

**AZAD GOVERNMENT OF THE STATE OF JAMMU AND KASHMIR
LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD**

Dated: 7th May, 2019

No. LD/Legis-Act/106-118/2019. The following Act of Assembly received the assent of the President on the 3rd day of May 2019, is hereby published for general information.

(ACT VIII OF 2019)

An
Act

to provide law to create an enabling environment for promotion of Tourism Sector

WHEREAS it is expedient to expand the provision of infrastructure and hospitality services in tourism sector by improving their reliability and quality for accelerating economic growth and achieving the social objectives of the Government, to mobilize the private sector resources for financing, construction, maintenance and operation of tourism projects, to improve efficiency of management, operation and maintenance of tourism facilities by introduction of modern technologies and management techniques, to incorporate principles of fairness, competition and transparency in tourism infrastructure and hospitality services projects and to provide for ancillary matters thereto;

It is hereby enacted as follows:-

CHAPTER-I
PRELIMINARY

1. **Short title, extent and commencement.**-(1) This Act may be called the Azad Jammu and Kashmir Tourism Promotion Act, 2019.
 - (2) It shall extend to the whole of the Azad Jammu and Kashmir.
 - (3) It shall come into force at once.
2. **Applicability.**- The provisions of this Act shall apply to all the projects related to tourism infrastructure,

hospitality services, adventure and recreational activities in Azad Jammu and Kashmir.

3. Definitions.- In this Act, unless there is anything repugnant to the subject or context,-
- (a) “Bid” means a technical and financial proposal submitted by a person eligible under this Act to undertake a tourism project;
 - (b) “Construction” includes reconstruction, rehabilitation, renovation, improvement, expansion, addition, alteration and related activities against a tourism related project implemented/executed by the Private Investor after an investment agreement;
 - (c) “Government” means the Azad Government of the State of Jammu and Kashmir;
 - (d) “Government Agency” means Azad Jammu and Kashmir Tourism and Archaeology Department;
 - (e) “Investment” includes financing, development and pre-operative capital expenditure made or incurred on services, facilities, land, construction and equipment for tourism projects as may be prescribed;
 - (f) “Investment Agreement” means an agreement or contract made between the Government Agency and a Private Investor for the provision of an infrastructure facility or service through a project under this Act;
 - (g) “Lease” means any land or building transferred to a Private Investor by the Government Agency on lease for tourism investment projects;
 - (h) “Lender” means a financial institution, bank or an establishment providing financial support with or without security;
 - (i) “Prescribed” means prescribed by the Rules made under this Act;

- (j) "Private Investor" means an entity, person, company or consortium registered in AJ&K as such, who enters into an Agreement with the Government Agency;
- (k) "Project" means a tourism project implemented under this Act;
- (l) "PPU" means the Project Planning Unit established by the State Tourism Executive Committee;
- (m) "Risk" means any act or event which may adversely affect the performance and cost of a project;
- (n) "STEC" means State Tourism Executive Committee constituted under this Act;
- (o) "Schedule" means the Schedule appendix to this Act;
- (p) "Tourist Infrastructure" means any facility provided by the Government Agency or a private investor or both for tourism promotion; and
- (q) "User Levy" means a levy, tariff, toll, fee, or a charge which may be collected under an Investment Agreement.

CHAPTER-II

INSTITUTIONAL ARRANGEMENTS

4. State Tourism Executive Committee (STEC).-(1) There shall be a State Tourism Executive Committee consisting of the following,-

- (i) Minister for Tourism & Archaeology Chairperson
- (ii) Chief Secretary of AJ&K Vice Chairman
- (iii) Additional Secretary (Dev.) Chief Member

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|--------|---|-------------------|----------------------|
| (iv) | Additional Secretary (Gen.) | Chief | Member |
| (v) | Senior Member Board of Revenue | | Member |
| (vi) | Secretary Finance | | Member |
| (vii) | Secretary Forest | | Member |
| (viii) | Secretary Tourism & Archaeology | | Member/
Secretary |
| (ix) | Representative of AJK Bank/ Any Schedule Bank nominated by Government | Ex-Officio member | |

