

(TO BE PUBLISHED IN THE OFFICIAL GAZETTE)

GOVERNMENT OF PAKISTAN

MINISTRY OF INFORMATION TECHNOLOGY AND TELECOMMUNICATION

NOTIFICATION

Islamabad, the _____, 2021

S.R.O. _____. - In exercise of the powers conferred by sub-section (2) of section 37 read with section 51 of the Prevention of Electronic Crimes Act, 2016 (Act No. XL of 2016), the Pakistan Telecommunication Authority, with the approval of the Federal Government, is pleased to make the following rules namely: -

CHAPTER I – PRELIMINARY

1. Short title, commencement and application. - (1) These rules may be called the Removal and Blocking of Unlawful Online Content (Procedure, Oversight and Safeguards) Rules, 2021.

(2) They shall come into force at once.

(3) **(i)** These Rules shall apply only to those licensees which provide Social Media or Social Network Services.

(ii) These Rules are subject to the provisions of the Act, the Pakistan Telecommunication (Re-organization) Act, 1996 and the terms and conditions of licenses issued by the Authority.

2. Definitions. - (1) In these rules, unless there is anything repugnant in the subject or context: -

(i) "Act" means the Prevention of Electronic Crimes Act, 2016 (Act No. XL of 2016);

(ii) "Community Guidelines" shall mean any community guidelines, community standards, policies, rules and regulations, user agreements or any other instruments devised by a Social Media Company or a Service Provider;

- (iii) “Complainant” means any Person or his guardian, where such person is a minor, aggrieved by unlawful Online Content and shall include a Ministry, Division, attached department, sub-ordinate office, provincial or local, department or office, a law enforcement or intelligence agency of the Government, or a company owned or controlled by the Government;
- (iv) “Contempt of Court” shall bear the same meaning as given under the applicable law for the time being in force;
- (v) “Database Server” means back-end system of an Online Information System or service or ‘Over the Top Application’ using server architecture, which performs tasks such as data analysis, storage, data manipulation, archiving, and other non-user specific tasks;
- (vi) “Emergency” for the purpose of second proviso of sub-rule (2) of rule 5 of these rules means a serious and potentially dangerous situation requiring immediate action for blocking or removal of blasphemous content, content threatening security or integrity of Pakistan or any other content inciting violence, so as to avoid disturbing public order;
- (vii) “Https” means Hyper Text Transfer Protocol Secured used as underlying protocol by the World Wide Web for formatting, transmission and communication of messages on internet in a secure encrypted form;
- (vii) “incitement” means and includes an act by a person to incite another to commit a crime;
- (ix) “Online Content” means an Information on an Online Information System;
- (x) “Online Information System” means an Information System connected with other Information System through internet and any cloud-based content distribution services;
- (xi) “Person” means an individual and includes a company or association, or body of persons, whether incorporated or not;

- (xii) “Significant Social Media Company” means and includes a Social Media Company with more than half million users in Pakistan or is in the list specially notified by the Authority for this purpose from time to time;
- (xiii) “Social Media or Social Network Service” means a website, application or mobile web application, platform or communication channel and any other such application and service that permits a person to become a registered user, establish an account, or create a public profile for the primary purpose of allowing the user to post and share user-generated content through such an account or profile or enables one or more users to generate content that can be viewed, posted and shared by other users of the such platform but shall not include the licensees of Authority unless they specifically provide Social Media or Social Network Services;
- (xiv) “Social Media Company” means any Person that owns, provides, or manages Online Information System for provision of Social Media or Social Network Service;
- (xv) “Universal Resource Locator” (URL) means the global address of information and other resources located on or served from Online Information System; and
- (xvi) “User” means any Person who accesses any Online Information System for the purpose of hosting, publishing, creating, displaying sharing or uploading any information including views, and includes other persons jointly participating in using the Online Information System.

(2) All other words and expressions used but not defined in these Rules shall have the same meanings as may be assigned to them under the Constitution of Islamic Republic of Pakistan 1973, the Act, the Pakistan Telecommunication (Re-organization) Act, 1996 (Act No. XVII of 1996), Pakistan Penal Code, 1860 (Act No. XLV of 1860), the Code of Criminal Procedure, 1898 (Act No. V of 1898), and Qanoon-e-Shahadat Order, 1984 (P.O.No. X of 1984).

