

The Government of Punjab is contemplating to enact the Punjab Prevention of Human Trafficking Act, 2008. The draft of the proposed legislation is reproduced below :-

INTRODUCTION

The nature of every human being from the time immemorial is to become prosperous and thus to search for greener pastures and in order to achieve the same, some people intend to go abroad at any cost. But every person does not fulfill the qualifications and conditions to go abroad, yet their ambition to go abroad allures them to adopt any mean to do the same, which are not always lawful. As such, in order to achieve their goal, they start visiting persons whose relatives, friends or known persons are already settled abroad for eliciting information about easiest way to go abroad. During this process some innocent/illiterate/gullible persons fall in the trap of unscrupulous persons who allure and induce such persons with false promises to send them abroad by charging heavy amount of money. But thereafter these persons are exploited by these elements for their illegal monetary gains by giving them false assurances for arranging their visas to foreign countries in general and advanced countries like Canada, USA, UK etc particular. Further, under the garb of arranging visas, these unscrupulous elements/agents receive hefty amount of money and documents like passport from innocent persons. But in most of the cases no such visa is provided and in majority of cases, the unscrupulous travel agents stamp their passports with fake visas. In many cases, the unscrupulous persons/travel agents disappear after taking hefty amounts of money and documents from them as mentioned above and in majority of cases these persons are intercepted either in India at the time of embarkation of journey or in foreign countries at the time of disembarkation and some of them are even deported back to India. More often than not, criminal cases are registered against them for possessing forged documents. In some cases, the illegal travel agents after duping them disappears alongwith their passports and other documents. Such people have even to face acute financial hardship when they are left in lurch by such agents at foreign shores in inhospitable conditions. Some time, this lead to serious medical problems like frostbiting and some of them even meet tragic death as happened during infamous Malta Boat Tragedy. Presently, there is no proper legislation under which strict legal action can be taken against these unauthorized and illegal travel agents and also to handle such situations to safeguard the legitimate interests of illiterate/innocent persons who have been cheated in afore-mentioned manner. The Government of Punjab is desirous of enacting a legislation to curb illegal activities of people involved in organized racket of human trafficking, which is proposed to be named as The Punjab Prevention of Human Trafficking Act-2008, whose draft has been prepared which is under consideration of the State Government.

**THE PUNJAB PREVENTION OF HUMAN TRAFFICKING ACT,
2008.**

PUNJAB ACT NO. OF 2008

**AN
ACT**

to provide for the regulation of travel agents with a view to check and curb the illegal, fraudulent activities and malpractices of people involved in organized human trafficking & business of illegal travel agents in the State of Punjab and for the matter incidental or connected therewith.

1. Short title and commencement

BE it enacted by the Legislature of the State of Punjab in the Fifty-Seventh Year of the Republic of India as follows: -

1) This Act may be called the Punjab Prevention of Human Trafficking Act, 2008.

2) It shall come into force on such date as the State Government may appoint by notification in this regard.

2. Definitions

(1) In this Act, unless the context otherwise requires,—

(a) "act" means the Punjab Prevention of Human Trafficking Act, 2008;

(aa) "appeals"

(i) appeal against the order passed by the competent authority under sections 4,5,6,7 shall lie before the Principal Secretary, Department of Home Affairs & Justice, Punjab.

(ii) appeal against the orders/judgment passed under section 14 of the Act shall lie before the High Court for the State of Punjab & Haryana at Chandigarh.

(aaa) "appellate authority" means any authority authorized by the govt. under section 17 of this act to hear and decide appeals, revisions, review etc.

(b) "benami transaction" means any transaction in which property is transferred to one person for a consideration paid or provided by an other person/persons.

(c) "competent authority" means an officer authorized by the govt. under section 4 of this act.

(cc) "compensation" include any amount of money payable to the aggrieved person after recovering the same from accused or person/agents who caused any loss to an aggrieved person with his illegal activities or wrongful gain ascertained by the court.

(ccc) "company" means any body corporate and includes a firm or other association of individuals;

(cccc)"cheating" means the same as one defined u/s 415 and section 416 of IPC;

(ccccc) "complaint" means any allegation made orally or in writing by any person to an Illaqa Judicial Magistrate 1st Class for taking action against any travel agent registered or unregistered for commission of an offence under this Act.

(ccccc) "court" means special court not below the rank of Additional Sessions Judge designated by the State Government in each district for trying offences under this act.

