

TO BE PUBLISHED IN THE OFFICIAL GAZETTE

GOVERNMENT OF PAKISTAN
(INFORMATION TECHNOLOGY AND TELECOMMUNICATION DIVISION)
MINISTRY OF INFORMATION TECHNOLOGY AND TELECOMMUNICATION

Islamabad, the 6th October, 2020.

NOTIFICATION

S.R.O.1077(I)/2020. - In exercise of the powers conferred by sub-section (2) of sections 37 of the Prevention of Electronic Crimes Act, 2016, (XL of 2016), the Federal Government is pleased to approve the following rules prescribed by the Pakistan Telecommunication Authority: -

CHAPTER I – PRELIMINARY

1. Short Title and Commencement. - (1) These rules may be called the Removal and Blocking of Unlawful Online Content (Procedure, Oversight and Safeguards), Rules 2020”.

(2) They shall come into force at once.

2. Purpose and scope of these rules. - These rules provide for safeguards, process and mechanism for exercise of powers by the Authority under the Act for removal of or blocking access to unlawful Online Content through any information system.

3. 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 Service Provider including a Social Media Company, or owner of any Information System, website and webserver;
- (iii) “Complainant” means any person or his/her guardian, where such person is a minor, aggrieved by unlawful Online Content and includes an entity or a person authorized under these rules to lodge a complaint;
- (iv) “Contempt of Court” shall bear the same meaning as given under the Contempt of Court Ordinance, 2003 (Ordinance v of 2003) and section 37 (1) of the Act;
- (v) "Database Server" means back-end system of an information system or service or OTTA using server architecture, which performs tasks such as data analysis, storage, data manipulation, archiving, and other non-user specific tasks;

- (vi) "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, an aider or abettor;
- (viii) "Online Content" means an Information on an Information System including but not limited to photo, image, video, audio, text, infographic, article, sub-content and status uploaded or updated on any online Information System;
- (ix) "Online Systems" means an Information System connected with other Information System through internet and any cloud-based content distribution services;
- (x) "Over The Top Application (OTTA)" means the service or an application or a content which is provided to User over the public Internet with or without the involvement of the network provider;
- (xi) "Person" shall include any individual, company, body politic or corporate, or association or body of individuals whether incorporated or not;
- (xii) "Social Media" means any social media application or service or platform or communication channel dedicated to community based input, interaction, content, sub-content, sharing and collaboration, and includes Facebook, Twitter, Google+, Youtube, Dailymotion, Instagram, Snapchat, Pinterest, LinkedIn, Reddit, TikTok and any other such application and service;
- (xiii) "Social Media Company" means any Person that owns or manages Online Systems for provision of social media;
- (xiv) "Universal Resource Locator" (URL) means the global address of information and other resources located on or served from Information System connected through internet; and
- (xv) "User" means any Person who accesses or avails any Online 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 Systems.

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

CHAPTER II- SAFEGUARDING THE FREEDOM OF SPEECH AND EXPRESSION

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

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

Provided further that, without prejudice to the generality of the powers in Section 37(1) of the Act, the removal and blocking of access to an Online Content would be 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) *integrity, security and defence of Pakistan” 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).*

(2) The rules and any directions issued by the Authority under these rules shall prevail and take precedence over any contrary Community Guidelines and any such Community Guidelines shall be null and void.

CHAPTER III- FILING, PROCESSING AND DISPOSAL OF COMPLAINTS

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

(i) any Person, or his/her 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 agency 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 unlawful Online Content to the Authority through the Form specified in the Schedule, which may be amended from time to time by the Authority.

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 complaints made 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 allowing the designated department to clearly elaborate the unlawful 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.

Provided that the Authority shall not disclose such Online Content and identity of the Complainant to any person who are directly responsible for receiving and processing the complaints. For this purpose, the Authority may in addition to other ordinary modes of filing of a complaint also provide a separate secure mechanism for filing of a complaint.

(6) The Authority, subject to the provisions of these rules, may on its own motion take cognizance of any unlawful Online Content and may pass appropriate directions.

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

(2) The Authority while deciding any complaint filed under Rule 5 (1) or taking any action under Rule 5 (6) may pass any order in writing and record reasons for its decision for removal or blocking or issue directions to the Service Provider, Social Media Company, owner of Information System, owner of internet website or web server and User for removal or blocking access to an Online Content in accordance with the requirements of section 37 (1) of the Act.

