

THE AZAD JAMMU & KASHMIR
WAQF PROPERTIES ACT OF 1960
(ACT IX OF 1960)

(Passed under Government Order No. 455/60 dated 20-8-1960)

Whereas it is expedient to consolidate and to amend the law

relating to management of Waqf properties in the Azad Jammu and Kashmir Territory, it is hereby enacted as follows :-

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Short title and extent:- (1) This Act may be called the Azad Jammu and Kashmir Waqf Properties Act, 1960.

(2) It extends to the whole of the Azad Jammu and Kashmir Territory.

Definitions:- In this Act, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say :

(a) 'Administrator" means the Administrator of Waqfs, Azad Jammu and Kashmir Government:

(b) 'Government' means the Azad Jammu and Kashmir Government ;

(c) 'Prescribed' means prescribed by rules made under this Act ;

(d) 'Waqf property' means property of any kind permanently dedicated by a person professing Islam for any purpose recognized by Islam as religious, pious or charitable, but does not include property of any Waqf such as is described in Section 3 of the Mussalman Waqf Validating Act, 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.

Explanation 1:- If a property has been used from time immemorial for any purpose recognized 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 Waaf.

Explanation 2:- Property of any kind acquired with the sale

proceeds or in exchange of or from the income arising out of Wadf property or from subscriptions raised for any purpose recognized by Islam as religious, pious or charitable, shall be deemed to be Waqf property.

Explanation 3:- The income from boxes placed at a shrine and offerings or subscriptions for charitable purposes shall be deemed to be Waqf property.

Explanation 4:- Relief of the poor, education, worship, medical relief, maintenance of shrines or the advancement of any other object of charitable, religious or pious nature or of general public utility shall be deemed to be charitable

purpose.

Appointment of Administrator of Waqfs:- (1) Government shall appoint an Administrator of Waqfs for the Azad Jammu and Kashmir Territory.

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

(3) The Administrator shall be a corporation sole by the name of the Administrator of Waqfs Azad Jammu and Kashmir Territory

and shall have perpetual succession and an official seal, and may sue and be sued in his corporate name.

(4) The Administrator shall be subject to the general control of Government.

Appointment of Deputy Administrator of Waqfs:-
Government may appoint a Deputy Administrator or Deputy Administrators for such area or areas as may be specified in the notification to assist the Administrators; and any Deputy Administrator so appointed shall, subject to the general or special orders of the Administrator, be competent to discharge such duties and exercise such powers of the Administrator 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.

Other appointments:- (1) The Administrator 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 purpose of this Act and the amount and nature of 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, as in force in the Azad Jammu and Kashmir Territory.

Administrator may take over Waqf property by notification:- Notwithstanding anything contained in Section 22 of the Religious Endowments, Act, 1863, the Administrator may, by notification, take over and assume the administration, control, management and maintenance of a Waqf property.

Petition to District Court against notification:- (1) Any person claiming any interest in any Waqf property in respect of which a notification has been issued under the last preceding Section may, within thirty days of the publication of such notification, petition to the District Court within whose jurisdiction a part of the Waqf property is situated for a declaration :

(a) that the property is not Waqf property ;

(b) that the property is Waqf property within the limits stated in the petition.

(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.

Appeal against the decision of District Court:- Any person aggrieved by a decision of the District Court under sub-section (1) of Section 7 may, within sixty days of the order, appeal to the Azad Jammu and Kashmir High Court.

District Court and High Court not to issue temporary injunction or order:- Notwithstanding anything to the contrary contained in any other enactment for the time being in force, the District Court or the High Court shall not, pending disposal of a petition filed under Section 7 or an appeal filed under Section 8, have the power to issue a temporary injunction or order restraining the Administrator from taking over or assuming the

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administration, control, management and maintenance of property in respect of which a notification has been issued under Section 6.

Decision of the District Court under Section 7 or of the High Court under Section 9 to be final:- If there is no appeal, the decision of the District Court, or when there is an appeal, the decision in appeal, shall be final.

Administrator to prepare scheme for the administration of Wadf property:- (1) The Administrator shall, as respects the Wadf property in respect of which a notification under Section 6 has been issued and the gross annual income from which exceeds rupees five thousand, and in other cases may, settle a scheme for the administration of such Waqf property.

