

Bill No. 109 of 2024

THE WAQF (AMENDMENT) BILL, 2024

A

BILL

further to amend the Waqf Act, 1995.

BE it enacted by Parliament in the Seventy-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Waqf (Amendment) Act, 2024.

Short title and commencement.

5 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

43 of 1995.

2. In section 1 of the Waqf Act, 1995 (hereinafter referred to as the principal Act), in sub-section (1), for the word “Waqf”, the words “Unified Waqf Management, Empowerment, Efficiency and Development” shall be substituted.

Amendment of section 1.

Amendment of
section 3.

3. In section 3 of the principal Act,—

(i) after clause (a), the following clause shall be inserted, namely:—

‘(aa) “Aghakhani waqf” means a waqf dedicated by an Aghakhani waqif;’;

(ii) after clause (c), the following clause shall be inserted, namely:— 5

‘(ca) “Bohra waqf” means a waqf dedicated by a Bohra waqif;’;

(iii) after clause (d), the following clause shall be inserted, namely:—

‘(da) “Collector” includes the Collector of land-revenue of a district, or the Deputy Commissioner, or any officer not below the rank of Deputy Collector authorised in writing by the Collector;’; 10

(iv) after clause (f), the following clauses shall be inserted, namely:—

‘(fa) “Government Organisation” includes the Central Government, State Governments, Municipalities, Panchayats, attached and subordinate offices and autonomous bodies of the Central Government or State Government, or any organisation or Institution 15 owned and controlled by the Central Government or State Government;

‘(fb) “Government property” means movable or immovable property or any part thereof, belonging to a Government Organisation;’; 20

(v) in clause (i), the words “, either verbally or” shall be omitted;

(vi) after clause (k), the following clause shall be inserted, namely:—

‘(ka) “portal and database” means the waqf asset management system or any other system set up by the Central Government for the registration, accounts, audit and any other detail of waqf and the Board, as may be prescribed by the Central Government;’; 25

(vii) for clause (l), the following clause shall be substituted, namely:—

‘(l) “prescribed”, means prescribed by rules made under this Act;’; 30

(viii) clause (p) shall be omitted;

(ix) in clause (r),—

(a) in the opening portion, for the words “any person, of any movable or immovable property”, the words “any person practising Islam for at least five years, of any movable or immovable property, having ownership of such property,” shall be substituted; 35

(b) sub-clause (i) shall be omitted;

(c) in sub-clause (iv), after the word “welfare”, the words “, maintenance of widow, divorced woman and orphan in such manner, as may be prescribed by the Central Government,” shall be inserted; 40

(d) in the long line, for the words “any person”, the words “any such person” shall be substituted.

Insertion of new
sections 3A, 3B
and 3C.

4. After section 3 of the principal Act, the following sections shall be inserted, namely:—

“3A. (1) No person shall create a waqf unless he is the lawful owner of the property and competent to transfer or dedicate such property.

Certain conditions of waqf.

(2) The creation of a waqf-alal-aulad shall not result in denial of inheritance rights of heirs, including women heirs, of the waqif.

5 3B. (1) Every waqf registered under this Act, prior to the commencement of the Waqf (Amendment) Act, 2024, shall file the details of the waqf and the property dedicated to the waqf on the portal and database, within a period of six months from such commencement.

Filing of details of waqf on portal and database.

10 (2) The details of the waqf under sub-section (1), amongst other information, shall include the following, namely:—

(a) the identification and boundaries of waqf properties, their use and occupier;

(b) the name and address of the creator of the waqf, mode and date of such creation;

15 (c) the deed of waqf, if available;

(d) the present mutawalli and its management;

(e) the gross annual income from such waqf properties;

(f) the amount of land revenue, cesses, rates and taxes annually payable in respect of the waqf properties;

20 (g) an estimate of the expenses annually incurred in the realisation of the income of the waqf properties;

(h) the amount set apart under the waqf for—

(i) the salary of the mutawalli and allowances to the individuals;

25 (ii) purely religious purposes;

(iii) charitable purposes; and

(iv) any other purposes;

(i) details of court cases, if any, involving such waqf property;

30 (j) any other particular as may be prescribed by the Central Government.

3C. (1) Any Government property identified or declared as waqf property, before or after the commencement of this Act, shall not be deemed to be a waqf property.

Wrongful declaration of waqf.

35 (2) If any question arises as to whether any such property is a Government property, the same shall be referred to the Collector having jurisdiction who shall make such inquiry as he deems fit, and determine whether such property is a Government property or not and submit his report to the State Government:

40 Provided that such property shall not be treated as waqf property till the Collector submits his report.

(3) In case the Collector determines the property to be a Government property, he shall make necessary corrections in revenue records and submit a report in this regard to the State Government.

45 (4) The State Government shall, on receipt of the report of the Collector, direct the Board to make appropriate correction in the records.”

Amendment of
section 4.

5. In section 4 of the principal Act,—

(a) for the marginal heading, the marginal heading “Survey of auqaf.” shall be substituted;

(b) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Any survey of auqaf pending before the Survey Commissioner, on the commencement of the Waqf (Amendment) Act, 2024, shall be transferred to the Collector having jurisdiction and the Collector shall make the survey in accordance with the procedure in the revenue laws of the State, from the stage such survey is transferred to the Collector, and submit his report to the State Government.”;

(c) sub-sections (1A), (2) and (3) shall be omitted;

(d) in sub-section (4), in the opening portion, for the words “Survey Commissioner”, the word “Collector” shall be substituted;

(e) in sub-section (5), after the words “Sunni waqf”, the words “or Aghakhani waqf or Bohra waqf” shall be inserted;

(f) sub-section (6) shall be omitted.

Amendment of
section 5.

6. In section 5 of the principal Act,—

(a) in sub-section (1), for the word, brackets and figure “sub-section (3)”, the word, brackets and figure “sub-section (1)” shall be substituted;

(b) in sub-section (2), after the words “Shia auqaf”, the words “or Aghakhani auqaf or Bohra auqaf” shall be inserted;

(c) after sub-section (2), the following sub-sections shall be inserted, namely:—

“(2A) The State Government shall upload the notified list of auqaf on the portal and database within fifteen days from the date of its publication in the Official Gazette under sub-section (2).

(2B) The details of each waqf shall contain the identification, boundaries of waqf properties, their use and occupier, details of the creator, mode and date of such creation, purpose of waqf, their present mutawallis and management in such manner as may be prescribed by the Central Government.”;

(d) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) The revenue authorities, before deciding mutation in the land records, in accordance with revenue laws in force, shall give a public notice of ninety days, in two daily newspapers circulating in the localities of such area of which one shall be in the regional language and give the affected persons an opportunity of being heard.”;

(e) in sub-section (4), after the words “time to time”, the words “on the portal and database” shall be inserted.

Amendment of
section 6.

7. In section 6 of the principal Act,—

(a) in sub-section (1),—

(i) after the words “Sunni waqf”, the words “or Aghakhani waqf or Bohra waqf” shall be inserted;

(ii) the words “and the decision of the Tribunal in respect of such matter shall be final” shall be omitted;

(iii) in the first proviso, for the words “one year”, the words “two years” shall be substituted;

(iv) the second proviso shall be omitted;

5 (b) in sub-section (3), for the words “Survey Commissioner”, the word “Collector” shall be substituted.

8. In section 7 of the principal Act, in sub-section (1),—

Amendment of section 7.

(i) after the words “Sunni waqf”, the words “or Aghakhani waqf or Bohra waqf” shall be inserted;

10 (ii) the words “and the decision of the Tribunal thereon shall be final” shall be omitted;

(iii) in the first proviso, for the words “one year” wherever they occur, the words “two years” shall be substituted;

(iv) in the second proviso, for the words “Provided further that”, the following shall be substituted, namely:—

15 “Provided further that an application may be entertained by the Tribunal after the period of two years specified in the first proviso, if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period:

Provided also that”.

20 9. In section 9 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

Amendment of section 9.

“(2) The Council shall consist of—

(a) the Union Minister in charge of waqf—Chairperson, *ex officio*;

25 (b) three Members of Parliament of whom two shall be from the House of the people and one from the Council of States;

(c) the following members to be appointed by the Central Government from amongst Muslims, namely:—

30 (i) three persons to represent Muslim organisations having all India character and national importance;

(ii) Chairpersons of three Boards by rotation;

(iii) one person to represent the mutawallis of the waqf having a gross annual income of five lakh rupees and above;

(iv) three persons who are eminent scholars in Muslim law;

35 (d) two persons who have been Judges of the Supreme Court or a High Court;

(e) one Advocate of national eminence;

40 (f) four persons of national eminence, one each from the fields of administration or management, financial management, engineering or architecture and medicine;

(g) Additional Secretary or Joint Secretary to the Government of India dealing with waqf matters in the Union Ministry or department—member, *ex officio*:

45 Provided that two of the members appointed under clause (c) shall be women:

Provided further that two members appointed under this sub-section shall be non-Muslim.”.

Amendment of
section 13.

10. In section 13 of the principal Act, for sub-section (2A), the following sub-section shall be substituted, namely:—

“(2A) The State Government may, if it deems necessary, by notification in the Official Gazette, establish a separate Board of Auqaf for Bohras and Aghakhani.”.

Amendment of
section 14.