CHAPTER II- SAFEGUARDING THE
FREEDOM OF SPEECH AND EXPRESSION

3. Freedom of speech and expression:- (1) Every Person or organization shall have the right to express and disseminate any Online Content as enshrined under Article 19 of the Constitution of Islamic Republic of Pakistan, 1973.

Provided that the Authority shall not restrict, disrupt flow or dissemination of any Online Content unless it considers it necessary for the reasons as prescribed in Section 37(1) of the Act subject to due process of law.

Provided further that, without prejudice to the generality of the powers under Section 37(1) of the Act, the removal or blocking access to an Online Content would be considered necessary in the interest of:

(i) *“glory of Islam” if the Online Content constitutes an act which is an offence under chapter XV of Pakistan Penal Code, 1860 (Act XLV of 1860); or*

(ii) *“security of Pakistan” which shall bear the same meaning as given under Article 260 of the Constitution of Islamic Republic of Pakistan, 1973; or*

(iii) *“public order” if the Online Content constitutes an act which is an offence under chapter XIV of Pakistan Penal Code, 1860 (Act XLV of 1860), or the Online Content contains any fake or false information that threatens the public order, public health and public safety or the Online Content constitutes an act which could lead to the occasions as described under chapter XI of the Code of Criminal Procedure, 1898 (Act V of 1898); or*

(iv) *“decency and morality” if the Online Content constitutes an act which is an offence under section 292, 293,294 and 509 of Pakistan Penal Code, 1860 (Act XLV of 1860);*

or

(v) *“integrity or defence of Pakistan” if the Online Content constitutes an act which is an offence under chapter VI of Pakistan Penal Code, (Act XLV of 1860).*

(2) The direction, issued by the Authority under the Act and under these rules, shall prevail and take precedence over any contrary Community Guidelines and such Community Guidelines shall be deemed to be of no legal effect.

CHAPTER III - FILING, PROCESSING
AND DISPOSAL OF COMPLAINTS AND ANCILLARY PROCEDURE

4. Filing of complaints. - (1) The Authority shall entertain complaints with regard to an-Online Content. A complaint for blocking or removal of Online Content may be filed by:

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- (i) any Person, or his guardian, where such Person is a minor, aggrieved by Online Content; or
- (ii) a Ministry, Division, attached department, sub-ordinate office, provincial or local department or office, a law enforcement or intelligence agency of the Government, or a company owned or controlled by the Government.

(2) The Complainant mentioned under clause (i) of sub-rule (1) above, may lodge a complaint against any Online Content to the Authority through the Form specified in the Schedule, which may be amended from time to time.

Provided that where a Complainant is unable to lodge a complaint through the Form specified in the Schedule, the Complainant may use any other appropriate means in writing to lodge the complaint to the Authority while making full disclosure of available information regarding the complaint and the Complainant.

Provided further that the Authority may seek any further information or clarification from the Complainant for an appropriate decision on the complaint.

(3) The complaint under clause (ii) of sub-rule (1) above shall be made only by authorized representative through a web-based mechanism developed by the Authority for this purpose to clearly elaborate the Online Content complained of, its location on the internet and reasons for its removal or blocking access to such Online Content.

(4) The Authority shall register the said complaint through the allocation of unique complaint number to be communicated to the Complainant.

(5) The Authority shall ensure that the Online Content and the identity of the Complainant is kept confidential, if the sharing of such Online Content or the identity of the Complainant with others may result in proliferation of the Online Content or harming,

harassing or defaming the Complainant, or invasive of the Complainant's privacy or relates to the modesty of the Complainant.

(6) Notwithstanding the provisions of these rules, the Authority may on its own motion take cognizance of any Online Content and exercise its powers under section 37(1) of the Act for removal or blocking of such Online Content.

5. Disposal of complaint. – (1) Subject to the provisions of these rules, a complaint filed under rule 4 above, shall be decided by the Authority within thirty (30) days.

(2) The Authority, subject to the provisions of the Act and these rules, shall pass order in writing by recording reasons for its decision to whether or not to remove or block the Online Content after affording opportunity of being heard to the Person against whom the complaint has been filed and any other person who in the opinion of the Authority is likely to be adversely affected by such order.