(2) In the settlement of a scheme, the Administrator shall give effect to such wishes of the person dedicating as can be ascertained and to which effect can be reasonably given.

Sale of Waqf property by Administrator and the application of proceeds:- Government may permit the Administrator to sell or otherwise dispose of any Waqf property and invest the proceeds in accordance with its directions.

Use of Waqf property and application of income therefrom:- Subject to the provisions 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 recognized by Islam as religious, pious or charitable as the Administrator may deem fit.

Administrator to maintain accounts:- (1) The Administrator 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 and his establishment in such manner as may be prescribed.

(2) All moneys received or realized by the Administrator in respect of properties under his control and management shall form and be created to a fund to be called Augaf fund, which

shall be under the control of and operated upon by the
Administrator subject to general supervision of Government, and
shall be kept in such custody as may be prescribed.

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(3) At the end of each financial year the accounts maintained by the Administrator shall be audited by such authority as may be prescribed and the Audit Report with comments of the Administrator shall be laid before Government.

Rents and lease monies in respect of Waqf property may be recovered as arrears of land revenue:- Any sum due as rent or lease money in respect of Waqf property, the administration whereof has been taken over and assumed by the Administrator, if not paid within thirty days of its having become due, may be recovered as arrears of land revenue.

Administrator may call for returns etc. and may issue instructions and directions in respect of Waqf property:- (1)
The Administrator 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 or assumed by him under Section 6, to furnish him with any return, statement, statistics 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 or direction without any delay.

(2) The Administrator 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 or assumed by the Administrator under Section 6, such instructions or directions for the proper administration, control, management and maintenance of any such Waqf property as he may deem necessary, and the person having charge or exercising control over the management of such property shall comply with such instructions and directions.

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 legality of anything done under this Act by or at the instance of the Administrator ; or

(b) in respect of any matter which the Administrator is empowered by or under this Act to determine or settle ; or

(c) to grant an injunction or other order in relation to any proceedings before the Administrator under this Act or

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anything done or intended to be done by or at the instance of the Administrator under this Act.

Effect or orders etc, inconsistent with this Act:- Every order made and every action taken under this Act shall have effect notwithstanding anything inconsistent therewith contained in any document, decree or order of any Court, deed, enactment or any instrument having effect by virtue of any such enactment other than this Act.

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

Offences:- (1) Whoever obstructs, or offers any resistance to, or impedes or otherwise interferes with :

(a) any authority, officer or person exercising may power or performing any duly conferred or imposed upon it or him by or in pursuance of this Act, or otherwise discharging any law-full function under this Act ; or

(b)

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any person who is carrying out the orders of any such authority, officer or person as aforesaid or who is otherwise acting in accordance with his duty in pursuance of this Act, shall be punished with imprisonment for | term which may extend to five years or with fine or with both.

(2) Whoever disobeys or willfully fails to comply with any requisition, instruction or direction issued by the Administrator under Section 14-B shall be punished with fine which may extend to five hundred rupees and with further fine which may extend to fifty rupees for every day on which the said disobedience or failure continues after the date of the first conviction.

Power to frame 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. Government may frame rules for all or any of

the following purposes, namely :-

(a) prescribing the powers and duties of the officers appointed

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under this Act ;

(b) regarding the delegation of any powers by the Administrator to a Deputy Administrator;

(c) regulating the manner in which schemes for administration of Waqf properties shall be prepared ;

(d) regulating the conditions of service of the persons employed under this Act ;

(e) regulating the conduct of litigation by or against the Administrator ;

(f) prescribing the manner in which the accounts shall be kept ;
and

(g) prescribing the authority for auditing the accounts maintained by the Administrator.

Repeal and savings:- (1) Government may, by notification, repeal the Pakistan Mussahtian Waqf Act, 3923, as in force in the Azad Jammu and Kashmir Territory.

(2) Notwithstanding the repeal of the enactment mentioned in sub-section (1) everything done, action taken, obligation, liability, penalty or punishment incurred, inquiry or proceedings commenced, officer appointed or person authorised, jurisdiction or powers conferred, rule made and order issued under any of the provisions of the said enactment shall, if not inconsistent with the provisions of this Act, be continued and, so far as may be, be deemed to have been respectively done, taken, incurred, commenced, appointed, authorised, conferred, made and issued under this Act.

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