(d)"dependent" means any person who is related to a person, who intends to go or has gone abroad, and is dependent on that person;

(dd)"device" means any machinery or instrument for the purpose of being used, having reason to believe that. It is intended to be used, for forging or for counterfeiting documents, Passport , visas entry permit and travel ticket etc.

(ddd)"director", in relation to a firm, means a partner in the firm.

(dddd) "document" The word "document" denotes any matter expressed or described upon any substance by means of letters, figures, or marks, or by more than one of those means, intended to be used or which may be used, as evidence of that matter.

(e)"education" means enrollment into any kind of institute of organizing imparting of any kind of education in a country other than India;

(ee)"emigrant" means any citizen of India who intends to emigrate, or emigrates, or has emigrated but does not include;

- i) a dependent of an emigrant, whether such dependent accompanies that emigrant, or departs subsequently for the purpose of joining that emigrant in the country to which that emigrant has lawfully emigrated;
- ii) any person who has resided outside India at any time after attaining the age of eighteen years, for not less than three years or the spouse or child of such person.

(eee) "employer" means any person providing or offering to provide, employment in any country or place outside India;

(eeee)"employment" means any service, occupation or engagement or promise to provide service abroad(not being service, occupation or engagement under the State Government or a Central Government), in any kind and all its grammatical variations and cognate expressions shall be construed accordingly;

(f)"fund" means the State fund for regulating activities of travel agents as contained in section 3 (1).

(g) "human trafficking" means the recruitment, transportation, harbouring or receipt of persons, by means of threat or inducement or allurement or deception or abuse of power or of a position of vulnerability or of the giving or receiving of payments of benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation includes sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs. It includes extending false promises to individual or group of individual for sending them abroad in an illegal manner and by performing illegal activity after charging money and taking documents like passport etc from them.

(h) "illegal activity" is any act prohibited by law or by laws done by a person and shall include a false promise by travel agent or any other or group of persons for sending them abroad for providing permanent emigration, obtaining education, working in foreign country on a work permit/contractual basis, professional and business assignment, pleasure trip as a tourist/traveller/holiday day operator, medical treatment, cultural/entertainment/musical shows, spreading/preaching of religion, participating in

sports tournament/events, giving an advertisement related directly or indirectly to any field of travel to a foreign country by means of publication, transmission or communication or internet, holding of seminars/lectures to promote emigration and/or extend assistance for such purposes, arranging matrimonial alliances and adoptions for the purpose of emigration, arranging travel of any person from India to abroad for any purpose whatsoever etc.

(hh) "illegally acquired property" in relation to any person means,-

(a) any property acquired by such person, whether before or after the commencement of this Act wholly or partly out of or by means of any income, earnings or assets derived or obtained from or attributable to the contravention of any provisions of this Act; or

(b) any property acquired by such person, whether before or after the commencement of this Act for a consideration or by means wholly or partly traceable to any property referred to in sub-clause (i) or the income or earnings from such property, and includes-

(i) any property held by such person which would have been in relation to any previous holder thereof illegally acquired property under this clause if such previous holder had not ceased to hold it, unless such person or any other person who held the property at any time after such previous holders, the last of such previous holders is or was a transferee in good faith for adequate consideration;

(ii) any property acquired by such person, whether before or after the commencement of this Act, for a consideration, or by means, wholly or partly traceable to any property falling under item (i), or the income or earnings there from;

(i) "license" means travel agent's licence in force under this act;

(ii) "licensee" means holder of licence;

(iii) "licensing authority" means the District Magistrate of a district or any other officer appointed by the State Government in this regard.

(j) "notification" means a notification published in the Official Gazette;

(k) "officer" means any police officer not below the rank of Assistant Sub Inspector on the roll of the state police empowered under the Code of Criminal Procedure, 1973 to conduct investigation into commission of a cognizable offence.

(l) "person" means any man/woman of any age shall also includes any company or body corporate or association or body of individuals, whether incorporated or not.

(ll) "premises" means any building, tent, vessel, land, structure, shop, booth, vehicle, boat & raft used as human dwelling place or for any other activities by the human being.

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

(llll) "Property" means property and assets of every description, whether corporeal or incorporeal, movable or immovable, tangible or intangible and deeds and instruments evidencing title to, or interest in, such property or assets and also include bank account.

