Secretary of Interior Ministry, government of Pakistan within such period, as may be prescribed.”

STATEMENT OF OBJECTS AND REASONS

There is an endless list of the illegal works and ways of the people in Pakistan being used to getting money without taking the notice of after effects and the harm that society faces due to these doings, in Pakistan. Smuggling of the human beings and illegal ways of sending people abroad are also at the top of this list. Illegal Agents are deceiving several civil organizations including FIA. Claiming to be the owner of legal travel agency, these illegal agents sometimes have shops nearby the passport office and claim to be authorized to send people outside the country. They serve the people from changing their dates of birth in CNICs to providing them passports and other documents required to go outside the country. After getting massive fee from the innocent people for providing them passports and other documents, they use illegal tracks to let them go Turkey, Iran and European countries, through a long and horrible journey. During the time period of 2005 to 2016, more than 1100,000 people have been sent outside through this illegal way. This is new trend in the way of human smuggling that has caused death of thousands of people on the border. Border security forces often shot the people being smuggled to death and the people who survive faces other challenges.

According to a survey report, these illegal travel agents have smuggled more than 1100,000 people during the last 15 years. And according to the institution responsible for this survey 6,00,000 people have been found but the rest of the people not found as yet. Reports say that these agents are provided security from the upper classes of the country in retaliation of the payment they receive. That's why the era from 2005 to 2016 is seen to be the favorable for human smugglers. These heart less and enemy to the human race are just valuing the money. They are not concerned with the lives of human beings and are playing with the lives of innocent people. Human smuggling does not only effect the life of the person they smuggle, rather this act of intense brutality brings the lives of their families to a catastrophe and a long lasting gap is created in between the prosperity and the affected families. Therefore, it is very important to amend the existing laws and stop such illegal happening.

The bill has been devised to achieve the above purposes,

Sd/-

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