Provided that the Authority shall give 48 hours' time to the Service Provider, Social Media Company, Significant Social Media Company or User, as the case may be, to comply with the directions of the Authority for removal or blocking access to an Online Content.

Provided further that in case of Emergency, the Authority may direct the Service Provider, Social Media Company, Significant Social Media Company or User, as the case may be, to remove or block access to an Online Content within 12 hours instead of 48 hours from the time of the receiving of the directions.

Provided further that the Authority shall specify the reasons for the Emergency in writing.

(3) Directions by the Authority under sub-rule (2) shall meet following requirements:

- (i) It shall be in writing or through email by the authorized division/officer of the Authority;
- (ii) Identification of the content at issue by URL or other unique identifier and, if applicable, identification of the timestamp for the content at issue; and
- (iii) Grounds and reasons including provisions of the applicable local laws for the directions.

(4) The Authority while issuing directions for removal or blocking access to an Online Content may direct the Service Provider, Social Media Company, Significant Social

Media Company or User to secure such Information including traffic data, as the case may be, for evidentiary purposes only and for such period of time as the Authority may deem appropriate.

(5) The Authority may, in consultation with the investigation agency, defer action not beyond one month, on a complaint in the interest of helping criminal investigation of the matter.

Provided that action or directions on a complaint relating to modesty of a natural person shall not be deferred by the Authority without consent of the Complainant.

(6) The blocking or removal of an Online Content hosted on an Online Information System, websites/web servers offering Https or similar protocols shall be undertaken by the Authority on a best effort basis.

(7) In case the Service Provider, Social Media Company or Significant Social Media Company, as the case may be, fails to remove or block access to an Online Content or to comply with the directions issued by the Authority under sub-rule (2) within the specified time, the Authority may initiate action as per following procedure:

- (i) serve a written notice requiring the Service Provider, Social Media Company or Significant Social Media Company to remedy the contravention and give a written explanation within 48 hours to the satisfaction of the Authority for non-compliance with directions of the Authority.

Provided that subject to the fulfilment of requirements under rule 7(5) of these rules, all notices, directions, and orders shall be served on and addressed to the authorized compliance officer or head office of the Service Provider, Social Media Company or Significant Social Media Company.

- (ii) where the Service Provider, Social Media Company or Significant Social Media Company fails to respond to the notice or satisfy the Authority in respect of the alleged contravention as referred to in sub-clause (i), the Authority may after affording an opportunity of hearing and by order in writing take any of the following actions:

- (a) degrade the services of such Service Provider or Social Media Company or Significant Social Media Company for such period of time as deemed

- appropriate by the Authority; or
- (b) block or issue directions for blocking of the entire Online Information System; or
- (c) impose a penalty up to rupees five hundred million.

Provided that action under clause (ii) of sub-rule (7) above, shall be taken upon intentional failure on part of the Service Provider, Social Media Company or Significant Social Media Company to comply with the directions of the Authority.

Provided further that notwithstanding anything contained under clause (ii) of sub-rule (7), the Authority shall block Online Information System in compliance with the directions of the court or on the written directions of the Federal Government or Ministry of Interior, as the case may be, issued under any other law for the time being in force.

(8) The Authority may seek an expert opinion from any person(s) wherever it deems appropriate regarding any Online Content.

6. Circumstances where complaints/applications may not be entertained. - (1)

The Authority shall not entertain complaints for removal or blocking of Online Content where:-

- (i) the Complainant fails to furnish necessary information or supply relevant documents, URLs/Links, videos along with time stamp or does not respond despite reminders or fails to attend hearings despite notices and it is not possible to decide the complaint on the basis of the available record; or
- (ii) the subject-matter of the complaint is *sub-judice* before a court, tribunal or board on the date of presentation of the complaint or pending investigation before the investigation agency; or
- (iii) the complaint ex-facie does not disclose any cause of action to justify removal or blocking of unlawful Online Content; or

- (iv) the subject-matter of the complaint is the same as of the complaint that has already been disposed of by the Authority or by a court or a tribunal of competent jurisdiction; or
- (v) the facts of the complaint are of such nature that in order to establish the correct position requires a detailed examination of both documentary and oral evidence and its assessment, for which the proper forum is a court of competent jurisdiction; or
- (vi) the complaint / application has been made by a Person who is not an aggrieved person unless in case of a minor, the complaint/application is preferred by his guardian; or
- (vii) the complaint is anonymous or pseudonymous.