(lllll) "Power of attorney" includes any instrument empowering a specified person/persons to act for and in the name of person/persons of executing it.

(m) "recruitment" includes the issuing of any advertisement for the purpose of recruitment, the offering by advertisement to secure or assist in securing any employment in any country or place outside India and the entering into any correspondence, negotiation, agreement or arrangement with any individual for or in relation to the employment of such individual in any country or place outside India;

(n) "State" means the state of Punjab.

(o) "travel agent" means a person carrying out a business involving management, arranging and conduct of such professional affairs leading to or arising out of a person's visit to a foreign country for the following purposes and requiring:

- i) processing of applications for or relating to grant of facility of passport, visa;
- ii) acting as a general sales agent (GSA) –
 - for airways companies and selling air travel tickets;
 - for any company providing means of transportation for travel to a foreign country using earth and sea;
- iii) providing of consultancy/guidance to those persons intending to go abroad–
 - for permanent emigration;
 - for obtaining education;
 - for working in a foreign country on a work permit, contractual basis, professional and business assignment;
 - for a pleasure trip as a tourist/traveller/holiday tour operator;
 - for medical treatment
 - for cultural/entertainment/musical shows;
 - spreading/preaching of religion;
 - participating in sports tournaments/events;
- iv) giving an advertisement related directly or indirectly to any field of travel to a foreign country by means of publication, transmission or communication or internet.
- v) holding of seminars/lectures to promote emigration and/or extend assistance for such purposes.
- vi) For arranging matrimonial alliances and adoptions for the purpose of emigration.
- vii) For arranging travel of any person from India to abroad for any purpose whatsoever.

(p) "vessel" the word "vessel" denotes any thing made for the conveyance by water of human beings or of property.

(pp) "valuable security" the words "valuable security" denote a document which is, or purports to be, a document whereby and legal right is created, extended, transferred, restricted, extinguished or released, or where by any person acknowledges that he lies under legal liability, or has not a certain legal right.

(q) "wrongful gain" is gain by unlawful means of property to which the person gaining in not legally entitled.

3. Constitution of the Fund

- (1) The State Government may, by notification in the Official Gazette, constitute a Fund to be called the State Fund, for regulating the profession of the travel agents. (hereinafter called the "Fund").
- (2) The following shall be credited to the Fund, namely:-
 - (a) an amount which the State Government may, after due appropriation made by law in this behalf, provide;
 - (b) the sale proceeds of any property forfeited under this Act;
 - (c) any amount that may be made by any person or institution; and
 - (d) any income accrued from the investment of the amounts credited to the Fund.
- (3) The Fund shall be applied by the State Government to meet the expenditure incurred in connection with the measures taken for:-
 - (a) checking or curbing the fraudulent and malpractices of travel agents;
 - (b) educating the public not to be misguided by the false promises made by the travel agents;
 - (c) Compensating the persons, who have been defrauded or adversely affected due to the malpractices of travel agents;
 - (d) any other matter connected or incidental thereto.
- (4) A State Level Board will be constituted to manage the fund.

4. Issuance of License

(1) No person shall carry on the business of travel agents, unless he obtains a license in this regard.

(2) Every person/company/firm required to obtain a license under sub-section (1), shall make an application for license within a period of sixty days from the date of commencement of this Act in the prescribed manner to the District Magistrate of the concerned district or any other officer, appointed by the State Government in this regard, provided that no person/firm/company shall be issued license until and unless the particulars of said firm/person/company are verified by the police.

(3) If the District Magistrate or any officer, appointed by the State Government is satisfied that the application for license is in order, he shall in accordance with the such manner and on payment of a fee of Rs. 10,000/- (Rupees ten thousand only), grant him a license in the prescribed form:

Provided that if the District Magistrate or any officer, appointed by the State Government is satisfied that the particulars contained in the application are not correct or incomplete or that any evidence or information required for issuing the license, is not furnished, he 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. However, the applicant may submit a fresh application for issuing a license in accordance with the provisions of this Act.

(4) A licence under this Act shall be issued only for the particular purpose or purposes as specified in the Act for a period of three years and shall be renewed after expiry of every three years as per procedure referred above.

(5) A licence under this Act shall be issued only to those persons having qualifications of graduation from any recognized university of India or any other qualification fixed/determined by the State Government from time to time.