11. In section 14 of the principal Act,—

(a) for sub-sections (1), (1A), (2), (3) and (4), the following sub-sections shall be substituted, namely:—

“(1) The Board for a State and the National Capital Territory of Delhi shall consist of, not more than eleven members, to be nominated by the State Government,—

(a) a Chairperson;

(b) (i) one Member of Parliament from the State or, as the case may be, the National Capital Territory of Delhi;

(ii) one Member of the State Legislature;

(c) the following members belonging to Muslim community, namely:—

(i) one mutawalli of the waqf having an annual income of one lakh rupees and above;

(ii) one eminent scholar of Islamic theology;

(iii) two or more elected members from the Municipalities or Panchayats:

Provided that in case there is no Muslim member available from any of the categories in sub-clauses (i) to (iii), additional members from category in sub-clause (iii) may be nominated;

(d) two persons who have professional experience in business management, social work, finance or revenue, agriculture and development activities;

(e) one officer of the State Government, not below the rank of Joint Secretary to that State Government;

(f) one Member of the Bar Council of the concerned State or Union territory:

Provided that two members of the Board appointed under clause (c) shall be women:

Provided further that two of total members of the Board appointed under this sub-section shall be non-Muslim:

Provided also that the Board shall have at least one member each from Shia, Sunni and other backward classes among Muslim Communities:

Provided also that one member each from Bohra and Aghakhani communities shall be nominated in the Board in case they have functional auqaf in the State or Union territory:

Provided also that the elected members of Board holding office on the commencement of the Waqf (Amendment) Act, 2024 shall continue to hold office as such until the expiry of their term of office.

5 (2) No Minister of the Central Government or, as the case may be, a State Government, shall be nominated as a member of the Board.

(3) In case of a Union territory, the Board shall consist of not less than five and not more than seven members to be nominated by the Central Government under sub-section (1).”;

10 (b) for sub-section (6), the following sub-section shall be substituted, namely:—

15 “(6) In determining the number of members belonging to Shia, Sunni, Bohra, Aghakhani or other backward classes among Muslim communities, the State Government or, as the case may be, the Central Government in case of a Union territory shall have regard to the number and value of Shia, Sunni, Bohra, Aghakhani and other backward classes among Muslim auqaf to be administered by the Board and appointment of the members shall be made, so far as may be, in accordance with such determination.”;

(c) sub-section (8) shall be omitted.

20 **12.** In section 16 of the principal Act, for clause (d), the following clause shall be substituted, namely:—

Amendment of section 16.

“(d) he has been convicted of any offence and sentenced to imprisonment for not less than two years”;

25 **13.** In section 17 of the principal Act, in sub-section (1), after the words “shall meet”, the words “at least once in every month” shall be inserted.

Amendment of section 17.

14. Section 20A of the principal Act shall be omitted.

Omission of section 20A.

15. In section 23 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

Amendment of section 23.

30 “(1) There shall be a full-time Chief Executive Officer of the Board to be appointed by the State Government and who shall be not below the rank of Joint Secretary to the State Government.”.

16. In section 32 of the principal Act,—

Amendment of section 32.

(a) in sub-section (2), in clause (e), the *Explanation* and the proviso shall be omitted;

35 (b) in sub-section (3), the words “and the decision of the Tribunal thereon shall be final” shall be omitted.

17. In section 33 of the principal Act,—

Amendment of section 33.

40 (a) in sub-section (4), in the proviso, the words, brackets and figure “and the Tribunal shall have no power to make any order staying pending the disposal of the appeal, the operation of the order made by the Chief Executive Officer under sub-section (3)” shall be omitted;

(b) sub-section (6) shall be omitted.

18. In section 36 of the principal Act,—

Amendment of section 36.

45 (a) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) On and from the commencement of the Waqf (Amendment) Act, 2024, no waqf shall be created without execution of a waqf deed.”;

(b) in sub-section (3),—

(i) in the opening portion, for the words “in such form and manner and at such place as the Board may by regulation provide”, the words “to the Board through the portal and database” shall be substituted;

(ii) for clause (f), the following clause shall be substituted, 5
namely:—

“(f) any other particulars as may be prescribed by the Central Government.”;

(c) in sub-section (4), the words “or if no such deed has been executed or a copy thereof cannot be obtained, shall contain full particulars, as far as 10
they are known to the applicant, of the origin, nature and objects of the waqf” shall be omitted;

(d) for sub-section (7), the following sub-sections shall be substituted, namely:—

“(7) On receipt of an application for registration, the Board shall 15
forward the application to the Collector having jurisdiction to inquire the genuineness and validity of the application and correctness of any particulars therein and submit a report to the Board:

Provided that if the application is made by any person other than the person administering the waqf, the Board shall, before registering 20
the waqf, give notice of the application to the person administering the waqf and shall hear him if he desires to be heard.

(7A) Where the Collector in his report mentions that the property, wholly or in part, is in dispute or is a Government property, the waqf in relation to such part of property shall not be registered, 25
unless the dispute is decided by a competent court.”;

(e) in sub-section (8), the proviso shall be omitted;

(f) after sub-section (8), the following sub-sections shall be inserted, namely:—

“(9) The Board, on registering a waqf, shall issue the certificate 30
of registration to the waqf through the portal and database.

(10) No suit, appeal or other legal proceeding for the enforcement of any right on behalf of any waqf which have not been registered in accordance with the provisions of this Act, shall be instituted or commenced or heard, tried or decided by any court after 35
expiry of a period of six months from the commencement of the Waqf (Amendment) Act, 2024.”.

19. In section 37 of the principal Act,—

(a) in sub-section (1),—

(i) in the opening portion, after the word “particulars”, the words “in 40
such manner as prescribed by the Central Government” shall be inserted;

(ii) in clause (f), for the words “provided by regulations”, the words “prescribed by the Central Government” shall be substituted;

(b) in sub-section (3), after the words “land record office shall”, the words “before deciding mutation in the land records, in accordance with 45
revenue laws in force, shall give a public notice of ninety days, in two daily newspapers circulating in the localities of such area of which one shall be in the regional language and give the affected persons an opportunity of being heard, then” shall be substituted.

20. Section 40 of the principal Act shall be omitted.

Omission of section 40.

21. In section 46 of the principal Act, in sub-section (2),—

Amendment of section 46.

(a) for the word “July”, at both the places where it occurs, the word “October” shall be substituted;

5 (b) for the words “in such form and containing such particulars as may be provided by regulations by the Board of all moneys received”, the words “in such form and manner and containing such particulars as may be prescribed by the Central Government, of all moneys received from any source” shall be substituted.

10 **22.** In section 47 of the principal Act,—

Amendment of section 47.

(a) in sub-section (1),—

(i) in clause (a),—

(A) for the words “fifty thousand rupees”, the words “one lakh rupees” shall be substituted;

15 (B) after the words “appointed by the Board”, the following shall be inserted, namely:—

“from out of the panel of auditors prepared by the State Government:

20 Provided that the State Government shall, while preparing such panel of auditors, specify the remuneration to be paid to such auditors;”;

(ii) for clause (b), the following clause shall be substituted, namely:—

25 “(b) the accounts of the waqf having net annual income exceeding one lakh rupees shall be audited annually, by an auditor appointed by the Board from out of the panel of auditors as specified in clause (a);”;

(iii) in clause (c), the following proviso shall be inserted, namely:—

30 “Provided that the Central Government may, by order, direct the audit of any waqf at any time by an auditor appointed by the Comptroller and Auditor-General of India, or by any officer designated by the Central Government for that purpose.”;

35 (b) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) On receipt of the report under sub-section (2), the Board shall publish the audit report in such manner as may be prescribed by the Central Government.”;

(c) in sub-section (3), both the provisos shall be omitted.

40 **23.** In section 48 of the principal Act,—

Amendment of section 48.

(a) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) The proceedings and orders of the Board under sub-section (1) shall be published in such manner as may be prescribed by the Central Government.”;

(b) in sub-section (3), the words, brackets and figure “and the Tribunal shall not have any power to stay the operation of the order made by the Board under sub-section (1)” shall be omitted;

(c) sub-section (4) shall be omitted.

Insertion of new section 50A.

24. After section 50 of the principal Act, the following section shall be inserted, namely:—

Disqualification of mutawalli.

“50A. A person shall not be qualified for being appointed, or for continuing as, a mutawalli, if he—

(a) is less than twenty-one years of age;

(b) is found to be a person of unsound mind;

(c) is an undischarged insolvent;

(d) has been convicted of any offence and sentenced to imprisonment for not less than two years;

(e) has been held guilty of encroachment on any waqf property;

(f) has been on a previous occasion—

(i) removed as a mutawalli; or

(ii) removed by an order of a competent court or Tribunal from any position of trust either for mismanagement or for corruption.”.

Amendment of section 52.

25. In section 52 of the principal Act, in sub-section (4), the words “and the decision of the Tribunal on such appeal shall be final” shall be omitted.

Amendment of section 52A.

26. In section 52A of the principal Act,—

(a) in sub-section (1),—

(i) for the words “rigorous imprisonment”, the word “imprisonment” shall be substituted;

(ii) in the proviso for the words “be vested in the Board”, the words “be reverted back to the waqf” shall be substituted;

(b) sub-section (2) shall be omitted;

(c) sub-section (4) shall be omitted.

Amendment of section 55A.

27. In section 55A of the principal Act, in sub-section (2), in the proviso, the words “and the decision of the Tribunal thereon shall be final” shall be omitted.

Amendment of section 61.

28. In section 61 of the principal Act,—

(a) in sub-section (1),—

(i) clauses (e) and (f) shall be omitted;

(ii) for the long line, the following shall be substituted, namely:—

“he shall, unless he satisfies the court or the Tribunal that there was reasonable cause for his failure, be punishable with a fine which shall not be less than twenty thousand rupees but which may extend to fifty thousand rupees.”;

5 (b) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) If a mutawalli fails to—

(i) deliver possession of any waqf property, if ordered by the Board or the Tribunal;

10 (ii) carry out the directions of the Collector or the Board;

(iii) do any other act which he is lawfully required to do by or under this Act;

(iv) provide statement of accounts under section 46;

(v) upload the details of waqf under section 3B,

15 he shall be punishable with imprisonment for a term which may extend to six months and also with a fine which shall not be less than twenty thousand rupees but which may extend to one lakh rupees.”.

29. In section 64 of the principal Act,—

Amendment of section 64.