(2) In all cases where the Complaint is rejected, the decision in respect thereof shall be communicated to the Complainant.

CHAPTER IV- OVERSIGHT MECHANISM

7. Other Obligations of the Service Providers, the Significant Social Media Company and Social Media Companies. - (1) The Service Provider, Social Media Company and Significant Social Media Company shall make available Community Guidelines for access or usage of any Online Information System.

(2) Such Community Guidelines should easily be accessible and shall inform the User of the Online Information System not to host, display, upload, modify, publish, transmit, update or share any Online Content in violation of local laws.

(3) The Service Provider, Social Media Company and Significant Social Media Company shall not knowingly host, display, upload, publish, transmit, update or share any Online Content in violation of local laws.

Provided that the following actions by a Service Provider, Social Media Company and Significant Social Media Company shall not amount to hosting, publishing, editing or storing of any such information as specified in sub rule (3):

- (a) temporary or transient or intermediary storage of Information automatically within the Online Information System as an essential feature of such Online Information System, involving no exercise of any human editorial control, for onward transmission or communication to another information system; or
- (b) removal of access to any Information, data or communication link by a Service Provider, Social Media Company and Significant Social Media Company after such information, data, communication link comes to the actual knowledge of the Service Provider, Social Media Company or Significant Social Media Company pursuant to any order or direction as per the provisions of the Act.

(4) The Service Provider, Social Media Company and Significant Social Media Company shall provide to the Investigation Agency designated or established under section 29 of the Act, any information or data or content or sub-content contained in any Online Information System owned or managed or run by the respective Service Provider, Social Media Company or Significant Social Media Company, in decrypted, readable and comprehensible format or plain version in accordance with the provisions of the Act.

Explanation - Subject to justifiable technical limitations, the information to be provided may include subscriber information, traffic data, content data and any other information or data.

(5) The Service Provider, Social Media Company and Significant Social Media Company shall deploy mechanisms to ensure immediate blocking of live streaming through Online Information System in Pakistan of any Online Content particularly related to terrorism, hate speech, pornographic, incitement to violence and detrimental to national security on receiving intimation from the Authority.

(6) A Significant Social Media Company shall:

- (a) register itself with the Authority, within three months of coming into force of these rules;

- (b) appoint an authorized compliance officer, based in Pakistan, for ensuring compliance with the provisions of the Act, these Rules and directions of the Authority, within three months of coming into force of these rules;
- (c) appoint a dedicated grievance officer based in Pakistan for the redressal of grievances received by him against Online Content, within three months of the coming into force of these rules. The grievance officer shall expeditiously redress the complaints but not later than seven working days from receipt of the complaint. The Significant Social Media Company shall publish on its Online Information Systems the contact details as well as mechanism by which User or any complainant who suffers as a result of access or usage of Online Information System can notify their complaints;
- (d) Upon the directions of the Authority, establish an office in Pakistan, as and when feasible, with a physical address, preferably located in Islamabad:
- (e) comply with the user data privacy and data localization in accordance with applicable laws; and
- (f) deploy suitable content moderation methods including Artificial Intelligence (AI) based content moderation system(s) and content moderators well versed with the local laws.

CHAPTER V - REVIEW APPLICATION

8. Review.- (1) Any Person aggrieved by any order of the Authority under section 37(1) of the Act may file an application for review before the Authority within thirty (30) days from the date of passing of such order.

Provided that the Authority may, for reasons to be recorded in writing, condone the delay considering the peculiar facts and circumstances of the matter in question.

(2) The application for review under sub-rule (1) above shall be decided by the Authority in accordance with the procedures laid down as under:

- (i) The application for review shall be accompanied by a copy of decision or order reviewed against as prescribed by the Authority from time to time and shall set out the contentions of the applicant together with all relevant material facts and information pertaining thereto;
- (ii) The applicant shall be informed of any deficiency in the review application who shall remove the deficiency within the given period in writing and in case of failure to remove the deficiency, the review application shall be treated as not having been filed. Further, the Authority may require the applicant to provide any further information or content in his support;
- (iii) The Authority, on receipt of review application or any further information as required under sub-clause (ii), send a notice along with a copy of the review application, under the Order, to the Complainant requiring it either to send its rejoinder or report well before the date and time, not more than seven days, fixed for hearing and specified in the said notice or present the rejoinder in the hearing and to show cause as to why the findings, order of the Authority in question shall not be altered, modified, amended or recalled; and
- (iv) An order shall not be modified or reversed unless reasonable opportunity of being heard has been given to the parties affected.