Provided that the Authority, subject to the provisions of the Act and these rules, prior to passing of any order shall issue notice or provide an opportunity of hearing, as the case may be, to the Complainant and any other Person who in the opinion of the Authority, is likely to be adversely affected by such order.

Provided further that the Authority while passing such order shall give 24 hours' time to the Service Provider, Social Media Company, owner of Information System, owner of internet website or web server and User to comply with the directions of the Authority for removal or blocking access to the Online Content and any other directions as may be issued in the order.

Provided further that in case of emergency the Authority may direct the Service Provider, Social Media Company, owner of Information System, owner of internet website or web server and User to remove, block access to the Online Content complained of within 6 hours instead of 24 hours from the time of the receiving of the directions. Provided that the Authority shall specify the reasons for emergency in writing.

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

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

(4) The blocking or removal of any unlawful Online Content hosted on websites/web servers offering Https or similar protocols shall be undertaken by the Authority on a best effort basis.

(5) In case the Service Provider, Social Media Company, owner of Information System, owner of Internet website or web server and User fails to remove or block access to the Online Content or to comply with the directions issued by the Authority under Rule 6 (2) above within the specified time, the Authority may initiate action against Service Provider, Social Media Company, owner of Information System, owner of Internet website or web server and User under the Act.

(6) The Authority while issuing directions for removal or blocking access to any Online Content may direct the Service Provider, Social Media Company, owner of Information System, owner of Internet website or web server and User to secure such information including traffic data, as the case may be, for such period of time as the Authority may deem appropriate.

(7) The Authority may seek an expert opinion from any person(s) wherever it deems appropriate during processing of the complaint against Online Content.

7. Obligations with respect to blocking and removal of unlawful Online Content.- A Service Provider, Social Media Company, owner of Information System, owner of internet website or web server and User shall, upon receiving any directions under Rule 6 by the Authority, in writing or through email signed with electronic signature, shall act within twenty-four hours or in case of emergency within six hours to remove or block access to such unlawful Online Content.

8. Blocking of Online System.- In case a Service Provider, Social Media Company, owner of Information System, owner of internet website or web server and User fails to abide by the provision of these Rules, the Authority may issue directions for blocking of the entire

Online System, or any services provided by such Service Providers owned or managed by the said Service Providers or Social Media Company.

9. Other Obligations of the Service Providers and Social Media Companies.- (1) A Social Media Company and Service Provider shall publish the Community Guidelines for access or usage of any Online System.

(2) Such Community Guidelines shall inform the User of the Online System not to host, display, upload, modify, publish, transmit, update or share any Online Content that:

- i. belongs to another Person or to which User does not have any right; or
- ii. is blasphemous, defamatory, obscene, pornographic, pedophilic, invasive of another's privacy; or
- iii. violates or affects religious, cultural, ethnical sensitivities of Pakistan; or
- iv. harms minor in any way; or
- v. impersonates another person; or
- vi. threatens the integrity, security or defence of Pakistan, or public order, or causes incitement to any offence under the Act.

(3) A Social Media Company and Service Provider shall deploy appropriate mechanisms for identifying an Online Content as specified in sub rule (2).

(4) The Service Provider and Social Media Company shall not knowingly host, display, upload, publish, transmit, update or share any Online Content, and shall not allow the transmission, select the receiver of transmission, and select or modify the information contained in the transmission as specified in sub rule (2)

Provided that the following actions by a Service Provider and Social Media Company shall not amount to hosting publishing, editing or storing of any such information as specified in sub rule (1):

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

(5) The Service Provider and the Social Media Company which has more than half million users in Pakistan or is in the list of Service Provider or Social Media Companies specially notified by the Authority from time to time shall:

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

(b) establish a permanent registered office in Pakistan with a physical address preferable located in Islamabad, within nine months of the coming into force of these rules;

(c) appoint a focal person based in Pakistan for coordination with Authority to ensure compliance of its orders or directions made in accordance with provisions of Act or rules, and to receive any notices on behalf of Service Provider or Social Media Company in Pakistan within three months of the coming into force of these rules; and

(d) Subject to the promulgation of Data Protection Law, establish one or more database servers in Pakistan within eighteen months of coming into force of these Rules to record and store data and Online Content, within the territorial boundaries of Pakistan for citizen data privacy.