(a) in sub-section (1),—

20 (i) for clause (g), the following clause shall be substituted, namely:—

“(g) has failed, without reasonable excuse, to maintain regular accounts for one year or has failed to submit, within one year, the yearly statement of accounts, as required by section 46; or”;

25

(ii) after clause (k), the following clause shall be inserted, namely:—

“(l) is a member of any association which has been declared unlawful under the Unlawful Activities (Prevention) Act, 1967.”;

37 of 1967.

30

(b) in sub-section (4), the words “and the decision of the Tribunal on such appeal shall be final” shall be omitted.

30. In section 65 of the principal Act, in sub-section (3), for the words “As soon as possible”, the words “Within six months” shall be substituted.

Amendment of section 65.

35 **31.** In section 67 of the principal Act,—

Amendment of section 67.

(a) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) Any person aggrieved by the order made under sub-section (2) may, within sixty days from the date of the order, appeal to the Tribunal.”;

40

(b) in sub-section (6), in the second proviso, the words “and the order made by the Tribunal in such appeal shall be final” shall be omitted.

32. In section 69 of the principal Act,—

Amendment of section 69.

(a) in sub-section (3), the second proviso shall be omitted;

(b) in sub-section (4), the following proviso shall be inserted, namely:—

“Provided that no such order shall be made under this sub-section unless a written notice inviting objections from the person likely to be affected and general public, in such manner as may be prescribed by the State Government.”.

Amendment of section 72.

33. In section 72 of the principal Act,—

(a) in sub-section (1), for the words “seven per cent.”, the words “five per cent.” shall be substituted;

(b) in sub-section (7), the words “and the decision of the Board thereon shall be final” shall be omitted.

Amendment of section 73.

34. In section 73 of the principal Act, in sub-section (3), the words “and the decision of the Tribunal on such appeal shall be final” shall be omitted.

Amendment of section 83.

35. In section 83 of the principal Act,—

(a) in sub-section (1), the following proviso shall be inserted, namely:—

“Provided that any other Tribunal may, by notification, be declared as the Tribunal for the purposes of this Act.”;

(b) in sub-section (2), the following proviso shall be inserted, namely:—

“Provided that if there is no Tribunal or the Tribunal is not functioning, any aggrieved person may appeal to the High Court directly.”;

(c) for sub-section (4), the following shall be substituted, namely:—

“(4) Every Tribunal shall consist of two members—

(a) one person, who is or has been a District Judge, who shall be the Chairman; and

(b) one person, who is or has been an officer equivalent in the rank of Joint Secretary to the State Government—member:

Provided that in case of absence of a member, Chairman of the bench may exercise the jurisdiction, powers and authority of the Tribunal:

Provided further that a Tribunal established under this Act, prior to the commencement of the Waqf (Amendment) Act, 2024, shall continue to function as such until the expiry of the term of office of the Chairman and the members thereof under this Act.”;

(d) in sub-section (4A), the following proviso shall be inserted, namely:—

“Provided that tenure of the Chairman and the member shall be five years from the date of appointment or until they attain the age of sixty-five years, whichever is earlier.”;

(e) in sub-section (7), the words “final and” shall be omitted;

(f) for sub-section (9), the following sub-section shall be substituted, namely:—

“(9) Any person aggrieved by the order of the Tribunal, may appeal to the High Court within a period of ninety days from the date of receipt of the order of the Tribunal.”.

36. In section 84 of the principal Act,—

Amendment of
section 84.

(a) after the words “decision in writing”, the words “within six months from the date of application” shall be inserted;

(b) the following proviso shall be inserted, namely:—

5 “Provided that if the matter is not decided within six months, the Tribunal may decide the matter within a further period of six months for the reasons to be recorded in writing as to why the matter was not decided within the said period of six months.”.

37. In section 91 of the principal Act,—

Amendment of
section 91.

10 (a) in sub-section (1),—

1 of 1894.

(i) for the words and figures “the Land Acquisition Act, 1894”, the words and figures “the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013” shall be substituted;

30 of 2013.

15 (ii) for the words “three months”, the words “one month” shall be substituted;

1 of 1894.

(b) in sub-section (3), for the words and figures “under section 31 or section 32 of the Land Acquisition Act, 1894”, the words and figures “under section 77 or section 78 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013” shall be substituted;

30 of 2013.

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(c) in sub-section (4),—

1 of 1894.

(i) for the words and figures “under section 31 or section 32 of the Land Acquisition Act, 1894”, the words and figures “under section 77 or section 78 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013” shall be substituted;

30 of 2013.

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(ii) for the words “shall be declared void if the Board”, the words “shall be kept in abeyance relating to portion of the property claimed by the Board, if the Board” shall be substituted;

30

(iii) the following proviso shall be inserted, namely:—

“Provided that the Collector after hearing the parties concerned shall make the order within one month of the application of the Board.”.

35 **38.** In section 100 of the principal Act, for the words “Survey Commissioner”, the word “Collector” shall be substituted.

Amendment of
section 100.

39. In section 101 of the principal Act, in the marginal heading and in sub-section (1), for the words “Survey Commissioner” occurring at both the places, the word “Collector” shall be substituted.

Amendment of
section 101.

40 **40.** Section 104 of the principal Act shall be omitted.

Omission of
section 104.

41. Sections 107, 108 and 108A of the principal Act shall be omitted.

Omission of
sections 107,
108 and 108A.

42. After section 108A as so omitted of the principal Act, the following section shall be inserted, namely:—

Insertion of new
section 108B.

45 “108B. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

Power of Central
Government to
make rules.

(2) In particular, and without prejudice to the generality of the foregoing powers, the Central Government may make rules for all or any of the following matters, namely:—

(a) the waqf asset management system for the registration, accounts, audit and other details of waqf and Board under clause (ka), 5 and the manner of payments for maintenance of widow, divorced woman and orphan under sub-clause (iv) of clause (r), of section 3;

(b) any other particulars under clause (j) of sub-section (2) of section 3B;

(c) the manner in which details of waqf to be uploaded under 10 sub-section (2B) of section 5;

(d) any other particulars under clause (f) of sub-section (3) of section 36;

(e) the manner in which the Board shall maintain the register of auqaf under sub-section (I) of section 37; 15

(f) such other particulars to be contained in the register of auqaf under clause (f) of sub-section (I) of section 37;

(g) form and manner and particulars of the statement of accounts under sub-section (2) of section 46;

(h) the manner for publishing audit report under sub-section (2A) 20 of section 47;

(i) the manner of publication of proceedings and orders of Board under sub-section (2A) of section 48;

(j) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall 25 be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any 30 modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously 35 done under that rule.”.

Amendment of section 109.

43. In section 109 of the principal Act, in sub-section (2),—

(a) clause (ia) shall be omitted;

(b) clause (iv) shall be omitted;

(c) in clauses (via) and (vib), for the word and figures “section 31” at both the places where they occur, the word and figures “section 29” shall be 40 substituted;

(d) after clause (xviii), the following clause shall be inserted, namely:—

“(xviiiia) the manner of giving notice inviting objections under proviso to sub-section (4) of section 69;”.

Amendment of section 110.

44. In section 110 of the principal Act, in sub-section (2), clauses (f) and (g) 45 shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The Waqf Act, 1995, was enacted to provide for the better administration of Auqaf and for matters connected therewith or incidental thereto. However, during the course of implementation of the Act, it is felt that the Act has not proved effective in improving the administration of auqaf.

2. Based on the recommendations of the High-Level Committee under the chairmanship of Justice (Retired) Rajinder Sachar and the Report of the Joint Parliamentary Committee on Waqf and Central Waqf Council and after having detailed consultation with other stakeholders, comprehensive amendments were made in the Act in the year 2013. Despite the amendments, it has been observed that the Act still requires further improvement to effectively address issues related to the powers of the State Waqf Boards, registration and survey of waqf properties, removal of encroachments, including the definition of the “waqf” itself.

3. In view of the above, it has been felt necessary to amend the said Act with the aim to overcome the shortcomings and to enhance the efficiency of the administration and management of the waqf properties. Therefore, it is proposed to introduce in Parliament a Bill which seeks to address these issues comprehensively and achieve the intended objectives for effective management, empowerment, and development of waqf properties. The Bill, *inter alia*, provides for the followings, namely:—

(a) renaming of the Waqf Act, 1995 as the Unified Waqf Management, Empowerment, Efficiency and Development Act, 1995;

(b) clearly define “waqf” as waqf by any person practicing Islam for at least five years and having ownership of such property;

(c) ensuring that the creation of waqf-alal-aulad does not lead to the denial of inheritance rights to women;

(d) omitting the provisions relating to the “waqf by user”;

(e) providing the functions of the Survey Commissioner to the Collector or any other officer not below the rank of Deputy Collector duly nominated by the Collector for the survey of waqf properties;

(f) providing for a broad based composition of the Central Waqf Council and the State Waqf Boards and ensuring the representation of Muslim women and non-Muslims;

(g) providing for establishment of separate Board of Auqaf for Boharas and Aghakhani;

(h) providing for representation of Shia, Sunni, Bohra, Agakhani and other backward classes among Muslim communities;

(i) streamlining the manner of registration of waqfs through a central portal and database;

(j) providing for a detailed procedure for mutation as per revenue laws with due notice to all concerned before recording any property as waqf property;

(k) omitting section 40 relating to the powers of Board to decide if a property is waqf property;

(l) decreasing the annual contribution from seven per cent. to five per cent. payable to the Board by mutawalli of every waqf having the net annual income of not less than five thousand rupees;

(m) providing for filing of accounts of waqf by mutawallis to the Board through a central portal for better control over their activities;

(n) reforming the Tribunal structure with two members and providing for appeals against the orders of the Tribunal to the High Court within a specified period of ninety days;

(o) omission of section 107 so as to make the Limitation Act, 1963 applicable to any action under the Act; and omission of sections 108 and 108A relating to special provision as to evacuee waqf properties and Act to have overriding effect.