(3) The Authority shall decide the review application within thirty (30) working days after conducting hearing and pass its decision in writing and the order passed by the Authority shall be communicated to the parties.

(4) The Authority either of its own motion or on the application of any of the parties may correct any typographical error, mistake or misrepresentation by the Complainant, an

incorrect figure, fact or position is reflected in the order after giving the parties an opportunity of being heard.

9. Appeal. - An appeal against the decision of the Authority in review shall lie before the High Court within thirty (30) days of the order of the Authority.

CHAPTER VI - MISCELLANEOUS

10. Adjournment of hearing. – The Authority may for its own reasons or on the written request received at least three (03) working days prior to the date fixed by either party to the hearing, adjourn the hearing to another reasonable date considering the timeline for disposal of the matter.

11. Ex-Parte Proceedings. - The Authority may pass an *ex-parte* order in case the Complainant or the applicant, as the case may be, fails to attend the hearing.

12. Public education and awareness. – (1) The Authority may take steps for the awareness of the public at large through advertisement, print and electronic media on the matters relating to these Rules.

(2) The Authority may also run awareness campaign to educate the general public in respect of their rights, responsibilities, and remedies available under these rules.

13. Facilitation and guidance of the general public. - (1) The Authority shall establish an information desk at each of its zonal and regional offices as well as headquarters and also establish a toll-free telephone helpline for facilitation and guidance of the general public.

(2) The Authority shall also provide guidance for filing of complaints directly to the service providers including Social Media Companies against any misuse or abuse of such platforms.

(3) The Authority shall designate an officer not below the rank of BS-17 or equivalent at its regional offices as well as headquarters for guiding the general public with respect to the procedure for filing of complaints and receiving the complaints under these rules.

14. Repeal and Saving. – (1) The Removal and Blocking of Unlawful Online Content (Procedure, Oversight and Safeguards), Rules 2020, herein after called the repealed rule, are hereby repealed.

(2) Any action done, powers exercised and functions performed under the repealed rules, shall, if not inconsistent with the provisions of these rules, be deemed to have been taken, exercised or performed under these rules.

15. Awareness campaigns.- The Authority may run awareness campaign to educate the general public in respect of their rights, responsibilities and remedies available under these Rules.

THE SCHEDULE

[see rule 4(2) of these Rules]

FORM

	Complaint Number	
Personal Information	Compla <input type="text"/>	Guardian of <input type="text"/>
Complainant		
Name (*)		
Email Address, Postal Address(*), Mobile Number (*)	/	/
CNIC(*)/NICOP(*)/Passport Number(*)		
Complaint/Grievance Detail		
Description of complaint/grievance (*) Brief description of the objectionable content (Maximum 100 Words)	Select Category & Platform <input type="text"/> On click (Annex-A) Description: ----- ----- ----- ----- -----	
Universal Resource Locator (URLs/Links) (*)	Attachment (*) <input type="text"/> On Click (Annex-B) URL/Link/IP/Snapshot/copy of objectionable content	

(*) Fields are mandatory

Send Complaint

(Annex-A)

Select Category

- Against Glory of Islam
- Against Integrity, Security or Defense of Pakistan
- Against Public Order
- Against Decency or Morality
- Contempt of Court
- Commission of or Incitement to an offence under PECA, 2016
- Offences against dignity of a natural person
- Offences against modesty of a natural person
- Child Pornography
- Cyber Stalking
- Others

Description of Social Media Platform /Application

Enter Social Media Platform/ Application
Name

Submit

() Mandatory*

(Annex-B)



Online link to the objectionable content

Video

Yes

No

etc.)

Time Slot (for streaming platforms i.e., YouTube

MM:SS To MM:SS

(Please mention the exact start/end time during

which objectionable content has been observed)

ADD URL

Attachment (Screenshot of objectionable content)

Attach File

Submit