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PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY SECRETARIAT

*Islamabad, the 31st August, 1976*

The following Acts of Parliament received the assent of the President on the 26th August, 1976, and are hereby published for general information:—

(263)

ACT No. LVI OF 1976

*An Act to provide for the proper management and administration of Auqaf under Federal control*

WHEREAS it is expedient to provide for the proper management and administration of Auqaf under Federal control and for matters connected therewith or incidental thereto ;

It is hereby enacted as follows :—

1. **Short title, extent and commencement.**—(1) This Act may be called the Auqaf (Federal Control) Act, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force on such day as the Federal Government may, by notification in the official Gazette, appoint.

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

- (a) “ Administrator ” means an Administrator of Auqaf appointed under section 4 ;
- (b) “ Administrator General ” means the Administrator General of Auqaf for Pakistan appointed under section 3 ;
- (c) “ Chief Administrator of Auqaf ” means a Chief Administrator of Auqaf appointed under section 4 ;
- (d) “ Government ” means the Federal Government ;
- (e) “ prescribed ” means prescribed by rules made under this Act ;
- (f) “ waqf property ” means property of any kind permanently dedicated by a person professing Islam for any purpose recognised by Islam as religious, pious or charitable, but does not include property of any waqf such as is described in section 3 of the Musalman Waqf Validating Act, 1913 (VI of 1913), under which any benefit is for the time being claimable for himself by the person by whom the waqf was created or by any member of his family or descendants ;

*Explanations.*—(i) If a property has been used from time immemorial for any purpose recognised by Islam as religious, pious or charitable, then in spite of there being no evidence of express dedication, such property shall be deemed to be waqf property.

- (ii) Property allotted in lieu of or in exchange for waqf property left in India shall be deemed to be waqf property.
- (iii) Property of any kind acquired with the sale proceeds or in exchange of or from the income arising out of waqf property or from subscriptions raised for any purpose recognised by Islam as religious, pious or charitable shall be deemed to be waqf property.
- (iv) The income from boxes placed at a shrine and offerings, subscriptions or articles of any kind, description or use presented to a shrine or to any person at the premises of a shrine shall be deemed to be waqf property.
- (v) Relief of the poor and the orphan, education, worship, medical relief, maintenance of shrine or the advancement of any other object of

charitable, religious or pious nature or of general public utility shall be deemed to be charitable purposes.

- (vi) Property permanently dedicated for the purposes of a mosque, *takia*, *khankah*, *dargah*, or other shrine shall be deemed to be waqf property.

**3. Appointment of Administrator General of Auqaf.**—(1) The Government shall, by notification in the official Gazette, appoint an Administrator General of Auqaf for Pakistan.

(2) No person shall be appointed as Administrator General of Auqaf unless he is a Muslim and possesses such qualifications as may be prescribed.

(3) The Administrator General shall be a corporation sole by the name of the Administrator General of Auqaf, Pakistan, and shall have perpetual succession and an official seal and may sue and be sued in his corporate name.

(4) The Administrator General shall, in the performance of his functions and exercise of his powers under this Act, be subject to the general control of the Government.

**4. Appointment of Chief Administrator and Administrators and Deputy Administrators of Auqaf.**—(1) The Administrator General may, with the previous sanction of the Government, appoint a Chief Administrator of Auqaf for each Province and Administrators of Auqaf and Deputy Administrators of Auqaf for such areas and districts as may be specified in the notification to assist the Administrator General, and any Chief Administrator, Administrator or Deputy Administrator of Auqaf so appointed shall, subject to the general or special orders of the Administrator General, be competent to discharge such duties and exercise such powers of the Administrator General as may be assigned to him, and when discharging such duties or exercising such powers shall have the same privileges and be subject to the same liabilities as the Administrator General.

(2) The Chief Administrators, Administrators or Deputy Administrators appointed under sub-section (1) shall be under the administrative control of the Administrator General of Auqaf.

**5. Other appointments.**—(1) The Administrator General with the previous sanction of Government may, from time to time, determine the number, designation and grade of the officers and servants whom he considers necessary to employ for the purposes of this Act and the amount and nature of the salary, fees and allowances to be paid to each such officer and servant.

(2) All persons employed for the purposes of this Act shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (Act V of 1860).

