

THE '[KHYBER PAKHTUNKHWA] WAQF PROPERTIES
ORDINANCE, 1979.

2IKHYBER PAKHTUNKHWA] ORDINANCE No. I OF 1979

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- 3 Substituted vide Khyber Pakhtunkhwa Act No. XXXV of 2020.

- 4 Inserted vide Khyber Pakhtunkhwa Act No. XXXV of 2020.

- 5 Inserted vide Khyber Pakhtunkhwa Act No. XXXV of 2020.

- © Inserted vide Khyber Pakhtunkhwa Act No. XXXV of 2021.

- 7 Substituted vide Khyber Pakhtunkhwa Act No. XXXV of 2020.

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1 Inserted vide Khyber Pakhtunkhwa Act No. XXXV of 2021.

2 Inserted vide Khyber Pakhtunkhwa Act No. XXXV of 2021.

THE '[KHYBER PAKHTUNKHWA] WAQF PROPERTIES
ORDINANCE, 1979.

2[KHYBER PAKHTUNKHWA] ORDINANCE No. I OF 1979
[11" April, 1979.]

AN
ORDINANCE

to provide for the proper management and administration of waqf properties in
the 3[Khyber Pakhtunkhwa]

WHEREAS it is expedient to,provide for the proper management and
administration of waqf properties in the "[Khyber, Pakhtunkhwa];

AND WHEREAS the Governor of the *[Khyber Pakhtunkhwa], is satisfied
that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of
July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C. M. L. A.,
Order No. I of 1977), and in exercise of all powers enabling him in that behalf, the
Governor of the °[Khyber Pakhtunkhwa] is pleased to make and promulgate the
following Ordinance;

1. (1) This Ordinance may be called the '[Khyber Pakhtunkhwa] Waqf
Properties Ordinance, 1979.

(2) It extends to whole of the [Khyber Pakhtunkhwa].

(3) It shall come into force from such date as may be notified by
Government in the official Gazette.

2. In this Ordinance, unless the context otherwise requires,

- 1 Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.
- 2 Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.
- 3 Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.
- 4 substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.
- 5 Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.
- © substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.
- 7 Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.
- 8 substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

Preamble.

Short title and
commencement.

Definitions.

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(b)

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"Administrator" means an Administrator of Auqaf appointed under section 4;

"beneficial owner" means a natural person who owns or controls a waqf property, whether directly or indirectly or by exercising effective control of that waqf property through other means as may be prescribed: and

"beneficiary" means any person who gets any benefit from the waqf property or whose name is listed in the waqf document as benefiting from the waqf property;]

"Chief Administrator" means the Chief Administrator of Augaf appointed under section 3;

"competent authority" means the Chief Administrator or any other officer including those as prescribed in the Delegation of Power Rules made under this Ordinance: and

"District Collector" means the Chief Officer-in-charge of the revenue administration of a district as defined in the West Pakistan General Clauses Act, 1956 (West Pakistan Act No. VI of 1956:]

"Government" means the Government of the >[Khyber Pakhtunkhwa];

"investigating or prosecuting agency" means the investigating or prosecuting agency as defined in the Anti-Money Laundering Act, 2010 (Act No. VII of 2010):

"legal person" means any person or entity, other than a natural person, that can do the things that any person can usually do in law such as entering into contracts,

sue and be sued, own property, and so on:

- 1 Inserted vide Khyber Pakhtunkhwa Act No. XXXV of 2020.
- 2 Inserted vide Khyber Pakhtunkhwa Act No. XXXV of 2020.
- 3 Substituted vide Khyber Pakhtunkhwa Act No. XXXV of 2020.
- 4 Inserted vide Khyber Pakhtunkhwa Act No. XXXV of 2020.

(c-iii) "Manager" means any person or persons as defined in

(c-iv)

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(ii)

the West Pakistan Auqaf Service Rules, 1962 or in case of private waqf, a person or persons who exercise administrative control or who are incharge of management and maintenance of such waqf property:

"natural person" means an individual or individuals, being capable of assuming obligations and holding rights: and

"person" means a natural person or a legal person as defined in this Ordinance:]

"prescribed" means prescribed by rules made under this Ordinance; and

"Registrar" means an officer as defined in the Registration Act, 1908 (Act No. XVI of 1908); and

"reporting entity" means a person or entity as defined in clauses (0) and (u) of the Anti-Money Laundering Act, 2010 (Act No. VII of 2010);] and

"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 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.

Explanation:—1. If a property has been used from time

immemorial for any purpose recognized by Islam as religious, pious or charitable, then inspite, of there being no evidence of express dedication, such property shall be deemed to be waqf property.