5. Cancellation, suspension, etc., of a licence

(1) The licensing authority may cancel any licence on any one or more of the following grounds and on no other ground, namely;—

- i) that having regard to the manner in which the holder of the licence has carried on his business or any deterioration in his financial position resulting into insolvency or bankruptcy, the facilities at his disposal, the licensee is not a fit person to continue to hold the licence;
- ii) that the licensee has indulged or abetted, directly or indirectly, into any act or action of commission prejudicial to the interests of India and security of State.
- iii) that the holder of the licence has, subsequent to the issue of the licence been convicted by any court in any criminal offence.

PROVIDED that if the conviction is set-aside in appeal or otherwise, the cancellation under sub-section (c) shall become set aside and the license shall be restored on the application given by the licensee in this regard.

- iv) that the licence has been issued or renewed on misrepresentation or suppression of any material fact;
- v) that the holder of the licence has violated any of the terms and conditions of the licence;
- vi) that in the opinion of the State Government, it is necessary in the interest of the general public to cancel the licence.

(2) Where the licensing authority, for reasons to be recorded in writing, is satisfied that pending the consideration of the question of canceling any licence on any of the grounds mentioned in sub-section (1), it is necessary so to do, the licensing authority may, by order in writing, suspend the operation of the licence for such period not exceeding ninety days as may be specified in the order and require the holder of the licence to show cause within fifteen days from the date of receipt of such order, as to why the suspension of the licence should not be extended till the determination of the question as to whether the licence should be cancelled.

(3) An order for cancellation of a licence can be made under sub-section (3) by licensing authority or an appellate court or by a court exercising its powers in revision.

(4) Before passing an order of cancellation or suspension of a license, the licensing authority or the court, as the case may be, shall consider the question as to the provisions and arrangements which should be made for safeguarding the interests of emigrants and other persons with whom the holder of the licence had any transactions in the course of his business as travel agent and may make such orders (including orders permitting the holder of the licence to continue to carry on his business with respect to all or any of such emigrants and other persons) as it may consider necessary in this behalf.

(5) Where a licence issued to any person has been cancelled under this section, such person shall not be eligible to make an application for another licence under this Act either in his name or in the name of any other person related to him or in the name of any company or firm.

(6) In case, the travel agent does not carry any business continuously for a period of 3 months after the grant of license his license shall be liable to be cancelled by giving show cause notice explaining his position within seven days.

(7) If any travel agent allows any other an un-authorized person to carry on the business of travel agency from his premises or under his name then the license of the travel agent shall be cancelled.

6. Furnishing of Bank Guarantee by travel agent

As and when the licensing authority approves an application for grant of licence of a travel agent to an applicant after following due procedure, the applicant will be required to furnish with the State Government a bank guarantee/cash security of Rs. 10 lac after obtaining the license.

(1) If an applicant fails to furnish, the bank guarantee required to be furnished under this Act within the period specified in sub-section, his/her application shall be deemed to have been rejected by the licensing authority on the date of expiry of that period.

7. Surrendering of License

Travel agents shall be free to surrender the license in case he/she wishes to close his/her business by giving two months advance notice to the licensing authority and on the expiry of the notice period, the license shall come to an end. Travel agents shall not be authorized to do the business, thereafter he/she shall also not liable to refund of license fee of the remaining license period but his/her bank guarantee shall be released forthwith.

8. Deposit of Fee

Every amount of fee, received under this Act, shall be deposited in the concerned State treasury.

POWERS

9. Power to make rules

1. The State government may, by notification, make rules to carry out the provisions 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:

- a) the procedure to be followed for issuing license and fixing validity under the Act;
- b) the fees and procedure to be adopted in registration of travel agents;
- c) procedure for disposal of confiscated property and relief to victim;
- d) procedure for charging reasonable and requisite amount by the travel agent for providing service under this act;
- e) any other matter which have to be, or may be, prescribed.

10. Power to search, seizure of conveyance, premises etc. and arrest of persons.

(1) Any executive magistrate or gazetted officer of police or any other department of the State Government as is empowered in this behalf by general or special order of the State Government, if he has reason to believe from personal knowledge or information given by any person and taken down in writing, that any document, in respect of which an offence punishable under this act has been committed or any document or other article which may furnish evidence of commission of such offence is kept or concealed in any building, conveyance or enclosed place, may, at any time—

- i) enter into and search any such building, conveyance or place;
- ii) in case of resistance break open a door, locks etc. and remove any obstacle to such entry;
- iii) seize such document or substance and all material used for fabrication of any document etc. which he has reason to believe to be liable to confiscation under this act and any document or other article which he has reason to believe may furnish evidence of the commission of any offence punishable under this Act; and
- iv) detain and search and, if he thinks proper, arrest any person whom he has reason to believe to have committed any offence punishable under this Act.
- v) to get free person/persons who have been illegally detained by him.