4. The notes on clauses explain the various provisions of the Bill.

5. The Bill seeks to achieve the above objectives.

NEW DELHI;

The 6th August, 2024.

KIREN RIJJU.

Notes on Clauses

Clause 1 of the Bill seeks to provide for short title and commencement of the proposed legislation.

Clause 2 of the Bill seeks to amend section 1 relating to short title and commencement so as to amend the short title of the Act from “the Waqf Act, 1995”, to “the Unified Waqf Management, Empowerment, Efficiency and Development Act, 1995”.

Clause 3 of the Bill seeks to amend section 3 relating to definition so as to amend and substitute some definitions and provide new definitions in section 3, such as Aghakhani waqf, Bohra waqf, Collector, Government Organisation, Government property, etc.

Clause 4 of the Bill seeks to insert new sections 3A, 3B and 3C relating to certain conditions of waqf, filing of details of waqf on portal and database; and wrongful declaration of waqf. It provides for certain conditions of waqf, filing of details of waqf on portal and database and prevention of wrongful declaration of waqf.

Clause 5 of the Bill seeks to substitute section 4 relating to preliminary survey of waqf to replace the Collector in place of the Survey Officers, so as to confer powers upon the Collector to make the survey in accordance with the procedure in revenue laws of the State.

Clause 6 of the Bill seeks to amend section 5 relating to publication of list of auqaf so as to insert new sub-sections (2A) and (2B) to provide uploading of the notified list of auqaf on the portal and database within fifteen days. It further substitutes sub-section (3) which provides for making public notice of ninety days before deciding mutation of land records.

Clause 7 of the Bill seeks to amend section 6 relating to disputes regarding auqaf so as to insert the words “Aghakhani waqf or Bohra waqf” after the words “Sunni waqf”; and to omit that the expression “and the decision of the Tribunal in respect of such matter shall be final”.

Clause 8 of the Bill seeks to amend section 7 relating to power of Tribunal to determine disputes regarding auqaf so as to include therein Aghakhani waqf or Bohra waqf; and to omit that the expression “and the decision of the Tribunal in respect of such matter shall be final”.

Clause 9 of the Bill seeks to amend section 9 relating to establishment and constitution of Central Waqf Council so as to provide the composition broad-based by making provision for including two members from non-Muslim community.

Clause 10 of the Bill seeks to amend section 13 relating to incorporation so as to provide the establishment of a separate Board of Auqaf for Bohras and Aghakhanis if deemed necessary.

Clause 11 of the Bill seeks to amend section 14 relating to composition of Board so as to make the composition of the State Waqf Board broad-based *inter alia* making provisions for two members from non-Muslim community.

Clause 12 of the Bill seeks to amend section 16 relating to disqualification for being appointed, or for continuing as, member of the Board so as to include the conviction of two years imprisonment and more for any offence as a ground for disqualification.

Clause 13 of the Bill seeks to amend section 17 relating to meeting of Board so as to provide that the meeting of the Board to be held at least once in every month.

Clause 14 of the Bill seeks to omit section 20A relating to removal of Chairperson by vote of no confidence.

Clause 15 of the Bill seeks to amend section 23 relating to appointment of Chief Executive Officer and his term of office and other conditions of service so as to provide the Chief Executive Officer is to be not below the rank of Joint Secretary to the State Government and omit the requirement of him being a Muslim.

Clause 16 of the Bill seeks to amend section 32 relating to powers and function of the Board to omit *Explanation* and proviso to clause (e) in sub-section (2) to provide for giving of opportunity of being heard to the party affected; and to omit in sub-section (3) the expression “and the decision of the Tribunal in respect of such matter shall be final”.

Clause 17 of the Bill seeks to amend section 33 relating to powers of inspection by Chief Executive Officer or person authorised by him so as to omit in the words in the proviso in sub-section (4) of section 33 related to “and the Tribunal shall have no power to make any order staying pending the disposal of the appeal, the operation of the order made by the Chief Executive Officer under sub-section (3)”; and to omit sub-section (6).

Clause 18 of the Bill seeks to amend section 36 relating to registration to provide that after the commencement of the proposed legislation, no waqf shall be created without execution of a waqf deed.

Clause 19 of the Bill seeks to amend section 37 relating to register of auqaf providing for the maintenance of register of auqaf by the Board in the prescribed manner.

Clause 20 of the Bill seeks to omit section 40 related to “Decision if a property is waqf property”.

Clause 21 of the Bill seeks to amend section 46 relating to submission of account of auqaf.

Clause 22 of the Bill seeks to amend section 47 relating to audit of account of auqaf so as to substitute the expression “one lakh rupees” in place of “fifty thousand rupees”.

Clause 23 of the Bill seeks to amend section 48 relating to Board to pass orders on auditors report to provide that the proceedings and orders of the Board shall be published in such manner as may be prescribed by the Central Government.

Clause 24 of the Bill seeks to insert new section 50A relating to “Disqualification of Mutawalli”.

Clause 25 of the Bill seeks to amend section 52 relating to recovery of waqf property transferred in contravention of section 51 so as to omit the words in sub-section (4) related to decision of Tribunal on such appeal shall be final.

Clause 26 of the Bill seeks to amend section 52A relating to penalty for alienation of waqf property without sanction of Board provide for imprisonment instead of rigorous imprisonment; and to omit sub-sections (2) and (4) related to offence being cognizable and non-bailable .

Clause 27 of the Bill seeks to amend section 55A relating to disposal of property left on waqf property by unauthorised occupants.

Clause 28 of the Bill seeks to amend section 61 related to penalties *inter alia* to provide penalty to be twenty thousand rupees which may extend to one lakh rupees for certain failure by the mutawallis.

Clause 29 of the Bill seeks to amend section 64 relating to removal of Mutawalli as so to provide that if without reasonable cause fails to maintain regular accounts for one year instead of two years or fail to submit within one year instead of in consecutive two years; and to provide further that the Mutawalli shall be removed if is a member of any association which has been declared unlawful under the Unlawful Activities (Prevention) Act, 1967; and also to omit the words that the decision of the Tribunal on such appeal shall be final.

Clause 30 of the Bill seeks to amend section 65 relating to assumption of direct management of certain auqaf by the Board for submitting report by the Board within a period of six months.

Clause 31 of the Bill seeks to amend section 67 relating to supervision and supersession of committee of management to provide that aggrieved person may within sixty days of the order of the Board appeal to the Tribunal; and to omit the words relating of the finality of order made by the Tribunal.

Clause 32 of the Bill seeks to amend section 69 related to power of Board to frame scheme for administration of waqf so as to omit sub-section (3) and insert a proviso in sub-section (4) that no such order shall be made under this sub-section unless a written notice inviting objections from the person likely to be affected and general public, in such manner as may be prescribed by the State Government.

Clause 33 of the Bill seeks to section 72 relating to annual contribution payable to Board replacing the contribution to five per cent. in place of seven per cent.

Clause 34 of the Bill seeks to amend section 73 related to power of Chief Executive Officer to direct banks or other person to make payments and to omit the expression “and the decision of the Tribunal on such appeal shall be final”.

Clause 35 of the Bill seeks to amend section 83 relating to constitution of Tribunals, etc., so as to modify the composition of the Tribunal; and provide that if there is no Tribunal or the Tribunal is not functioning, any aggrieved person may appeal to the High Court directly; and to further provide that in absence of one member, the Chairman of the bench may exercise the jurisdiction, powers and authority of the Tribunal. It also provides that the Tribunals already existing prior to the commencement of proposed legislation shall continue to function till the expiry of the term of office. It also provides that the tenure of the Chairman and member to be for five years from the date of appointment or until the age of sixty-five years, whichever is earlier. It also provides the appeal to High Court within ninety days from the date of order of Tribunal.

Clause 36 of the bill seeks to amend section 84 relating to Tribunal to hold proceedings expeditiously and to furnish to the parties copies of its decision. It provide that if the matter is not decided within six months, the Tribunal may decide the matter within a further period of six months for the reasons to be recorded in writing as to why the matter was not decided within the said period of six months.

Clause 37 of the Bill seeks to amend section 91 relating to proceedings under Land Acquisition Act 1 of 1894 so as to substitute the reference of the Land Acquisition Act with the reference of “the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013”; and to substitute the period of “three months” with the period of “one month”.

Clause 38 of the Bill seeks to amend section 100 relating to protection of action taken in good faith so as to include within its scope the Collector in place of Survey Commissioner.

Clause 39 of the Bill seeks to amend section 101 relating to Survey Commission, members and officers of the Board deemed to be public servant so as to include within its scope the Collector in place of Survey Commissioner.

Clause 40 of the Bill seeks to omit section 104 related to application of Act to properties given or donated by persons not professing Islam.

Clause 41 of the Bill seeks to omit sections 107, 108 and 108A relating to Act 36 of 1963 not to apply for recovery of waqf properties; special provision as to evacuee properties; Act to have overriding effect.

Clause 42 of the Bill seeks to insert new section 108B relating to power of Central Government to make rules.

Clause 43 of the Bill seeks to amend section 109 relating to power to make rules.

Clause 44 of the Bill seeks to amend section 110 relating to powers to make regulations by the Board.

FINANCIAL MEMORANDUM

The Bill, if enacted, would not involve any financial expenditure either recurring or non-recurring from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 41 of the Bill seeks to insert a new section 108A which confers power upon the Central Government to make rules. The matters on which rules may be made, *inter alia*, relate to—(a) the waqf asset management system for the registration, accounts, audit and other details of waqf and Board under clause (ka), and the manner of payments for maintenance of widow, divorced woman and orphan under sub-clause (iv) of clause (r), of section 3; (b) any other particulars under clause (j) of sub-section (2) of section 3B; (c) the manner in which details of waqf to be uploaded under sub-section (2A) of section 5; (d) any other particulars under clause (f) of sub-section (3) of section 36; (e) the manner in which the Board shall maintain the register of auqaf under sub-section (1) of section 37; (f) such other particulars to be contained in the register of auqaf under clause (f) of sub-section (1) of section 37; (g) form and manner and particulars of the statement of accounts under sub-section (2) of section 46; (h) the manner for publishing audit report under sub-section (2A) of section 47; (i) the manner of publication of proceedings and orders of Board under sub-section (2A) of section 48; and (j) any other matter which is required to be, or may be, prescribed.

