

AZAD GOVERNMENT OF THE STATE OF JAMMU AND KASHMIR
LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD

Dated the 29th June, 1992

No. 663-68/LD/Leg/92. The following Act of the Assembly received the assent of the President on 24th day of June, 1992, is hereby published for general information:-

(Act VII of 1992)

AN

ACT

to amend the Azad Jammu and Kashmir Waqf Properties Act, 1960;

WHEREAS it is expedient to amend the Azad Jammu and Kashmir Waqf Properties Act, 1960 (Act IX of 1960) for the purposes hereinafter appearing;

It is hereby enacted as follows:--

1. Short title and Commencement.- (1) This Act may be called the Azad Jammu and Kashmir Waqf Properties (Amendment) Act, 1992.

(2) It shall come into force at once.

2. General amendment of Act IX of 1960.- In the Azad Jammu

and Kashmir Waqf Properties Act, 1960 (Act IX of 1960), hereinafter referred to as the said Act for the word 'Administrator' wherever occurring the word "Chief Administrator" shall be substituted.

3. Substitution of Section 6, Act IX of 1960.- In the said Act, for Section 6, the following shall be substituted, namely:-

"6. Chief Administrator may take over Waqf property by notification. - (1) Notwithstanding anything to the contrary contained in Section 22 of the Religious Endowment Act, 1863 or any other law for the time being in force or in any custom or usage, or in any decree, judgment or order of any Court or other authority in any proceeding pending before any Court or other authority, the Chief Administrator, may, by notification, 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 Waqaf property, the Chief Administration shall not take over and assume the administration, control, management and maintenance of each Waqf property, except with the consent of

such person and on such terms and conditions as may be agreed to between such person and the Chief Administrator.

Explanation. - For the purpose 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 service or ceremonies (Rasoomat) referred to in sub-section (1) except with the prior permission of the Chief Administrator and in accordance with such directions as may be given by him:

Provided that no ceremony shall be allowed which is against the Shariah.

6-A. Eviction of persons wrongfully in possession of Waqf Properties. Any person unauthorizedly entering upon occupation of any immovable Waqf property, or using such property to the use of occupation whereof by reason of any provisions of this Act or any rule made 'thereunder, he is not entitled or has ceased to be entitled may, after being given a reasonable opportunity of showing cause, against such action be summarily evicted by the Deputy Administrator with the use of such force as may be necessary and crop raised in such property shall be liable to forfeiture and any building or other construction erected thereon shall also, not removed by such person after service on him of a notice by the Deputy Administrator requiring him to remove such building or construction within a period of not less than thirty days of the service on him of such notice, be liable to summary removal after the expiry of the period specified in the notice.

6-B. Power to terminate a lease or resume a tenancy for breach of conditions. - (1) If the Deputy 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 Deputy Administrator, may, after giving such lessee or tenant an opportunity to appear and state his objections, order the termination of lease or resumption of tenancy:

Provided that if the breach is capable of rectification the Deputy Administrator shall not order the termination of lease or resumption the tenancy unless he has issued a written notice requiring the lessee or tenant to rectify the breach within a reasonable time, not being less than thirty has failed to comply with such notice.

(2) Where an order terminating the lease or reassuming the tenancy has been passed under the provisions of sub-section (1), the Deputy 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 Deputy Administrator for un-cut and ungathered 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 Chief Administrator:

Provided that if the lease or tenancy be allotted to any other person, the amount of the compensation, if any, paid to the outgoing lessee or tenant may be recovered from the new lessee or tenant.

6-C. Appeal and finality. - (1) Any person evicted under the provision of Section 6-A, or aggrieved by an order of termination of lease or resumption of tenancy, made under Section 6-B, 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 Chief Administrator, and the Chief Administrator, after giving such person an opportunity of being heard confirm, modify or vacate the order made by the Deputy Administrator under Section 6-A, or 6-B.

(2) If there is no appeal against an eviction under Section 6-A, or an order of termination of lease or resumption of tenancy made by; the Deputy Administrator under Section 6-B, the eviction, termination.of lease or resumption of tenancy, as the case may be, shallbe final and when there is an appeal, the decision of the.Chief Administrator in appeal shall be final.
Explanation. -For the purposes of this Section 'control' and "management" include control over the performance and management of religious, spiritual, cultural and other services and ceremonies at or in a Waqf property.

Amendment of Section 7, Act IX of 1960.- In the said Act, in Section 7, in sub-section (1) the full stop occurring at the end shall be substituted by a colon, and thereafter the following proviso shall be added namely:

"Provided that notwithstanding anything contained in any law for the time being in force, or in any custom or usage or in any decree, judgment or order of any Court or other authority, or in any proceeding pending before 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 4 to clause (d) of Section 2, or the services or ceremonies (Rasoomat) mentioned in Section 6."

Insertion of new Section 13-A, Act IX of 1960.- In the said Act after Section 13, the following new Section shall be inserted namely:-

“13-A_ (1) If on the scrutiny of record and after such inquiry as it may consider necessary, the Government is satisfied that any payment made to any person out of the Auqaf Fund was made for any purpose not connected with the objects of Waqf Properties Act, 1960 or because of the political affiliation of such person the Government or any officer authorized by it in this behalf, by notice in writing require such persons to refund the amount of such payment to the Government within such time as may be specified in the notice.

(2) Any amount not paid within the period specified in the notice issued under sub-section (1) shall, without prejudice to any other mode of recovery under any law, be recoverable, as an arrear of land revenue.

Amendment of Section 19, Act, IX of 1960.- In the said Act in Section 19 in sub-section (2) after clause (b), the following clause (bb) shall be inserted, namely:-

“(bb) Prescribing the terms and conditions of which Waqf Property may be leased or let out.

Addition of Section 21, Act IX of 1860.- In the said Act after Section 20, the following new Section 21 shall be added, namely:-

“21. Validation. - Notwithstanding any judgment, decree or order of any Court including High Court, every thing done, all actions taken, notifications issued, order or appointments made, proceedings initiated, jurisdiction or powers exercised under the provisions. of the Waqf Properties (Amendment) Ordinance, 1978 (Ordinance XXXII of 1978) or its succeeding Ordinances issued ‘from time to time shall be deemed to have been validly done,*taken issued, made, initiated or exercised under this Ordinance.

Repeal.- The Azad Jammu and Kashmir Waqf Properties (Amendment) Ordinance, 1992 (Ordinance XLV of 1992) is hereby repealed.

Sd/-

(Syed Shakir Shah)

Deputy Secretary Law