PROVIDED that if such officer has reason to believe that a search warrant or authorization cannot be obtained without affording opportunity for the concealment of evidence facility for the escape of an offender, he may enter or search such building, conveyance or enclosed place at any time between sunset and sunrise after recording the grounds of his belief.

11. Confiscation of property

Any illegally acquired property under this Act whether moveable or immovable, shall be liable to confiscation.

12. Procedure in making confiscation

In the trial of offences under this Act, whether the accused is convicted or acquitted or discharged, the court shall decide whether any property illegally acquired under this Act is liable to confiscation and if it decides that the property is liable, it may order confiscation of that property.

12 (A).

All the cases under this Act shall be tried by the Special Court as designated by the State Government on police report or on a complaint made by an aggrieved person.

It is made clear that If the police or competent authority under this Act does not take any action on any complaint made by an aggrieved person, then the aggrieved person can file a complaint before the Illaqa Judicial Magistrate as provided under sections 200 to 204 of the Code of Criminal Procedure, 1973 and after the receipt of such complaint and after conducting enquiry, if the Illaqa Judicial Magistrate 1st Class finds sufficient grounds for proceeding against accused, the then Illaqa Judicial Magistrate 1st Class shall summon the accused and shall commit that case for trial before the designated court.

OFFENCES AND PENALTIES

13. Offences and Penalties.---

- (1) (a) Whoever except in conformity with the provisions of this Act carries on the business of Travel Agent shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine which may extend to fifty thousand rupees.
- (1) (b) Whoever contravenes the provision of section 4 of this Act shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine which may extend to one lac rupees.
- (1) (c) Whoever by intentionally furnishes any false information or suppress any material information for obtaining registration or licence for the purpose of running the business of travel agency shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine which may extend to fifty thousand rupees.
- (1) (d) Whoever without any lawful authority makes or causes to make or made any alteration in any registration certificate or licence or any other document or endorsement by making an endeavour to falsely legalise his business or to send any person abroad shall be punished with imprisonment for a term which may extend to five years and shall also be liable to fine which may extend to one lac rupees.
- (1) (e) Whoever disobeys or neglects to comply with any order of the authorities under this act shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine which may extend to fifty thousand rupees.
- (1) (f) Whoever collects from any person intending to go abroad any charges in excess than the limit prescribed under this act or the rules framed their under shall be punished with imprisonment for a term which may extend to five years and shall also be liable to fine which may extend to one lac rupees.

13 (1) (g) : Whoever, registered travel agent or other person/persons dishonestly, fraudulently or by misrepresentation and in order to have wrongful gain induces, deceives, cheats and allures any person/persons with an assurance to get him/her/them settled abroad or ensuring permanent emigration etc. thereof in a foreign country shall be deemed to have committed an offence under this Act and punishment provided for such offences is given below: -

13 (1) (g) (i): For commission of an offence in permanent emigration cases involving amount below Rs. one lac, punishment shall be with imprisonment for a term which may extend to three years and with minimum fine of Rs. fifty thousand which may extend to one lac rupees. In case amount involved is Rs. one lac to Rs. five lacs, punishment shall be with rigorous imprisonment for a term which may extend to five years and with minimum fine of Rs. one lac which may extend to five lacs rupees. In case amount involved is Rs. five lacs to Rs. twenty five lacs, punishment shall be with rigorous imprisonment for a term which may extend to seven years and with minimum fine of Rs. five lacs which may extend to twenty five lacs rupees. In case amount involved is more than Rs. twenty five lacs, punishment shall be with rigorous imprisonment for a term which may extend to ten years and with minimum fine of Rs. twenty five lacs which may extend to the amount involved in that case.