2. The rules made by the Central Government under section 108A of the Act, shall be laid as soon as they are made, before each House of Parliament.

3. The matters in respect of which rules may be made are matters of procedure or administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE
EXTRACTS FROM THE WAQF ACT, 1995
(43 OF 1995)

* * * * *

CHAPTER I
PRELIMINARY

1. (I) This Act may be called the Waqf Act, 1995.

* * * * *

3. In this Act, unless the context otherwise requires,—

* * * * *

(i) “mutawalli” means any person appointed, either verbally or under any deed or instrument by which a waqf has been created, or by a competent authority, to be the mutawalli of a waqf and includes any person who is a mutawalli of a waqf by virtue of any custom or who is a naib-mutawalli, khandim, mujawar, sajjadanashin, amin or other person appointed by a mutawalli to perform the duties of a mutawalli and save as otherwise provided in this Act, any person, committee or corporation for the time being, managing or administering any waqf or waqf property:

Provided that no member of a committee or corporation shall be deemed to be a mutawalli unless such member is an office-bearer of such committee or corporation:

Provided further that the mutawalli shall be a citizen of India and shall fulfil such other qualifications as may be prescribed:

Provided also that in case a waqf has specified any qualifications, such qualifications may be provided in the rules as may be made by the State Government;

* * * * *

(l) “prescribed”, except in Chapter III, means prescribed by rules made by the State Governments;

* * * * *

(p) “Survey Commissioner” means the Survey Commissioner of Waqf appointed under sub-section (1) of section 4 and includes any Additional or Assistant Survey Commissioners of Auqaf under sub-section (2) of section 4;

* * * * *

(r) “waqf” means the permanent dedication by any person, of any movable or immovable property for any purpose recognised by the Muslim law as pious, religious or charitable and includes—

(i) a waqf by user but such waqf shall not cease to be a waqf by reason only of the user having ceased irrespective of the period of such cesser;

* * * * *

(iv) a waqf-alal-aulad to the extent to which the property is dedicated for any purpose recognised by Muslim law as pious, religious or charitable, provided when the line of succession fails, the income of the waqf shall be spent for education, development, welfare and such other purposes as recognised by Muslim law,

and “waqif” means any person making such dedication;

* * * * *

Short title,
extent and
commencement.
Definitions.

CHAPTER II

SURVEY OF AUQAF

Preliminary
survey of auqaf.

4. (1) The State Government may, by notification in the Official Gazette, appoint for the State a Survey Commissioner of Auqaf and as many Additional or Assistant Survey Commissioners of Auqaf as may be necessary for the purpose of making a survey of auqaf in the State.

(1A) Every State Government shall maintain a list of auqaf referred to in sub-section (1) and the survey of auqaf shall be completed within a period of one year from the date of commencement of the Wakf (Amendment) Act, 2013, in case such survey was not done before the commencement of the Wakf (Amendment) Act, 2013:

27 of 2013.

Provided that where no Survey Commissioner of Waqf has been appointed, a Survey Commissioner for auqaf shall be appointed within three months from the date of such commencement.

(2) All Additional and Assistant Survey Commissioner of Auqaf shall perform their functions under this Act under the general supervision and control of the Survey Commissioner of Auqaf.

(3) The Survey Commissioner shall, after making such inquiry as he may consider necessary, submit his report, in respect of auqaf existing at the date of the commencement of this Act in the State or any part thereof, to the State Government containing the following particulars, namely:—

(a) the number of auqaf in the State showing the Shia auqaf and Sunni auqaf separately;

(b) the nature and objects of each waqf;

(c) the gross income of the property comprised in each waqf;

(d) the amount of land revenue, cesses, rates and taxes payable in respect of each waqf;

(e) the expenses incurred in the realisation of the income and the pay or other remuneration of the mutawalli of each waqf; and

(f) such other particulars relating to each waqf as may be prescribed.

(4) The Survey Commissioner shall, while making any inquiry, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of the following matters, namely:—

5 of 1908.

(a) summoning and examining any witness;

(b) requiring the discovery and production of any document;

(c) requisitioning any public record from any court or office;

(d) issuing commissions for the examination of any witness or accounts;

(e) making any local inspection or local investigation;

(f) such other matters as may be prescribed.

(5) If, during any such inquiry, any dispute arises as to whether a particular waqf is a Shia waqf or Sunni waqf and there are clear indications in the deed of waqf as to its nature, the dispute shall be decided on the basis of such deed.

(6) The State Government may, by notification in the Official Gazette, direct the Survey Commissioner to make a second or subsequent survey of waqf properties in the State and the provisions of sub-sections (2), (3), (4) and (5) shall apply to such survey as they apply to a survey directed under sub-section (1):

Provided that no such second or subsequent survey shall be made until the expiry of a period of ten years from the date on which the report in relation to the immediately previous survey was submitted under sub-section (3):

Provided further that the waqf properties already notified shall not be reviewed again in subsequent survey except where the status of such property has been changed in accordance with the provisions of any law.

5. (1) On receipt of a report under sub-section (3) of section 4, the State Government shall forward a copy of the same to the Board.

Publication of list of auqaf.

(2) The Board shall examine the report forwarded to it under sub-section (1) and forward it back to the Government within a period of six months for publication in the Official Gazette a list of Sunni auqaf or Shia auqaf in the State, whether in existence at the commencement of this Act or coming into existence thereafter, to which the report relates, and containing such other particulars as may be prescribed.

(3) The revenue authorities shall—

(i) include the list of auqaf referred to in sub-section (2), while updating the land records; and

(ii) take into consideration the list of auqaf referred to in sub-section (2), while deciding mutation in the land records.

(4) The State Government shall maintain a record of the lists published under sub-section (2) from time to time.

6. (1) If any question arises whether a particular property specified as waqf property in the list of auqaf is waqf property or not or whether a waqf specified in such list is a Shia waqf or Sunni waqf, the Board or the mutawalli of the waqf or any person aggrieved may institute a suit in a Tribunal for the decision of the question and the decision of the Tribunal in respect of such matter shall be final:

Disputes regarding auqaf.

Provided that no such suit shall be entertained by the Tribunal after the expiry of one year from the date of the publication of the list of auqaf:

Provided further that no suit shall be instituted before the Tribunal in respect of such properties notified in a second or subsequent survey pursuant to the provisions contained in sub-section (6) of section 4.

* * * * *

(3) The Survey Commissioner shall not be made a party to any suit under sub-section (1) and no suit, prosecution or other legal proceeding shall lie against him in respect of anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

* * * * *

7. (1) If, after the commencement of this Act, any question or dispute arises, whether a particular property specified as waqf property in a list of auqaf is waqf property or not, or whether a waqf specified in such list is a Shia waqf or a Sunni waqf, the Board or the mutawalli of the waqf, or any person aggrieved by the publication of the list of auqaf under section 5 therein, may apply to the Tribunal having jurisdiction in relation to such property, for the decision of the question and the decision of the Tribunal thereon shall be final:

Power of Tribunal to determine disputes regarding auqaf.

Provided that—

(a) in the case of the list of auqaf relating to any part of the State and published after the commencement of this Act no such application shall be entertained after the expiry of one year from the date of publication of the list of auqaf; and

(b) in the case of the list of auqaf relating to any part of the State and published at any time within a period of one year immediately preceding the commencement of this Act, such an application may be entertained by Tribunal within the period of one year from such commencement:

Provided further that where any such question has been heard and finally decided by a civil court in a suit instituted before such commencement, the Tribunal shall not re-open such question.

* * * * *

CHAPTER III

CENTRAL WAQF COUNCIL

Establishment
and constitution
of Central Waqf
Council.

9. (1) * * * * *

(2) The Council shall consist of—

(a) the Union Minister in charge of waqf—*ex officio* Chairperson;

(b) the following members to be appointed by the Central Government from amongst Muslims, namely:—

(i) three persons to represent Muslim organisations having all India character and national importance;

(ii) four persons of national eminence, one each from the fields of administration or management, financial management, engineering or architecture and medicine;

(iii) three Members of Parliament of whom two shall be from the House of the People and one from the Council of States;

(iv) Chairpersons of three Boards by rotation;

(v) two persons who have been Judges of the Supreme Court or a High Court;

(vi) one Advocate of national eminence;

(vii) one person to represent the mutawallis of the waqf having a gross annual income of rupees five lakhs and above;

(viii) three persons who are eminent scholars in Muslim Law:

Provided that at least two of the members appointed under sub-clauses (i) to (viii) shall be women.

* * * * *

CHAPTER IV

ESTABLISHMENT OF BOARDS AND THEIR FUNCTIONS

Incorporation.

13. (1) * * * * *

(2A) Where a Board of Waqf is established under sub-section (2) of section 13, in the case of Shia waqf, the Members shall belong to the Shia Muslim and in the case of Sunni waqf, the Members shall belong to the Sunni Muslim.

* * * * *

Composition of
Board.

14. (1) The Board for a State and the National Capital Territory of Delhi shall consist of—

(a) a Chairperson;

(b) one and not more than two members, as the State Government may think fit, to be elected from each of the electoral colleges consisting of—

(i) Muslim Members of Parliament from the State or, as the case may be, the National Capital Territory of Delhi;

(ii) Muslim Members of the State Legislature;

(iii) Muslim members of the Bar Council of the concerned State or Union territory:

Provided that in case there is no Muslim member of the Bar Council of a State or a Union territory, the State Government or the Union territory administration, as the case may be, may nominate any senior Muslim advocate from that State or the Union territory, and

(iv) mutawallis of the auqaf having an annual income of rupees one lakh and above.