**6. Registration of waqf property.**—(1) Every person in charge of, or exercising control over the management of, any waqf property shall, within a period of three months from the commencement of this Act, get such property registered in such manner, and with such authority, as may be prescribed.

(2) Every person creating a waqf after the commencement of this Act shall, within a period of three months from the date of creation of such waqf, get the

property dedicated by the waqf registered in such manner, and with such authority, as may be prescribed.

**7. Taking over of waqf property by Administrator General.**—(1) Notwithstanding anything contained in section 22 of the Religious Endowments Act, 1863 (XX of 1863), or any other law for the time being in force, and notwithstanding any custom or usage, or any decree, judgment or order of any court or other authority, the Administrator General may, by notification in the official Gazette, take over and assume the administration, control, management and maintenance of a waqf property :

Provided that, during the life-time of a person dedicating a waqf property, the Administrator General shall not take over and assume the administration, control, management and maintenance of such waqf property, except with the consent of such person and on such terms and conditions as may be agreed upon between such person and the Administrator General.

*Explanation.*—For the purposes of this section, “control” and “management” shall include control over the performance and management of religious, spiritual, cultural and other services and ceremonies (Rasoomat) at or in a waqf property.

(2) No person shall perform the services or ceremonies (Rasoomat) referred to in sub-section (1) at or in a waqf property in respect of which a notification under sub-section (1) has been issued, except with the prior permission of the Administrator General and in accordance with such directions as may be given by him.

**8. Eviction of persons wrongfully in possession of waqf properties.**—(1) If any person is in occupation of, or enters upon, or is using any immovable waqf property to the occupation or use of which he is not, or has ceased to be entitled by virtue of any provision of this Act, the Administrator may, after giving such person a reasonable opportunity of showing cause against the action proposed to be taken, have him summarily evicted from such property with the use of such force as may be necessary.

(2) Any crop standing on any property in respect of which action is taken under sub-section (1) shall stand forfeited to the Administrator General of Auqaf, Pakistan.

(3) If any building or other structure has been erected on any property while it was in the occupation or use of a person evicted therefrom under sub-section (1), the Administrator may, by notice in writing, require such person to remove such building or structure within such period, which shall not be less than thirty days of the service of the notice on such person, as may be specified in the notice.

(4) If any building or other structure required by notice under sub-section (3) to be removed is not removed within the period specified in the notice, such building or structure shall stand forfeited to the Administrator General of Auqaf, Pakistan.

**9. Power to terminate a lease or resume a tenancy for breach of conditions.**—(1) If the Administrator is satisfied that a lessee or tenant of any immovable waqf property has committed a breach of the conditions of the lease or tenancy, the Administrator may give to such lessee or tenant a notice to appear and state his objections to an order being made for the termination of the lease or resumption of the tenancy.

(2) The lessee or tenant to whom a notice is given under sub-section (1) may state that the breach of the conditions of the lease or tenancy specified in the notice is capable of rectification and undertake to rectify it.

(3) If the Administrator is satisfied that the breach is capable of rectification, he shall allow to the lessee or tenant, as the case may be, reasonable time, which shall not be less than thirty days or more than sixty days, to rectify it and may make an order terminating the lease or resuming the tenancy if the lessee or tenant fails to rectify the breach within the time allowed.

(4) Where an order terminating the lease or resuming the tenancy has been passed under the provisions of sub-section (3), the Administrator may forthwith re-enter upon the waqf property and resume possession of it, subject to the payment of compensation to be fixed by the Administrator for un-cut and un-gathered crops or for the improvements, if any, that may have been made by the lessee or tenant under the terms of the lease or tenancy or with the permission of the Administrator General.

(5) If a lease terminated, or a tenancy resumed, under sub-section (3), is allotted to any other person, the amount of the compensation, if any, paid to the outgoing lessee or tenant under sub-section (4) may be recovered from such person.

**10. Appeal and finality.**—(1) Any person evicted under the provisions of section 8 or aggrieved by an order of termination of lease or resumption of tenancy made under section 9, may, within sixty days of such eviction, or within thirty days of the order of termination of the lease or resumption of tenancy, prefer an appeal to the Administrator General and the Administrator General may, after giving such person an opportunity of being heard, confirm, modify or vacate the order made by the Administrator under section 8 or 9.