(2) The STEC shall perform following functions,-

- (i) on a proposal of Government Agency and after approval of the Government, formulate rules, regulations and the policy pertaining to the tourism promotion;
- (ii) ensure implementation of the Act, Rules and Policy;
- (iii) examine the suitability of the tourism project as listed in the Schedule, submitted by the Project Planning Unit (PPU) as per Terms of References (ToR's) approved by the STEC;
- (iv) make decisions about any direct or contingent support for a project requested by the Government Agency;
- (v) approve tourism promotion project under the Schedule which includes

rejection of a project or send back to the PPU for reconsideration;

- (vi) determine the type of Government support referred to any tourism project;
- (vii) have authority to change any timeline provided in the rules except the timelines mentioned in the Act;
- (viii) approve lease period, deeds and agreements with private investor on case to case basis; and
- (ix) take all other steps necessary for giving effect to the provisions of this Act.

5. Project Planning Unit (PPU).– (1) The Government shall, on the recommendations of STEC, by notification establish the Project Planning Unit (PPU) in the Government Agency to assist STEC in appraisal of tourism projects.

(2) The PPU shall,-

- (i) provide technical support to STEC regarding submission of project proposals;
- (ii) formulate comprehensive ToR's for investment through Private Investor for tourism projects and get the ToR's approved from STEC;
- (iii) develop operating guidelines, procedures and model documents for projects for approval by the STEC; and
- (iv) perform any other function as may be assigned to it by the STEC.

6. Government Agency.– (1) The Government Agency shall manage the project throughout its life cycle consisting of project identification, project proposal preparation including feasibility, tendering, supervising the implementation and operation of the project, and if

applicable taking over the project under a tourism investment agreement.

- (2) The Government Agency shall,—
 - (a) identify a suitable project and prioritize the project within tourism sector or geographical area of responsibility;
 - (b) submit a project concept paper in the form of pre-feasibility study through the PPU to the STEC for its consideration and approval;
 - (c) hire consultant and/or experts for preparation of project proposal and bidding/tendering process as and when required;
 - (d) supervise the preparation of a feasibility study for the project and, if its outcome is positive, submit a project proposal along with estimated cost of the project, type of private investment agreement and the details of Government support, if required, to the STEC;
 - (e) conduct a competitive tendering process for a project approved by the STEC, including a pre-qualification process and bidding by the pre-qualified bidders to select the suitable Private Investor;
 - (f) carry out bid evaluation;
 - (g) negotiate and sign the tourism investment agreement with the selected Private Investor;
 - (h) monitor and evaluate implementation and operation of the Project;
 - (i) if required, seek support and advise of PPU for performance of any of the functions under

this Section.

7. **Government Support.**-(1) The Government Agency shall indicate the Government support, if any, for a project.
- (2) The Government support may be obtained in the following forms-
- (a) administrative support to the Private Investor in obtaining licenses and other clearances from the Government, for purposes of the Project on such terms and conditions as may be prescribed;
 - (b) provision of utility connections for power, gas and water at project site, clearance of right of way or acquisition of land necessary for the project and, rehabilitation and resettlement necessitated because of the execution of the Project; and
 - (c) asset based support such as leasing land and infrastructure facilities owned by the Government or a Government Agency to the Private Investor.

CHAPTER-III OPERATIONAL FRAMEWORK

8. **Procedure for leasing of land and properties.**- Following procedure shall be applied for leasing of land and properties,-
- (i) the Government Agency shall identify, prioritize and select the land at potential tourist spots in the State which shall include area, size and ownership as per land record;
 - (ii) the Government Agency shall seek consent of concerned Department, where land or property selected is not owned by Tourism Department for its transfer to Government

Agency and without consent no land shall be transferred;

- (iii) the Government Agency shall prepare the project package by engaging PPU for technical, financial, and economic feasibility of the proposed project with special attention to social and environmental impact assessment as prescribed;
- (iv) duration of land lease may extend to 50 years and for building, it may be to 20 years and duration may be further extended on the basis of performance as per prescribed parameters and market conditions with or without modifications in the agreement;
- (v) in case of any infrastructural investment by a Private Investor, the same shall be built and operated by the Private Investor and finally transferred to the Government Agency automatically after expiry of the agreement;
- (vi) relevant Government departments may extend their technical and administrative support to the Government Agency required for completion of a tourism project.

