

GOVERNMENT OF PUNJAB
DEPARTMENT OF HOME AFFAIRS & JUSTICE
(HOME -5 BRANCH)

To ✓

1. All Deputy Commissioners in Punjab
2. All Senior Superintendents of Police/Commissioners of Police in Punjab.

Memo No. 16/190/2017-5H5/ 1233832 / 1 - 1233832 / 2
Dated, Chandigarh: - 14-05-2018

Subject: Advisory on Effective Implementation of Law & Rules for Regulation of Travel Agents in Punjab – Regarding.

The Government of Punjab is deeply concerned about the unscrupulous persons/travel agents carrying out illegal activities by giving false promises to the citizens, especially the youth, for getting them settled abroad by charging huge amounts. In the process the citizens are getting defrauded and sometimes landing in the foreign prisons as illegal entrants to different countries. This on the one hand is causing hardship to the innocent youth and their parents it is also affecting the image of the State in a major way. Most of these persons are fly-by-night operators and are cheating people by committing frauds. Sometimes, even more heinous crimes like kidnappings and confining people in illegal custody have also been reported.

In view of the above the State Government has felt the need for regulating the activities of Travel Agents and therefore a special law has been enacted for this purpose. Punjab Government enacted the Punjab Prevention of Human Smuggling Act, 2012 for Regulation of Travel Agents which has now been renamed as **Punjab Travel Professionals Regulation Act, 2014**, henceforth to be referred as the Act. It is a comprehensive Act which provides for detailed procedures and other requirements for obtaining license under the Act. It prescribes punishment for people who start business of travel agency in violation of the provisions of the Act.

The Punjab Prevention of Human Smuggling Rules, 2013 have been framed under the enabling provision of the above Act, henceforth to be referred to as the Rules.

2. All Travel Agencies/Agents are mandated to obtain valid Licenses as per Section 3 of the Act. Deputy Commissioner concerned is the Competent Authority for issue of the Licenses. As per definition of travel agent under this Act, following categories are covered:

- (a) A person who processes applications for grant of passport or visa.
- (b) A person who acts as an agent for a company for selling air tickets.
- (c) A person who provides means of transportation for travel to a foreign country by land or sea.

- (d) A person who is providing consultancy visa service or guidance to persons intending to go abroad.
- (e) A person who issues advertisements for carrier at foreign country or involved in publicity regarding travel to foreign country.
- (f) A person who organizes seminars and lectures for emigration.
- (g) A person who arranges matrimonial alliances & adoptions for the purpose of emigration.

3. The process of issue of Licenses to Travel Agency is to be completed within 90 days of the submission of the application. It is to be verified under Rule 4 (1) (vii) of the Rules which provides as under:

Provided further that for proof of such space/ accommodation, the person shall attach with his application the ownership proof of such space/accommodation or rent deed which shall not less than for a period of three years from the date of making an application for license under these rules, as the case may be:

Provided further that such space/accommodation shall duly be registered under the Punjab Shops and Commercial Establishment Act, 1958 (Punjab Act 15 of 1958).

Once issued, this license will be valid for a period of 5 years. However, the Competent Authority can cancel this license on following grounds:

- (a) If a person is insolvent or bankrupt.
- (b) If a person acts prejudicial of the courts.
- (c) If a person is convicted by a court for criminal activities.
- (d) If a person misrepresents and suppresses facts while submitting application for obtaining the license.
- (e) If a person violates the terms and conditions of the license.
- (f) If a person is subletting the business of travel agency.
- (g) If a person fails to start business for 3 months after issuance of the license.

4. If a person, who has obtained a license under this Act for doing 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 as per Section 5 of the Act. However, he shall have to immediately inform, in writing to the Competent Authority and to the District Magistrate of the concerned district, where the new branch or office has been opened and shall obtain an acknowledgment for giving such an information in writing.

5. The fee for obtaining the license shall be different and separate for different categories as mentioned below and shall be governed by Rule 4 of the Rules:

- (a) Travel Agency

- (b) Coaching Institutions of IELTS
- (c) Consultancy
- (d) Ticketing Agents
- (e) General Sales Agents

The fee may be deposited under Rule 4 in one go or in quarterly installments.

6. The Deputy Commissioners are directed to organize regular inspections, atleast once a year, of the travel agents so that it is physically verified at ground level that they are complying with the provisions of the Act.

As per Section 10 of the Act, any Executive Magistrates, SDM or gazetted police officer (DSP) can carry out searches of premises of travel agents and hence such inspections be carried out on a regular basis.

7. As per Section 11 of the Act, DSP rank officer shall conduct investigation of these cases and SP rank officer should verify the investigation of the case. SSP rank officer will act as Nodal Officer for investigation of such cases which shall be notified on the web site of the district.