(2) If there is no appeal against an eviction under section 8 or against an order of termination of lease or resumption of tenancy made under section 9, the eviction, termination of lease or resumption of tenancy, as the case may be, shall be final, and when there is an appeal, the decision of the Administrator General in appeal shall be final.

**11. Petition to District Court against the notification.**—(1) Any person claiming any interest in any waqf property in respect of which a notification has been issued under section 7 may, within thirty days of the publication of such notification, petition to the District Court within whose jurisdiction the waqf property or any part thereof is situated, for a declaration that the property or any part of it is not waqf property :

Provided that, notwithstanding anything contained in any law for the time being in force, and notwithstanding any custom or usage or any decree, judgment or order of any court or other authority, no such petition shall lie in respect of any interest in the income, offerings, subscriptions or articles referred to in Explanation IV to clause (f) of section 2, or the services or ceremonies (Rasoomat) referred to in the Explanation to sub-section (1) of section 7.

(2) The District Court may, for reasons to be recorded, refuse to issue any process for compelling the attendance of any witness for the purpose of examination or the production of any document or other thing if it considers that it has been made for the purpose of vexation or delay.

**12. Appeal against the decision of District Court.**—Any person aggrieved by a decision of the District Court under sub-section (1) of section 11 may, within sixty days of the order, appeal to the High Court.

13. **Decision of the District Court under section 11 or of the High Court under section 12 to be final.**—If there is no appeal, the decision of the District Court, and if there is an appeal, the decision of the High Court in appeal, shall be final.

14. **Administrator General of Auqaf to prepare scheme for the administration and development of waqf property.**—(1) The Administrator General shall, as respects the waqf property in respect of which a notification under section 7 has been issued and the gross annual income from which exceeds five thousand rupees, and in other cases may, settle a scheme for the administration and development of such waqf property.

(2) In the settlement of a scheme the Administrator General shall, as far as may be, give effect to such wishes of the person dedicating as can be ascertained.

15. **Sale of waqf property by Administrator General of Auqaf and application of proceeds.**—Government may, where it is satisfied that circumstances exist which make it necessary to sell or otherwise dispose of any waqf property in order,—

- (a) to secure maximum economic benefits out of such property and to avoid loss or damage to such property ; or
- (b) to serve the best public interest and public purpose for which such property was dedicated ; or
- (c) to give effect to such wishes of the person dedicating the property as can be ascertained ; or
- (d) in the absence of evidence of express dedication, to enable the property to be used for the purpose for which it has been used or for any purpose recognised by Islam as religious, pious or charitable ; or
- (e) to provide maintenance to those who, on account of unemployment, sickness, infirmity or old age are unable to maintain themselves ; or
- (f) to provide education, medical aid, housing, public facilities and services such as roads, sewerage, gas and electric power ; or
- (g) to prevent danger to life, property or public health, permit the Administrator General to do so and to invest the proceeds in accordance with its directions.

16. **Use of waqf property and application of income therefrom.**—Subject to the provision of this Act, a waqf property shall be used for the purpose for which it was dedicated or has been used or for any purpose recognised by Islam as religious, pious or charitable, as the Administrator General may deem fit.

17. **Administrator General of Auqaf to maintain accounts.**—(1) The Administrator General shall maintain a complete record of all properties under his control and management, and shall keep accounts of income and expenditure of such properties, including expenditure on the Administrator General and his establishment, in such manner as may be prescribed.

(2) All moneys received or realised by the Administrator General in respect of properties under his control and management shall form, and be credited to, a fund to be called the Federal Auqaf Fund which shall be under the control of, and operated upon by, the Administrator General, subject to general supervision of Government, and shall be kept in such custody as may be prescribed.

(3) At the end of each financial year, the accounts maintained by the Administrator General shall be audited by such person or authority as may be prescribed and the audit report with the comments of the Administrator General shall be submitted to the Government.

(4) The Government shall, as soon as possible after the receipt of the audit report and the comments of the Administrator General under sub-section (3), lay the audit report and the comments of the Administrator General before both Houses.

18. **Rents and lease money recoverable as an arrear of land revenue.**—Any sum due as rent or lease money in respect of any waqf property the administration whereof has been taken over and assumed by the Administrator General, if not paid within thirty days of its having become due, may be recovered as an arrear of land revenue.