Explanation I.—For the removal of doubts, it is hereby declared that the members from categories mentioned in sub-clauses (i) to (iv), shall be elected from the electoral college constituted for each category.

Explanation II.—For the removal of doubts it is hereby declared that in case a Muslim member ceases to be a Member of Parliament from the State or National Capital Territory of Delhi as referred to in sub-clause (i) of clause (b) or ceases to be a Member of the State Legislative Assembly as required under sub-clause (ii) of clause (b), such member shall be deemed to have vacated the office of the member of the Board for the State or National Capital Territory of Delhi, as the case may be, from the date from which such member ceased to be a Member of Parliament from the State or National Capital Territory of Delhi, or a Member of the State Legislative Assembly, as the case may be;

(c) one person from amongst Muslims, who has professional experience in town planning or business management, social work, finance or revenue, agriculture and development activities, to be nominated by the State Government;

(d) one person each from amongst Muslims, to be nominated by the State Government from recognised scholars in Shia and Sunni Islamic Theology;

(e) one person from amongst Muslims, to be nominated by the State Government from amongst the officers of the State Government not below the rank of Joint Secretary to the State Government;

(IA) No Minister of the Central Government or, as the case may be, a State Government, shall be elected or nominated as a member of the Board:

Provided that in case of a Union territory, the Board shall consist of not less than five and not more than seven members to be appointed by the Central Government from categories specified under sub-clauses (i) to (iv) of clause (b) or clauses (c) to (e) in sub-section (I):

Provided further that at least two Members appointed on the Board shall be women:

Provided also that in every case where the system of mutawalli exists, there shall be one mutawalli as the member of the Board.

(2) Election of the members specified in clause (b) of sub-section (I) shall be held in accordance with the system of proportional representation by means of a single transferable vote, in such manner as may be prescribed:

Provided that where the number of Muslim Members of Parliament, the State Legislature or the State Bar Council, as the case may be, is only one, such Muslim Member shall be declared to have been elected on the Board:

Provided further that where there are no Muslim Members in any of the categories mentioned in sub-clauses (i) to (iii) of clause (b) of sub-section (1), the ex-Muslim Members of Parliament, the State Legislature or ex-member of the State Bar Council, as the case may be, shall constitute the electoral college.

(3) Notwithstanding anything contained in this section, where the State Government is satisfied, for reasons to be recorded in writing, that it is not reasonably practicable to constitute an electoral college for any of the categories mentioned in sub-clauses (i) to (iii) of clause (b) of sub-section (1), the State Government may nominate such persons as the members of the Board as it deems fit.

(4) The number of elected members of the Board shall, at all times, be more than the nominated members of the Board except as provided under sub-section (3).

* * * * *

(6) In determining the number of Shia members or Sunni members of the Board, the State Government shall have regard to the number and value of Shia auqaf and Sunni auqaf to be administered by the Board and appointment of the members shall be made, so far as may be, in accordance with such determination.

* * * * *

(8) Whenever the Board is constituted or reconstituted, the members of the Board present at a meeting convened for the purpose shall elect one from amongst themselves as the Chairperson of the Board.

* * * * *

Disqualification for being appointed, or for continuing as, a member of the Board.

16. A person shall be disqualified for being appointed, or for continuing as, a member of the Board if—

* * * * *

(d) he has been convicted of an offence involving moral turpitude and such conviction has not been reversed or he has not been granted full pardon in respect of such offence;

* * * * *

Meetings of the Board.

17. (1) The Board shall meet for the transaction of business at such time and places as may be provided by regulations.

* * * * *

Removal of Chairperson by vote of no confidence.

20A. Without prejudice to the provisions of section 20, the Chairperson of a Board may be removed by vote of no confidence in the following manner, namely:—

(a) no resolution expressing a vote of confidence or no confidence in any person elected as Chairperson of a Board shall be moved except in the manner prescribed and twelve months have not elapsed after the date of his election as a Chairperson and be removed except with the prior permission of the State Government;

(b) notice for no confidence shall be addressed to the State Government stating clearly the grounds on which such motion is proposed to be moved and shall be signed by at least half the total members of the Board;

(c) at least three members of the Board signing the notice of no confidence shall personally present to the State Government, the notice together with an affidavit signed by them to the effect that the signatures on no confidence motion are genuine and have been made by the signatories after hearing or reading the contents of the notice;

(d) on receipt of the notice of no confidence, as provided hereinabove, the State Government shall fix such time, date and place as may be considered suitable for holding a meeting for the purpose of the proposed no confidence motion:

Provided that at least fifteen days notice shall be given for such a meeting;

(e) notice for meeting under clause (d) shall also provide that in the event of no confidence motion being duly carried on or, election of the new Chairperson, as the case may be, shall also be held in the same meeting;

(f) the State Government shall also nominate a Gazetted Officer (other than an officer of the department which is concerned with the supervision and administration of the Board) to act as presiding officer of the meeting in which the resolution for no confidence shall be considered;

(g) the quorum for such a meeting of the Board shall be one-half of the total number of members of the Board;

(h) the resolution for no confidence shall be deemed to be carried out, if passed by a simple majority of the members present;

(i) if a resolution for no confidence is carried out, the Chairperson shall cease to hold office forthwith and shall be succeeded by his successor who shall be elected by another resolution in the same meeting;

(j) election of the new Chairperson shall be conducted under clause (i), in the meeting under the chairmanship of the said presiding officer referred to in clause (f), in the following manner, namely:—

(A) Chairperson shall be elected from amongst the elected members of the Board;

(B) nomination of candidates shall be proposed and seconded in the meeting itself and election after withdrawal, if any, shall be held by method of secret ballot;

(C) election shall be held by simple majority of the members present in the meeting and in case of equality of votes, the matter shall be decided by drawing of lots; and

(D) proceedings of the meeting shall be signed by the presiding officer;

(k) new Chairperson elected under clause (h) shall hold the office only up to the remainder of the term of the Chairperson removed by the resolution of no confidence; and

(l) if the motion for passing the resolution of no confidence fails for want of quorum or lack of requisite majority at the meeting, no subsequent meeting for considering the motion of no confidence shall be held within six months of the date of the previous meeting.

* * * * *

23. (1) There shall be a full-time Chief Executive Officer of the Board who shall be a Muslim and shall be appointed by the State Government, by notification in the Official Gazette, from a panel of two names suggested by the Board and who shall not be below the rank of Deputy Secretary to the State Government, and in case of non-availability of a Muslim officer of that rank, a Muslim officer of equivalent rank may be appointed on deputation.

Appointment of Chief Executive Officer and his term of office and other conditions of service.

* * * * *

Powers and function of the Board.

32. (1) * * * * *

(2) Without prejudice to the generality of the foregoing power, the functions of the Board shall be—

* * * * *

(e) to direct—

(i) the utilisation of the surplus income of a waqf consistent with the objects of waqf;

(ii) in what manner the income of a waqf, the objects of which are not evident from any written instrument, shall be utilised;

(iii) in any case where any object of waqf has ceased to exist or has become incapable of achievement, that so much of the income of the waqf as was previously applied to that object shall be applied to any other object, which shall be similar, or nearly similar or to the original object or for the benefit of the poor or for the purpose of promotion of knowledge and learning in the Muslim community:

Provided that no direction shall be given under this clause without giving the parties affected, an opportunity of being heard.

Explanation.—For the purposes of this clause, the powers of the Board shall be exercised—

(i) in the case of a Sunni waqf, by the Sunni members of the Board only; and

(ii) in the case of a Shia waqf, by the Shia members of the Board only:

Provided that where having regard to the number of the Sunni or Shia members in the board and other circumstances, it appears to the Board that the power should not be exercised by such members only, it may co-opt such other Muslims being Sunnis or Shias, as the case may be, as it thinks fit, to be temporary members of the Board for exercising its powers under this clause;

* * * * *

(3) Where the Board has settled any scheme of management under clause (d) or given any direction under clause (e) of sub-section (2), any person interested in the waqf or affected by such settlement or direction may institute a suit in a Tribunal for setting aside such settlement or directions and the decision of the Tribunal thereon shall be final.

* * * * *

Powers of inspection by Chief Executive Officer or persons authorised by him.

33. (1) * * * * *

(4) A mutawalli or other person aggrieved by such order may, within thirty days of the receipt by him of the order, appeal to the Tribunal:

Provided that no such appeal shall be entertained by the Tribunal unless the appellant first deposits with the Chief Executive Officer the amount which has been determined under sub-section (3) as being payable by the appellant and the Tribunal shall have no power to make any order staying pending the disposal of the appeal, the operation of the order made by the Chief Executive Officer under sub-section (3).

* * * * *

(6) The order made by the Tribunal under sub-section (5) shall be final.

* * * * *

CHAPTER V

REGISTRATION OF AUQAF

36. (1) * * * * * Registration.

(3) An application for registration shall be made in such form and manner and at such place as the Board may by regulation provide and shall contain the following particulars:—

* * * * *

(f) any other particulars provided by the Board by regulations.

(4) Every such application shall be accompanied by a copy of the waqf deed or if no such deed has been executed or a copy thereof can not be obtained, shall contain full particulars, as far as they are known to the applicant, of the origin, nature and objects of the waqf.

* * * * *

(7) On receipt of an application for registration, the Board may, before the registration of the waqf make such inquiries as it thinks fit in respect of the genuineness and validity of the application and correctness of any particulars therein and when the application is made by any person other than the person administering the waqf property, the Board shall, before registering the waqf, give notice of the application to the person administering the waqf property and shall hear him if he desires to be heard.

(8) In the case of auqaf created before the commencement of this Act, every application for registration shall be made, within three months from such commencement and in the case of auqaf created after such commencement, within three months from the date of the creation of the waqf:

Provided that where there is no Board at the time of creation of a waqf, such application will be made within three months from the date of establishment of the Board.