8. As per Section 12 of the Act, illegally acquired properties of such agents is liable for confiscation by the courts.

9. As per Section 13 of the Act, there is provision for enhanced punishment for repeat offenders.

10. As per Section 14 of the Act, the courts may award compensation to victims of such crime.

11. As per Section 16 of the Act, giving false information to a public servant regarding violation of any provision of the Act is punishable for and such person can be sentenced for six months in Jail.

12. An NRI can apply for licence of travel agent by adopting following the procedure. In addition to other details:

- (a) He will have to furnish his Social security number.
- (b) He shall also provide the Permission of country of his residence.
- (e) If NRI wants to take his business earning out of this country, then he will have to take prior permission from RBI for applying for license.

13. The agent shall provide information of his clients as per following details:

- (a) The details of clients will be sent to Competent Authority i.e. Deputy Commissioner of concerned district on a monthly basis.
- (b) The details of clients will be sent to the designated officer in the State Government, Department of Home Affairs and Justice every six months.

14. All registered Travel Agents would provide a receipt to the citizens/client who have been provided a service by them. Such a receipt would

amongst other details include receipt number, amount, mode of payment, name and complete address of the registered premises, and the GST number as well.

15. All Deputy Commissioners are directed to ensure that the web portal of the district would include the details of all the registered travel agents in the district, and also include the details of their license, type of license, validity period and a high resolution photograph. The website should be updated while issuing new licenses so that the list of travel agents is up-to-date. A Nodal Officer, who should be from the PCS, whose name shall be notified on the web site of the district, should be appointed to co-ordinate this work.

16. Whenever any instance of misuse of the license comes to the notice or un-registered travel agents come to notice, legal action against them is required to be taken under the Indian Penal Code and also Section 13(1) of the Act which provides that:

Whoever contravenes the provisions of this Act or keeps or uses the device for human smuggling, shall be punished with imprisonment for a period not less than three years, which may extend to seven years and with fine which may extend to five lakh rupees.

17. All Deputy Commissioners and SSPs/CPs should make all efforts to identify/detect any unregistered/unscrupulous travel agents operating in their districts and take action against such unregistered/ unscrupulous travel agents so that the citizens are not defrauded.

18. Whenever an FIR is registered against an unregistered/unscrupulous or a registered travel agent, the concerned SSP/CP will inform the Deputy Commissioner who shall get this information uploaded on the district website so that the citizens are made aware of the same. Such cases should also be reflected and linked to CCTNS.

19. Deputy Commissioners and SSPs/CPs shall review the action taken against any travel agents during their monthly review meetings. The progress of investigation, including filing of chargesheet, shall be intimated to the concerned Deputy Commissioner by the SSP/CP.

20. Instances, where gullible people have been defrauded by unscrupulous travel agents, should be fictionalized by changing names and other identifying particulars, and then uploaded on District Websites so that people are made aware of such frauds.

21. All advertising agencies, newspapers, electronic media and other such agencies be regularly apprised that before publishing advertisements on behalf of travel agents, it should be verified that they have a valid registered license, and the registered license number should be prominently mentioned in the advertisement. The advertiser should also retain a copy of the registered license. **This is in accordance with order dated 12-12-2017 of the Hon'ble High Court in CRM-M-16603 of 2017.**

22. All registered travel agents should display their registered license number prominently at their offices.

23. All Deputy Commissioners should issue periodical press notes for creating the necessary awareness about amongst the citizens, especially the students, youth and their parents, about the legal provisions about the registered travel agents.

24. Awareness campaigns should be launched in schools, colleges, universities, boards and other educational institutions to make the students aware about the possible frauds which could be committed by the unregistered/unscrupulous or a registered travel agent and the provisions of the Act in this regard. Social media campaigns should also be launched in this regard.

25. Whenever any student is proceeding for studies abroad in a foreign institution through a travel agent and applies for a clearance certificate from the district police, such application should be accompanied by a certificate from the travel agent concerned that he is sending student for further studies through a legal method and as per law clearly mentioning the services promised to be provided including any part time job and boarding and lodging arrangements etc.

26. Awareness campaigns shall also be launched through the BDPOs, Panchayat Secretariats to make the people aware about the unregistered/unscrupulous travel agent and the provisions of the Act in this regard.

27. All people should be made aware that they should avail the services of only the duly registered travel agents who have valid licenses issued under the Punjab Travel Professional Act, 2014 and Rules framed thereunder. No service should be availed from any unregistered travel agent or any body who is providing services on only the phone without any physical office and proper licenses.