19. **Power to call for return, etc., and issue directions.**—The Administrator General may require any person in charge of, or exercising control over the management of any waqf property, the administration whereof has not been taken over and assumed by him under section 7, to furnish him with any return, statement or other information regarding such waqf property, or a copy of any document relating to such property, and such person shall comply with such order without unreasonable delay.

20. **Power to issue directions as to management, etc., of waqf property.**—The Administrator General may issue to any person in charge of, or exercising control over the management of, any waqf property the administration whereof has not been taken over and assumed by the Administrator General under section 7 such directions for the proper administration, control, management and maintenance of such waqf property as the Administrator General may deem necessary, including directions prohibiting delivery of sermons, *khutbas* or lectures which may contain any matter calculated to arouse feelings of hatred or disaffection amongst various religious sects or groups in the country and directions prohibiting such person from indulging in party politics through sermons, *khutbas* or lectures, and such person shall comply with such directions.

21. **Bar of jurisdiction.**—Save as expressly provided in this Act, no civil or revenue court or any other authority shall have jurisdiction—

- (a) to question the validity of anything done under this Act by or at the instance of the Administrator General; or
- (b) in respect of any matter which the Administrator General is empowered by or under this Act to determine or settle; or
- (c) to grant an injunction or make an interim order in relation to any proceeding before, or anything done or intended to be done by or at the instance of, the Administrator General under this Act.

22. **Effect of orders, etc., inconsistent with other enactments, etc.**—Every order made and every action taken under this Act shall have effect notwithstanding anything contained in any document decree or order of any court, any law other than this Act for the time being in force or any instrument having effect by virtue of any such law.

23. **Protection of action taken under this Act.**—No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

24. **Offences.**—(1) Whoever obstructs or offers any resistance to, or impedes or otherwise interferes with,—

- (a) any authority, officer or person exercising any power or discharging any duty conferred or imposed upon it or him by or in pursuance of this Act or otherwise discharging any lawful function under this Act ; or
- (b) any person who is carrying out the orders of any such authority, officer or person as aforesaid ;

shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

(2) Whoever disobeys or wilfully fails to comply with any requisition or direction issued by the Administrator General under section 19 shall be punishable with fine which may extend to five hundred rupees, and, in the case of a continuing failure, with an additional fine which may extend to fifty rupees for every day after the first during which the failure continues.

25. **Power to make rules.**—(1) Government may frame rules for the purpose of carrying into effect the provisions of this Act.

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

- (a) prescribing the powers and duties of the officers appointed under this Act ;
- (b) regulating the delegation of any powers by the Administrator General to a Chief Administrator, an Administrator or a Deputy Administrator ;
- (c) prescribing the terms and conditions on which waqf property may be leased or let out ;
- (d) regulating the manner in which schemes for administration and development of waqf properties shall be prepared ;
- (e) regulating the conditions of service and conduct of the persons employed under this Act ;
- (f) regulating the conduct of litigation by or against the Administrator General ;
- (g) prescribing the manner in which the accounts shall be kept ;
- (h) prescribing the authority for auditing the accounts maintained by the Administrator General ;
- (i) prescribing the syllabus and curricula for the proper education and training of Imams and Khatibs and of other employees of the Auqaf institutions in Pakistan ;
- (j) prescribing and regulating the standards, syllabi and curricula of institutions providing Islamic religious education, by whatever name called, and, where considered necessary in the public interest, the scrutiny of the accounts of such institutions ;
- (k) to appoint Advisory Committees consisting of public representatives, Ulama and other experts.



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26. **Repeal and savings.**—(1) The West Pakistan Waqf Properties Ordinance, 1961 (W. P. Ordinance No. XXVIII of 1961), is hereby repealed.

(2) Everything done or purporting to have been done, action taken, liability or penalty incurred or proceeding commenced, officer appointed or person authorised, jurisdiction or power conferred, rule made or order issued under any of the provisions of the Ordinance repealed by sub-section (1) shall, so far as it is not inconsistent with the provisions of this Act, continue in force, and so far as may be, be deemed to have been done, taken, incurred, commenced, appointed, authorised, conferred, made or issued under this Act.

M. A. HAO,  
*Secretary.*