(6) The Service Provider and the Social Media Company shall not knowingly participate in any act which has the potential of contravening any provisions of the Act, or these rules or any other law for the time being enforced.

(7) The Service Provider and the 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 information system owned or managed or run by the respective Service Provider or Social Media Company, in decrypted, readable and comprehensible format or plain version in accordance with the provision 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.

(8) The Service Provider and Social Media Company shall publish on its Online Systems, the name of grievance-officer and his contact detail as well as mechanism by which User or any Complainant who suffers as result of access or usage of Online System by any Person can notify their complaints against such offences. The grievance-officer shall expeditiously access and redress the complaints within a reasonable time of the receipt of the complaint.

(9) A Service Provider and the Social Media Company shall deploy mechanisms to ensure prevention of uploading and live streaming through Online Systems in Pakistan of any Online Content particularly regarding Online Content related to terrorism, extremism, hate speech, pornographic, incitement to violence and detrimental to national security.

(10) In case the Service Provider or the Social Media Company fails to abide by the Act or these Rules or any direction issued by the Authority in pursuance of these Rules, then the Authority, may after giving notice or opportunity of showing cause, impose a penalty up to rupees five hundred million.

10. Circumstances Not to Entertain Complaints / Applications.- 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 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; or
- (vii) the complaint is anonymous or pseudonymous.

CHAPTER IV-REVIEW APPLICATION

11. Review.- (1) Any Person aggrieved by any order or directions of the Authority under these rules may file an application for review before the Authority within thirty days from the date of passing of the order.

Provided that the Authority on its own motion may also review any order passed by it and while doing so may subject to notice or personal hearing to the persons likely to be affected thereby, modify, reverse or confirm the same.

Provided further 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 Authority may require the petitioner to provide any further information or content in his support;

- (iii) An order shall not be modified or reversed unless reasonable opportunity of being heard has been given to the parties affected;
- (iv) Without prejudice to the generality of the foregoing sub rules, the Authority, while deciding a review petition may seek comments from designated department, requiring it to submit its rejoinder or report within three working days to show as to why the order of the Authority in question shall not be modified reversed or recalled;
- (v) The applicant shall be informed of any deficiency in the review 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.

(3) The Authority shall decide the review application within thirty working days after conducting hearing and pass its decision in writing.

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

CHAPTER –V MISCELLANEOUS

13. Adjournment of Hearing. – The Authority may for its own reasons or on the written request received at least one (01) working day prior to the date fixed by either party to the hearing may adjourn the hearing to another reasonable date considering the timeline for disposal of the matter.

14. 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.

15. Directions of the Authority. – All directives, guidelines and orders issued by the Authority in pursuance of these Rules shall be binding.

16. Public Education and Awareness.- The Authority may take such preventive measures / steps for the awareness to public at large through advertisement, print and electronic media within thirty (30) days of the publication of these Rules on the matters relating to removal and blocking of unlawful Online Content over internet.

17. 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 headquarter 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 headquarter for guiding the general public with respect to the procedure for filling of complaints and receiving the complaints under these rules.

18. Awareness campaigns.- The Authority and Complainant organization(s) may run awareness campaign to educate the general public in respect of their rights, responsibilities and remedies available under these rules.

(F.No.3-18/2016-Legal)

NASEEM AHMED KHAN,
Deputy Secretary

THE SCHEDULE
 [see rule 8 of these Rules]
FORM A

Personal Information	
Complainant Name (*)	
Complainant Email Address/ Postal address/Phone Number (*)	
Complainant's CNIC / NICOP (*) / Passport Number (*)	
Complaint / Grievance Detail	
Description of complaint / grievance (*) (A brief description of objectionable content and how does it relate to content category-maximum 500 characters)	
Universal Resource Locator (URLs/ Links(*)	Attachment(*) (URL/link snapshot/copy of objectionable content)

All (*) Fields are mandatory

For official use only

File No.

Legal Provision(s)	
Relevant Legal Provision (Reference of relevant law related to content due to which the above specified link shall be blocked)	
Description of relevant legal provision	