28. **The Emigration Act, 1983** enacted by the Parliament regulates the sending of labour/laborers to foreign countries abroad. The following are some of the salient features of the Emigration Act:

- (i) Any person desirous of starting a travel agency with an aim to send the labor/laborers abroad has to register himself/herself as 'Recruiting Agent' with the Protectorate General of India, Ministry of External Affairs, Government of India and has to take a license for this.
- (ii) Protectorate General of India, Ministry of External Affairs, Government of India is the nodal agency for this purpose and also for granting licenses to Recruiting Agents.
- (iii) The Chandigarh office of Protectorate General of Emigrants (POE), Kendriya Sadan, 5th Floor, Sector-9-a, Chandigarh (Phone No. 0172-274179) has jurisdiction over State of Punjab for issuing such licenses.
- (iv) Presently there are only 34 registered recruiting agents in Punjab who have been granted license for sending labor to Foreign Countries (List Enclosed) (Web site link is <https://emigrate.gov.in/ext/raList.action>)
- (v) This Act is mainly aimed at protecting the interests of labor going abroad and to prevent exploitation of such labor by their employer abroad. Anybody who violates the provisions of this act, is liable for criminal prosecution under section 24 of this Act and action is being taken by Punjab police against such companies/agents.

- (vi) Its main objective is to monitor the outflow of skilled and unskilled workers from India for employment and to prevent exploitation of workers by foreign employees on following issues so that on reaching alien land, they should not face problems of:
- Change of work agreements to their disadvantage
 - Non-payment or delayed payment of salaries
 - poor workings and living conditions
 - getting stranded due to non receipt by foreign employer
 - non availability of job after arrival in foreign country
 - non-payment of compensation (injuries & accident)
 - delay in transportation of dead bodies etc.
 - any other form of exploitation defined under the act
- (vii) It is obligatory by foreign employer to recruit labor through a registered Recruiting agent.
- (viii) The worker should not be involved in a work which is unlawful as per the Indian Laws.
- (ix) As per Section (10) of Emigration Act, 1983 no person shall function as a Recruiting Agent without a valid license. Foreign employer can only recruit workers through registered recruiting agents or by valid permit from the Protectorate General of Emigration, Government of India.
- (x) As of now Emigration Check is required for emigration of Indian Citizens to Afghanistan, Bahrain, Indonesia, Iraq, Jordan, Kingdom of Saudi Arabia, Kuwait, Lebanon, Libya, Malaysia, Oman, Qatar, South Sudan, Sudan, Syria, Thailand, United Arab Emirates, and Yemen.
- (xi) Any one violating provisions of Section (24) of this Act is liable to be punished with punishment of two years of jail with fine. As per Section 27 of Emigration Act, 1983 prior prosecution sanction is required from Central Government for prosecution of the accused.

29. It is reiterated that strict legal action should be taken for violations of the provisions of the Act, and for the acts of duping and cheating common people for sending them abroad. During the period 01-04-2017 to 28-02-2018, as many as 91 FIRs have been registered for violations of the Act, 515 FIRs u/s 420 IPC have been registered against travel agents and 146 FIRs have been registered for the violation of Emigration Act, 1983.

30. Strict legal action has to be taken against any illegal/unauthorized/ fraud travel agents by the State Police and cases as per following details have been registered against them in last few years :


CASE REGISTERED AGAINST TRAVEL AGENTS IN PUNJAB FOR THE YEAR 2015, 2016, 2017 AND 2018 (UPTO 15-03-2018)					
	2015	2016	2017	2018	TOTAL
The Punjab Travel Professional Regulation Act - 2013	24	81	63	111	279

Cases registered against travel agents u/s 420 of Indian Penal Code	411	493	320	609	1833
Emigration Act, 1983	56	133	156	180	525
Total cases registered	491	707	539	900	2637

These cases should be handled by a dedicated cell under the charge of a DSP and taken to their logical conclusions by carrying out systematic investigations, filing of challans and prosecution. In order to further strengthen & systematize investigations separate detailed instructions will be issued.

31. **Anti Human Trafficking Units:** Anti Human Trafficking Units are already functioning in various districts/Commissionerates of the State for taking action against the persons involved in any kind of Human Trafficking activity. These units shall be further strengthened and activated with a view to launching a systematic and focussed campaign against any illegal/unauthorized/ fraud travel agents and persons involved in any Human Trafficking activity. The training and capacity building of these Anti Human Trafficking units will further be under taken on a priority basis.

32. All Deputy Commissioners and SSPs/CPs shall continue their drive against the illegal travel agents and get FIRs registered, investigated against them and ensure filing of challans so that the duped citizens get justice and criminal action against defaulters is initiated and they are prosecuted as per the provisions of law.


Secretary Home

End No. 16/190/2017-5H5/1233832/3-8 Dated, Chandigarh: -14-05-2018

✓ A copy of above is send for information and necessary action to:-

1. The Principal Secretary/ Secretary, NRI Affairs, Government of Punjab
2. Secretary Employment Generation and Vocational Training, Government of Punjab
3. The Director General of Police, Punjab
4. Commissioner NRI Affairs, Government of Punjab
5. All the Divisional Commissioners
6. All IGs/DIGs of Police Ranges


Secretary Home