9. Framework for Private Sector Participation in Different Categories.-To lease out developed infrastructure or identified/ selected land for private investment. The Government Agency shall make framework on recommendations of the STEC and after approval of the Government in the following areas,-

- (i) to lease out land for Private Investment;
- (ii) to lease out land for Camping Sites;
- (iii) to lease out land for Hotels/ Motels/ Restaurants etc;

- (iv) to lease out land for Tourist Resorts/ Mega Projects;
- (v) for Water Sports Development in and along lake areas of AJ&K;
- (vi) to lease out for Government Owned Buildings;
- (vii) to constitute AJK Tourism Regulatory Board (AJK TRB)
- (viii) to constitute Destination Management Organization (DMOs)
- (ix) any other Framework related to tourism sector.

- 10. Selection of Private Investors.**- Selection of the Private Investor shall be made by providing equal opportunities to all interested investors through bid initiation, valuation and award of the contract in Prescribed manner.
- 11. Power to Make Rules.**-The Government may, by notification in official Gazette, make rules for carrying out the purposes of this Act.
- 12. Overriding effect.**- Notwithstanding anything contained in any other law, the provisions of this Act shall prevail on all other laws to the extent of a Tourism Project.
- 13. Repeal.**- The Azad Jammu and Kashmir Tourism Promotion Ordinance, 2019 (Ordinance I of 2019) is hereby repealed.

Sd/-
(Ch. Muhammad Nawaz)
Section Officer (Legislation)

SCHEDULE

[see Section 4(2) (iii)]

TYPES OF PROJECTS WHICH CAN BE DECLARED AS TOURISM PROJECT

1. Tourist Accommodations (Tourism and Hospitality Infrastructure, Resorts):

Hotels, motels, lodging houses, log cabins, tourist hunts, guest houses, chalets, camping sites, mobile caravans, rest houses, youth hostels and Restaurants.

2. Tourist Transport:

A. Surface Transport:

Tourist Coaches, Buses and Vans equipped with luxury seats, mike system and wide view windows and preferably space on the lower side of vehicles for luggage. Luxury 4WD Jeeps for mountainous roads.

B. Air Transport

- i. Air transport such as helicopters/small planes
- ii. Chartered flights.

C. Lake/Dam/River Transport: (Mangla Lake, Zilzaal Lake, Kharigam-Sharda Lake area, Rivers Neelum/ Jhelum/Poonch, Patrind Dam area and any Dam area developed in future):

- i. **River Transport:** Rafts, Canoes, Speed Boats, Passenger Launches, Water Scooters, Jumpers Etc.
- ii. **Lake/Dam Transport:** Fiber Glass Boats, Kayaks, Water Scooters, Jumpers, Water Based Children Play Stations, Small Ships, Hovercrafts and Yachts etc. *(The Ministry of Industries GoP has declared transport as an industry)*

3. Entertainment and Recreation:

Play-land/Fun-land projects, Chairlifts and Disney-land type parks, Bowling Alleys, Cineplex/Athletic and health clubs.

4. Convenience & Facilitation for Tourists:

Manufacturing tents and mountaineering equipment (already covered as industry) Handicrafts manufacturing and handicraft villages, tinned food, trekking and mountaineering food manufacturing.

5. Organic Food Villages, Handicrafts Kiosks;

6. Chairlifts/ Cable Cars, Recreational/Theme/Sozo/ Amusement Parks;

7. Under Water World in Mangla Lake;

8. Ski Resorts; Musical/ Dancing Fountains;

9. Adventure Sports (Paragliding, Hang Gliding, Fixed Wing Gliding, Motorized Gliding, Jero Copter, Mountain Biking, Mountain Cycling, expeditions etc; White Water Rafting/ Kayaking etc; Rock Climbing/ Ice Climbing etc.)

10. Archaeological Assets, Heritage Sites, Museums etc;