37. (1) The Board shall maintain a register of auqaf which shall contain in respect of each waqf copies of the waqf deeds, when available and the following particulars, namely:— Register of auqaf.

* * * * *

(f) such other particulars as may be provided by regulations.

* * * * *

(3) On receipt of the details as mentioned in sub-section (2), the land record office shall, according to established procedure, either make necessary entries in the land record or communicate, within a period of six months from the date of registration of waqf property under section 36, its objections to the Board.

* * * * *

40 (1) The Board may itself collect information regarding any property which it has reason to believe to be waqf property and if any question arises whether a particular property is waqf property or not or whether a waqf is a Sunni waqf or a Shia waqf it may, after making such inquiry as it may deem fit, decide the question. Decision if a property is waqf property.

(2) The decision of the Board on a question under sub-section (1) shall, unless revoked or modified by the Tribunal, be final.

(3) Where the Board has any reason to believe that any property of any trust or society registered in pursuance of the Indian Trusts Act, 1882 or under the Societies Registration Act, 1860 or under any other Act, is waqf property, the Board may notwithstanding anything contained in such Act, hold an inquiry in regard to such property and if after such inquiry the Board is satisfied that such property is waqf property, call upon the trust or society, as the case may be, either to register such property under this Act as waqf property or show cause why such property should not be so registered:

2 of 1882.

21 of 1860.

Provided that in all such cases, notice of the action proposed to be taken under this sub-section shall be given to the authority by whom the trust or society had been registered.

(4) The Board shall, after duly considering such cause as may be shown in pursuance of notice issued under sub-section (3), pass such orders as it may think fit and the order so made by the Board, shall be final, unless it is revoked or modified by a Tribunal.

Submission of accounts of auqaf.

46. (1) * * * * *

(2) Before the 1st day of July next, following the date on which the application referred to in section 36 has been made and thereafter before the 1st day of July in every year, every mutawalli of a waqf shall prepare and furnish to the Board a full and true statement of accounts, in such form and containing such particulars as may be provided by regulations by the Board, of all moneys received or expended by the mutawalli on behalf of the waqf during the period of twelve months ending on the 31st day of March, or, as the case may be, during that portion of the said period during which the provisions of this Act, have been applicable to the waqf:

Provided that the date on which the annual accounts are to be closed may be varied at the discretion of the Board.

Audit of accounts of auqaf.

47. (1) The accounts of auqaf submitted to the Board under section 46 shall be audited and examined in the following manner, namely:—

(a) in the case of a waqf having no income or a net annual income not exceeding fifty thousand rupees, the submission of a statement of accounts shall be a sufficient compliance with the provisions of section 46 and the accounts of two per cent. of such auqaf shall be audited annually by an auditor appointed by the Board;

(b) the accounts of the waqf having net annual income exceeding fifty thousand rupees shall be audited annually, or at such other intervals as may be prescribed, by an auditor appointed by the Board from out of the panel of auditors prepared by the State Government and while drawing up such panel of auditors, the State Government shall specify the scale of remuneration of auditors;

(c) the State Government may, under intimation to the Board, at any time cause the account of any waqf audited by the State Examiner of Local Funds or by any other officer designated for that purpose by that State Government.

* * * * *

(3) The cost of the audit of the accounts of a waqf shall be met from the funds of that waqf:

Provided that the remuneration of the auditors appointed from out of the panel drawn by the State Government in relation to auqaf having a net annual income of more than fifty thousand rupees shall be paid in accordance with the scale of remuneration specified by the State Government under clause (c) of sub-section (1):

Provided further that where the audit of the accounts of any waqf is made by the State Examiner of Local Funds or any other officer designated by the State Government in this behalf, the cost of such audit shall not exceed one and a half per cent. of the net annual income of such waqf and such costs shall be met from the funds of the auqaf concerned.

48. (1) * * * * *

Board to pass orders on auditor's report.

(3) No application made under sub-section (2) shall be entertained by the Tribunal unless the amount certified by the auditor under sub-section (2) of section 47 has first been deposited in the Tribunal and the Tribunal shall not have any power to stay the operation of the order made by the Board under sub-section (1).

(4) The order made by the Tribunal under sub-section (2) shall be final.

* * * * *

52. (1) * * * * *

Recovery of waqf property transferred in contravention of section 51.

(4) Any person aggrieved by the order of the Collector under sub-section (2) may, within a period of thirty days from the date of the service of the order, prefer an appeal to the Tribunal within whose jurisdiction the property is situate and the decision of the Tribunal on such appeal shall be final.

* * * * *

52A. (1) Whoever alienates or purchases or takes possession of, in any manner whatsoever, either permanently or temporarily, any movable or immovable property being a waqf property, without prior sanction of the Board, shall be punishable with rigorous imprisonment for a term which may extend to two years:

Penalty for alienation of waqf property without sanction of Board.

Provided that the waqf property so alienated shall without prejudice to the provisions of any law for the time being in force, be vested in the Board without any compensation therefor.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 any offence punishable under this section shall be cognizable and non-bailable.

2 of 1974.

* * * * *

(4) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this section.

* * * * *

55A. (1) * * * * *

Disposal of property left on waqf property by unauthorised occupants.

(2) Where any property is sold under sub-section (1), the sale proceeds shall, after deducting the expenses relating to removal, sale and such other expenses, the amount, if any, due to the State Government or a local authority or a corporate authority on account of arrears of rent, damages or costs, be paid to such person, as may appear to the Chief Executive Officer to be entitled to the same:

Provided that where the Chief Executive Officer is unable to decide as to the person to whom the balance of the amount is payable or as to the appointment of the same, he may refer such dispute to the Tribunal and the decision of the Tribunal thereon shall be final.

* * * * *

61. (1) If a mutawalli fails to—

Penalties.

* * * * *

(e) deliver possession of any waqf property, if ordered by the Board or Tribunal;

(f) carry out the directions of the Board;

* * * * *

he shall, unless he satisfies the court or the Tribunal that there was reasonable cause for his failure, be punishable with fine which may extend to ten thousand rupees for non-compliance of clauses (a) to (d) and in case of non-compliance of clauses (e) to (h), he shall be punishable with imprisonment for a term which may extend to six months and also with fine which may extend to ten thousand rupees.

* * * * *

Removal of mutawalli.

64. (I) Notwithstanding anything contained in any other law or the deed of wakf, the Board may remove a mutawalli from his office if such mutawalli—

* * * * *

(g) has failed, without reasonable excuse, to maintain regular accounts for two consecutive years or has failed to submit, in two consecutive years, the yearly statement of accounts, as required by sub-section (2) of section 46; or

* * * * *

(4) A mutawalli who is aggrieved by an order passed under any of the clauses (c) to (i) of sub-section (I), may, within one month from the date of the receipt by him of the order, appeal against the order to the Tribunal and the decision of the Tribunal on such appeal shall be final.

* * * * *

Assumption of direct management of certain auqaf by the Board.

65. (I) * * * * *

(3) As soon as possible after the close of every financial year, the Board shall send to the State Government a detailed report in regard to every waqf under its direct management, giving therein—

(a) the details of the income of the waqf for the year immediately preceding the year under report;

(b) the steps taken to improve the management and income of the waqf;

(c) the period during which the waqf has been under the direct management of the Board and explaining the reasons as to why it has not been possible to entrust the management of the waqf to the mutawalli or any committee of management during the year; and

(d) such other matters as may be prescribed.

* * * * *

Supervision and supersession of committee of Management.

67. (I) * * * * *

(4) Any order made by the Board under sub-section (2) shall be final:

Provided that any person aggrieved by the order made under sub-section (2) may, within sixty days from the date of the order, appeal to the Tribunal:

Provided further that the Tribunal shall have no power to suspend the operation of the order made by the Board pending such appeal.

* * * * *

(6) Notwithstanding anything contained in the foregoing sub-sections, the Board may, instead of superseding any committee under sub-section (2), remove any member thereof if it is satisfied that such member has abused his position as such member or had knowingly acted in a manner prejudicial to the interests of the waqf, and every such order for the removal of any member shall be served upon him by registered post:

Provided that no order for the removal of the member shall be made unless he has been given a reasonable opportunity of showing cause against the proposed action:

Provided further that any member aggrieved by any order for his removal from the membership of the committee may, within a period of thirty days from the date of service of the order on him, prefer an appeal against such order to the

Tribunal and Tribunal may, after giving a reasonable opportunity to the appellant and the Board of being heard, confirm, modify or reverse the order made by the Board and the order made by the Tribunal in such appeal shall be final.

* * * * *

69. (1) * * * *

(3) Every order made under sub-section (2) shall be published in the prescribed manner, and, on such publication shall be final and binding on the mutawalli, and all persons interested in the waqf:

Provided that any person aggrieved by an order made under this section may, within sixty days from the date of the order, prefer an appeal to the Tribunal and after hearing such appeal, the Tribunal may confirm, reverse or modify the order:

Provided further that the Tribunal shall have no power to stay the operation of the order made under this section.

(4) The Board may, at any time by an order, whether made before or after the scheme has come into force, cancel or modify the scheme.

* * * * *

CHAPTER VII

FINANCE OF THE BOARD

72. (1) The mutawalli of every waqf, the net annual income of which is not less than five thousand rupees, shall pay annually, out of the net annual income derived by the waqf, such contributions, not exceeding seven per cent. of such annual income, as may be prescribed, to the Board for the services rendered by such Board to the waqf.