- 13 (1) (g) (ii): For commission of an offence in cases relating to educational consultancy involving amount below Rs. one lac, punishment shall be with imprisonment for a term which may extend to three years and with minimum fine of Rs. fifty thousand which may extend to one lac rupees. In case amount involved is Rs. one lac to Rs. five lacs, punishment shall be with rigorous imprisonment for a term which may extend to five years and with minimum fine of Rs. one lac which may extend to five lacs rupees. In case amount involved is Rs. five lacs to Rs. twenty five lacs, punishment shall be with rigorous imprisonment for a term which may extend to seven years and with minimum fine of Rs. five lacs which may extend to twenty five lacs rupees. In case amount involved is more than Rs. twenty five lacs, punishment shall be with rigorous imprisonment for a term which may extend to ten years and with minimum fine of Rs. twenty five lacs which may extend to the amount involved in that case.
- 13 (1) (g) (iii): For commission of an offence in getting work in foreign country on work permit, contractual basis, professional or business assignments cases involving amount below Rs. one lac, punishment shall be with imprisonment for a term which may extend to three years and with minimum fine of Rs. fifty thousand which may extend to one lac rupees. In case amount involved is Rs. one lac to Rs. five lacs, punishment shall be with rigorous imprisonment for a term which may extend to five years and with minimum fine of Rs. one lac which may extend to five lacs rupees. In case amount involved is Rs. five lacs to Rs. twenty five lacs, punishment shall be with rigorous imprisonment for a term which may extend to seven years and with minimum fine of Rs. five lacs which may extend to twenty five lacs rupees. In case amount involved is more than Rs. twenty five lacs, punishment shall be with rigorous imprisonment for a term which may extend to ten years and with minimum fine of Rs. twenty five lacs which may extend to the amount involved in that case.
- 13 (1) (g) (iv): For commission of an offence in cases for a pleasure trip as a tourist/traveller/holiday tour operators involving amount below Rs. one lac, punishment shall be with imprisonment for a term which may extend to three years and with minimum fine of Rs. fifty thousand which may extend to one lac rupees. In case amount involved is Rs. one lac to Rs. five lacs, punishment shall be with rigorous imprisonment for a term which may extend to five years and with minimum fine of Rs. one lac which may extend to five lacs rupees. In case amount involved is Rs. five lacs to Rs. twenty five lacs, punishment shall be with rigorous imprisonment for a term which may extend to seven years and with minimum fine of Rs. five lacs which may extend to twenty five lacs rupees. In case amount involved is more than Rs. twenty five lacs, punishment shall be with rigorous imprisonment for a term which may extend to ten years and with minimum fine of Rs. twenty five lacs which may extend to the amount involved in that case.
- 13 (1) (g) (v): For commission of an offence in cases for medical treatment involving amount below Rs. one lac, punishment shall be with imprisonment for a term which may extend to three years and with minimum fine of Rs. fifty thousand which may extend to one lac rupees. In case amount involved is Rs. one lac to Rs. five lacs, punishment shall be with rigorous imprisonment for a term which

may extend to five years and with minimum fine of Rs. one lac which may extend to five lacs rupees. In case amount involved is Rs. five lacs to Rs. twenty five lacs, punishment shall be with rigorous imprisonment for a term which may extend to seven years and with minimum fine of Rs. five lacs which may extend to twenty five lacs rupees. In case amount involved is more than Rs. twenty five lacs, punishment shall be with rigorous imprisonment for a term which may extend to ten years and with minimum fine of Rs. twenty five lacs which may extend to the amount involved in that case.

13 (1) (g) (vi): For commission of an offence in cases for cultural/entertainment/musical shows etc. involving amount below Rs. one lac, punishment shall be with imprisonment for a term which may extend to three years and with minimum fine of Rs. fifty thousand which may extend to one lac rupees. In case amount involved is Rs. one lac to Rs. five lacs, punishment shall be with rigorous imprisonment for a term which may extend to five years and with minimum fine of Rs. one lac which may extend to five lacs rupees. In case amount involved is Rs. five lacs to Rs. twenty five lacs, punishment shall be with rigorous imprisonment for a term which may extend to seven years and with minimum fine of Rs. five lacs which may extend to twenty five lacs rupees. In case amount involved is more than Rs. twenty five lacs, punishment shall be with rigorous imprisonment for a term which may extend to ten years and with minimum fine of Rs. twenty five lacs which may extend to the amount involved in that case.

13 (1) (g) (vii): For commission of an offence in cases for spreading/preaching of religion involving amount below Rs. one lac, punishment shall be with imprisonment for a term which may extend to three years and with minimum fine of Rs. fifty thousand which may extend to one lac rupees. In case amount involved is Rs. one lac to Rs. five lacs, punishment shall be with rigorous imprisonment for a term which may extend to five years and with minimum fine of Rs. one lac which may extend to five lacs rupees. In case amount involved is Rs. five lacs to Rs. twenty five lacs, punishment shall be with rigorous imprisonment for a term which may extend to seven years and with minimum fine of Rs. five lacs which may extend to twenty five lacs rupees. In case amount involved is more than Rs. twenty five lacs, punishment shall be with rigorous imprisonment for a term which may extend to ten years and with minimum fine of Rs. twenty five lacs which may extend to the amount involved in that case.

13 (1) (g) (viii): For commission of an offence in cases for participating in sports tournaments/events involving amount below Rs. one lac, punishment shall be with imprisonment for a term which may extend to three years and with minimum fine of Rs. fifty thousand which may extend to one lac rupees. In case amount involved is Rs. one lac to Rs. five lacs, punishment shall be with rigorous imprisonment for a term which may extend to five years and with minimum fine of Rs. one lac which may extend to five lacs rupees. In case amount involved is Rs. five lacs to Rs. twenty five lacs, punishment shall be with rigorous imprisonment for a term which may extend to seven years and with minimum fine of Rs. five lacs which may extend to twenty five lacs rupees. In case amount involved is more than Rs. twenty five lacs, punishment shall be with rigorous imprisonment for a term which may extend to ten years and with minimum fine of Rs. twenty five lacs which may extend to the amount involved in that case.

- 13 (1) (g) (ix): For commission of an offence by giving an false advertisement related directly or indirectly to any field of travel to a foreign country by means of publication, transmission or communication or internet punishment shall be with imprisonment for a term which may extend to two years and with minimum fine of Rs. ten thousand which may extend to fifty thousand rupees.
- Whoever failed to quote registration/licence number & complete office address etc. in the advertisement shall be liable for imprisonment, which may extend to one year and shall also liable to pay minimum fine of Rs. ten thousand which may extend to fifty thousand rupees.
- 13 (1) (g) (x): For commission of an offence of holding of illegal seminars, lectures to promote emigration and or extends assistance for such purposes, punishment shall be with imprisonment for a term which may extend to two years and with minimum fine of Rs. ten thousand which may extend to fifty thousand rupees.
- 13 (1) (g) (xi): For commission of an offence for arranging illegal matrimonial alliances and adoptions, punishment shall be with imprisonment for a term which may extend to two years and with minimum fine of Rs. ten thousand which may extend to fifty thousand rupees.
- 13 (1) (g) (xii): For commission of an offence for arranging illegal travel of any person from India to abroad for any purpose whatsoever, punishment shall be with imprisonment for a term which may extend to two years and with minimum fine of Rs. ten thousand which may extend to fifty thousand rupees.
- 13 (1) (g) (xiii): Whoever in order to obtain Visa for getting education or for any other purpose prepares or participates in preparing false documents like income tax returns, bank certificates/statements in connivance with income tax practioners/CA/Accountants etc. in order to prove the sound financial status shall be punished for rigorous punishment which may extend to three years and shall also liable to pay minimum fine of Rs. twenty thousand which may extend to one lac rupees.
- 13 (1) (g) (xiv) Whoever fails to or refuses to return back passport or any other document supplied by any person to any travel agent for seeking guidance to visit abroad or for taking visa etc., in that event the said travel agent shall be liable for rigorous imprisonment which may extend to three years and shall also be liable to pay minimum fine of Rs. twenty thousand which may extend to Rs. one lac.
- PROVIDED** that in the absence of any special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than one year and fine of one thousand rupees.
- 13 (2) Whoever attempts to commit any offence under section(1) shall be punishable with the punishment provided for such offence under that sub-section.
- 13 (3) Whoever contravenes any term or condition subject to which license has been given under this act shall, if no other punishment is provided elsewhere in this act for such contravention, be punishable for a term which may extend to one year or with minimum fine of Rs. five thousand which may extend to twenty thousand rupees or with both.

- 13 (4) Whoever abets any offence punishable under this act shall, if the act abetted is committed in consequence of the abetment, be punishable with the punishment provided for that offence.
- 13 (5) Whoever, having been convicted of an offence under any provision of the act is again convicted of an offence under the same provision, shall be punishable, for the second and for each subsequent offence, with double the penalty provided for that offence.
- 13 (6) Despite awarding the above punishment, the court shall also be competent and authorized to award any amount of reasonable and adequate compensation to be paid to the victim.