Explanation I.—For the purposes of this Act, “net annual income” shall mean the gross income of the waqf from all sources, including nazars and offerings which do not amount to contributions to the corpus of the auqaf, in a year after deducting therefrom the following, namely:—

(i) the land revenue paid by it to the Government;

(ii) the rates, cesses, taxes and licence fees, paid by it to the Government or any local authority;

(iii) expenditure incurred for all or any of the following purposes, in respect of lands directly under cultivation by the mutawalli for the benefit of the waqf, namely:—

(a) maintenance of, or repairs to, irrigation works, which shall not include the capital cost of irrigation;

(b) seeds or seedlings;

(c) manure;

(d) purchase and maintenance of agricultural implements;

(e) purchase and maintenance of cattle for cultivation;

(f) wages for ploughing, watering, sowing, transplanting, harvesting, threshing and other agricultural operations:

Provided that the total deduction in respect of an expenditure incurred under this clause shall not exceed twenty per cent. of the income derived from lands belonging to the waqf:

Provided further that no such deduction shall be permitted in respect of waqf land given on lease, by whatever name called, whether *batai* or share cropping or any other name;

Power of Board to frame scheme for administration of waqf.

Annual contribution payable to Board.

(iv) expenditure on sundry repairs to rented buildings, not exceeding five per cent. of the annual rent derived therefrom, or the actual expenditure, whichever is less;

(v) sale proceeds of immovable properties or rights relating to, or arising out of immovable properties, if such proceeds are reinvested to earn income for the waqf:

Provided that the following items of receipts shall not be deemed to be income for the purposes of this section, namely:—

(a) advances and deposits recovered and loans taken or recovered;

(b) deposits made as security by employees, lessees or contractors and other deposits, if any;

(c) withdrawals from banks or of investments;

(d) amounts recovered towards costs awarded by courts;

(e) sale proceeds of religious books and publications where such sales are undertaken as an un-remunerative enterprise with a view to propagating religion;

(f) donations in cash or kind or offerings made by the donors as contribution to the corpus of the waqf:

Provided that interest on income, if any, accruing from such donations or offerings shall be taken into account in calculating the gross annual income;

(g) voluntary contributions received in cash or kind for a specific service to be performed by the waqf and expended on such service;

(h) audit recoveries;

Explanation II.—In determining the net annual income for the purposes of this section, only the net profit derived by any waqf from its remunerative undertakings, if any, shall be taken as income, and in respect of its non-remunerative undertakings, such as, schools, colleges, hospitals, poor homes, orphanages or any other similar institutions, the grants given by the Government or any local authority or donations received from the public or fees collected from the pupils of educational institutions shall not be taken as income.

* * * * *

(7) Any mutawalli who is aggrieved by the assessment or revision made by the Chief Executive Officer, under sub-section (6), may prefer an appeal to the Board within thirty days from the date of the receipt of the assessment or revision of return and the Board may, after giving the appellant a reasonable opportunity of being heard, confirm, reverse or modify the assessment or revision or the return and the decision of the Board thereon shall be final.

* * * * *

Power of Chief Executive Officer to direct banks or other person to make payments.

73. (1) * * * * *

(3) Any bank or other person who is ordered under sub-section (1) to make any payment may, within thirty days from the date of the order, prefer an appeal against such order to the Tribunal and the decision of the Tribunal on such appeal shall be final.

* * * * *

CHAPTER VIII

JUDICIAL PROCEEDINGS

Constitution of Tribunals, etc.

83. (1) The State Government shall, by notification in the Official Gazette, constitute as many Tribunals as it may think fit, for the determination of any dispute, question or other matter relating to a waqf or waqf property, eviction of a tenant

or determination of rights and obligations of the lessor and the lessee of such property, under this Act and define the local limits and jurisdiction of such Tribunals.

(2) Any mutawalli or person interested in a waqf or any other person aggrieved by an order made under this Act, or rules made thereunder, may make an application within the time specified in this Act or where no such time has been specified, within such time as may be prescribed, to the Tribunal for the determination of any dispute, question or other matter relating to the waqf.

* * * * *

(4) Every Tribunal shall consist of—

(a) one person, who shall be a member of the State Judicial Service holding a rank, not below that of a District, Sessions or Civil Judge, Class I, who shall be the Chairman;

(b) one person, who shall be an officer from the State Civil Services equivalent in rank to that of the Additional District Magistrate, Member;

(c) one person having knowledge of Muslim law and jurisprudence, Member;

and the appointment of every such person shall be made either by name or by designation.

(4A) The terms and conditions of appointment including the salaries and allowances payable to the Chairman and other members other than persons appointed as *ex officio* members shall be such as may be prescribed.

* * * * *

(7) The decision of the Tribunal shall be final and binding upon the parties to the application and it shall have the force of a decree made by a civil court.

* * * * *

(9) No appeal shall lie against any decision or order whether interim or otherwise, given or made by the Tribunal:

Provided that a High Court may, on its own motion or on the application of the Board or any person aggrieved, call for and examine the records relating to any dispute, question or other matter which has been determined by the Tribunal for the purpose of satisfying itself as to the correctness, legality or propriety of such determination and may confirm, reverse or modify such determination or pass such other order as it may think fit.

84. Whenever an application is made to a Tribunal for the determination of any dispute, question or other matter relating to a waqf or waqf property it shall hold its proceedings as expeditiously as possible and shall as soon as practicable, on the conclusion of the hearing of such matter give its decision in writing and furnish a copy of such decision to each of the parties to the dispute.

Tribunal to hold proceedings expeditiously and to furnish to the parties copies of its decision.

* * * * *

91. (1) If, in the course of proceedings under the Land Acquisition Act, 1894 or under any law for the time being in force relating to the acquisition of land or other property, and before an award is made, in case the property under acquisition is waqf property, a notice of such acquisition shall be served by Collector on the Board and further proceedings shall be stayed to enable the Board to appear and plead as a party to the proceeding at any time within three months from the date of the receipt of such notice.

Proceedings under Act 1 of 1894.

Explanation.—The reference to the Collector in the foregoing provisions of this sub-section shall, in relation to any other law referred to therein, be construed, if the Collector is not the competent authority under such other law to make an award of the compensation or other amount payable for acquisition of

land or other property thereunder, as a reference to the authority under such other law competent to make such award.

* * * * *

(3) When the Board has appeared under the provisions of sub-section (1) or sub-section (2), no order shall be passed under section 31 or section 32 of the Land Acquisition Act, 1894 or under the corresponding provisions of the other law referred to in sub-section (1) without giving an opportunity to the Board to be heard. 1 of 1894.

(4) Any order passed under section 31 or section 32 of the Land Acquisition Act, 1894 or under the corresponding provisions of the other law referred to in sub-section (1) without giving an opportunity to the Board to be heard, shall be declared void if the Board, within one month of its coming to know of the order, applies in this behalf to the authority which made the order. 1 of 1894.

* * * * *

Protection of action taken in good faith.

100. No suit or other legal proceeding shall lie against the board or Chief Executive Officer or Survey Commissioner or any other person duly appointed under this Act in respect of anything which is in good faith done or intended to be done under this Act.

Survey Commissioner, members and officers of the Board, deemed to be public servants.

101. (1) The Survey Commissioner, members of the Board, every officer, every auditor of the Board and every other person duly appointed to discharge any duties imposed on him by this Act or any rule or order made thereunder, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

* * * * *

Application of Act to properties given or donated by persons not professing Islam for support of certain waqf.

104. Notwithstanding anything contained in this Act where any movable or immovable property has been given or donated by any person not professing Islam for the support of a waqf being—

- (a) a mosque, idgah, imambara, dargah, khangah or a maqbara;
- (b) a Muslim graveyard;
- (c) a choultry or a musafarkhana,

then such property shall be deemed to be comprised in that waqf and be dealt in the same manner as the waqf in which it is so comprised.

* * * * *

Act 36 of 1963 not to apply for recovery of waqf properties.

107. Nothing contained in the Limitation Act, 1963 shall apply to any suit for possession of immovable property comprised in any waqf or for possession of any interest in such property.

Special provision as to evacuee waqf properties.

108. The provisions of this Act shall apply, and shall be deemed always to have applied, in relation to any evacuee property within the meaning of clause (f) of section 2 of the Administration of Evacuee Property Act, 1950 which immediately before it became such evacuee property within the said meaning was property comprised in any waqf and, in particular any entrustment (whether by transfer of any documents or in any other manner and whether generally or for specified purpose) of any such property to a Board made before the commencement of this Act in pursuance of the instructions of the Custodian under the Administration of Evacuee Property Act, 1950 shall have, and shall be deemed always to have had, notwithstanding anything contained in any other provision of this Act, effect as if such entrustment had operated to— 31 of 1950.

- (a) vest such property in such Board in the same manner and with the same effect as in a trustee of such property for the purposes of sub-section (1) of section 11 of the Administration of Evacuee of Property Act, 1950, with effect from the date of such entrustment, and 31 of 1950.

(b) authorise such Board to assume direct management of the waqf concerned for so long as it might deem necessary.

108A. The provisions of this Act shall have overriding effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

Act to have overriding effect.

109. (1) * * * * *

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

* * * * *

(ia) other particulars which the report of the Survey Commissioner may contain under clause (f) of sub-section (3) of section 4;

* * * * *

(iv) the manner of election of members of the Board by means of a single transferable vote, under of sub-section (2) of section 14;

* * * * *

(via) the period within which the mutawalli or any other person may produce documents related to waqf properties under sub-section (2) of section 31;

(vib) the conditions under which an agency of the Government or any other organisation may supply copies of records, registers and other documents under sub-section (3) of section 31;

* * * * *

110. (1) * * * * *

Powers to make regulations by the Board.

(2) In particular, and without prejudice to the generality of the foregoing powers, such regulations may provide for all or any of the following matters, namely—

* * * * *

(f) the forms of application for registration of Auqaf further particulars to be contained therein and the manner and place of registration of Auqaf under sub-section (3) of section 36;

(g) further particulars to be contained in the register of Auqaf under Section 37;

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LOK SABHA

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BILL
further to amend the Waqf Act, 1995.

(Shri Kiren Rijju, Minister of Minority Affairs)