14. Offences by companies.

(1) Where an offence under this Act has been committed by a company, every person who, at the time, the offence was committed, was incharge, owner, proprietor, director, partner, manager, secretary, office bearer etc, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

PROVIDED that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager secretary or other officer shall be deemed to be guilty of that offence, and shall be liable to be proceeded against and punished accordingly.

15. Offences to be cognizable and Non-bail able.

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), all offences under this Act shall be cognizable and non-bailable.

16. Punishment to be without prejudice to any other Action

The award of punishment for an offence under this Act shall be without prejudice to any other action which has been or which may be taken under this Act with respect to such contravention.

17. APPEALS

- (1) Any person aggrieved by—
- (a) an order of the registering authority rejecting his application for grant of license or requiring him to furnish any guarantee or to comply with any term or condition (not being a prescribed term or condition) specified in the certificate issued to him or suspending or canceling or refusing to renew the certificate issued to him; or
 - (b) an order of the Competent Authority rejecting his application for a license or requiring him to comply with any terms or conditions (not being a prescribed term

or condition) specified in the license issued to him, or suspending or canceling or refusing to extend the period of the validity of the license issued to him; or

(c) an order of the registering authority or the Competent Authority or the prescribed authority requiring him to furnish any guarantee, additional guarantee or fresh guarantee under this Act, or forfeiting or rejecting his claim for release (whether wholly or partly in either case) of the guarantee, the additional guarantee or the fresh guarantee furnished by him, may prefer an appeal against such order to the Competent Authority within such period as may be prescribed.

(2) No appeal shall be admitted if it is preferred after the expiry of the period of 30 days:

PROVIDED that an appeal may be admitted after the expiry of the period if the appellant satisfies the Competent Authority that he had sufficient cause for not preferring the appeal within that period.

(3) The period prescribed for an appeal shall be computed in accordance with the provisions of the Limitation Act, 1963 (36 of 1963), with respect to the computation of periods there under.

(4) Every appeal under this section shall be made in such form as may be prescribed and shall be accompanied by a copy of the order appealed against and by such fee as may be prescribed.

(5) The procedure for disposing of an appeal (including remand of the matter for further consideration to the authority whose order has been appealed against) shall be such as may be prescribed:

PROVIDED that before disposing of an appeal, the appellant shall be given a reasonable opportunity of representing his case.

(6) Every order made on an appeal under this section confirming, modifying or reversing the order appealed against shall be final.

MISCELLANEOUS

18. Release of guarantee

Any guarantee furnished under this Act shall be released, when no longer required for the purpose for which it has been furnished and the other circumstances in which and the manner in which any guarantee furnished under this Act may be released shall be such as may be prescribed.

19. Effect of other laws

(1) The provisions of this Act or any rule made there under shall have effect notwithstanding any thing inconsistent therewith contained in any enactment other than this Act or in any agreement or other instrument having effect by virtue of any enactment other than this Act.

(2) Save as provided in sub-section (1), the provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force.

20. Delegation

The State Government may, by notification, direct that any power or function—

(a) which may be exercised or performed by it under this Act, or

(b) which may be exercised or performed by a registering authority, a Competent Authority under this Act, may, in relation to such matters, and subject to such conditions, if any, as it may specify in the notification, be also exercised or performed—

(i) State Government or by any officer or authority subordinate to such State Government.

21. Protection of any action taken under the Act

1. No suit, prosecution or other legal proceeding shall lie against any person for anything which is done or intended to be done in good faith in pursuance of this Act or any rules made thereunder or any order issued under any such rule.

2. Save as otherwise expressly provided under this Act, no suit or other legal proceeding shall lie against the government for any damage caused or likely to be caused by anything done or intended to be done in good faith in pursuance of this Act or any rules made thereunder or any order issued under any such rule.

All concerned are requested to offer their views/suggestions /objections with regard to the above proposed legislation and send the same to the Principal Secretary to Government of Punjab, Department of Home Affairs and Justice (Home-III Branch), Punjab Civil Secretariat, Chandigarh latest by 31-1-2008 so that the same may be considered before enacting the proposed legislation. The proposed draft may also be viewed at website www.punjab.gov.in