1 Inserted vide Khyber Pakhtunkhwa Act No. XXXV of 2020.

3. (1)

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Explanation—2. Property allotted in lieu or in exchange of waqf property left in India shall be deemed to be waqf property.

Explanation—3. 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 recognized by Islam as religious, pious or charitable shall be deemed to be waqf property.

Explanation—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.

Explanation—v. Property permanently dedicated for the purposes of a mosque, takia, khankah, dargah, or other shrine shall be deemed to be waqf property.

Explanation—vi—Relief of the poor and the orphan, 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 purposes '[;]

*(f) “waqif” means any person or persons who dedicate the property as waqf.]

Government shall appoint a Chief Administrator of Augaf for the akhtunkhwa] and may, by order, vest in him, the waqf properties

situated in the Province including all rights, assets, debts, liabilities and obligations relating thereto.

(2)

No person shall be appointed as Chief Administrator unless he is a

Muslim and possesses such qualifications as may be prescribed by Government.

(3) The Chief Administrator shall be a corporation sole by the name of the

Chief Admi

nistrator of Augaf, “[Khyber Pakhtunkhwa], and shall have perpetual

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

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

Government.

1 Replaced vid:

le Khyber Pakhtunkhwa Act No. XXXV of 2020.

2 Added vide Khyber Pakhtunkhwa Act No. XXXV of 2020.

3 Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

4 Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

Appointment of

Chief

Administrator of

Augaf

4. (1) Government may appoint an Administrator or Administrators for such area or areas and Deputy Administrators for such districts as may be specified in the notification to assist the Chief Administrator, and any Administrator or Deputy administrator so appointed shall, subject to the general or special orders of the Chief Administrator, be competent to discharge such duties and exercise such powers of the Chief 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 Chief Administrator.

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

'T(3) No person shall be appointed as Administrator or Deputy Administrator unless he is a Muslim.]

1(4) Government may appoint Deputy Administrators on such terms and conditions as may be prescribed or assign duties of the Deputy Administrator to the Assistant Commissioner (Headquarter) of each District for performance the functions of Deputy Administrator.]

5. (1) The Chief 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 purposes of this Ordinance and the amount and nature of salary, fees and allowances to be paid to each such officer and servant °[:]

‘(Provided that ‘no person shall be appointed as officer under this section unless he is a Muslim.]

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

1 Inserted vide Khyber Pakhtunkhwa Act No. II of 1985.

2 Added vide Khyber Pakhtunkhwa Act No. XXXV of 2020.

3 Replaced vide Khyber Pakhtunkhwa Act No. II of 1985.

4 Added vide Khyber Pakhtunkhwa Act No. II of 1985.

Appointment of
Administrators
and Deputy
Administrators

General
appointment.

'T6. Registration of waqf property.--- (1) Any person or persons incharge of, or exercising control over the management of any waqf property whether a creator of the waqf or otherwise, or any authorized representative nominated by them, shall get such waqf property registered with the Chief Administrator within ninety days of the creation of the waqf, providing all relevant information which may include but not limited to:

- (a) identity of waqif or dedicator;
- (b) identity of beneficial owner;
- (c) bank account statement and other financial information of the dedicator or the waqif which may include but not limited to details of debit and credit cards, cheques, traveler cheques, money orders, bank drafts and electronic money etc;
- (d) - details of foreign currencies and accounts, if any;
- (ce) any investments made, leases granted, assets procured, profits earned, liabilities incurred, including lending and borrowings etc, made pertaining to the waqf for at least preceding five years or life of the waqf whichever is shorter;
- (£) to preserve complete record of the wafq property including auditable accounts statement, number of employees, advisors, investors, manager, accountants etc. Their complete bio-data for the last five years, after their involvement with the waqf ceases;
- (g) purposes for registration of waqf property; and
- (h) any other information related to the waqf, required by the Chief Administrator or the reporting entity or the law enforcement agency or any authority, duly authorized by Government:

Provided that after the commencement of the Khyber Pakhtunkhwa Wadf Properties (Amendment) Act, 2020, all the existing waqf properties shall be registered with the Chief Administrator within ninety days.

1 substituted vide Khyber Pakhtunkhwa Act No. XXXV of 2020.

(2) Notwithstanding anything contained in the proviso of sub-section (1) of section 7 of this Ordinance any waqf property which has not been registered with the Chief Administrator as required under sub-section (1), shall be deemed to have been notified under section 7 of this Ordinance.

(3) The District Collector (revenue), being the custodian of the land record and the Registrar (revenue), being the focal point of registering all deeds, agreements and documents etc., shall furnish, in the prescribed manner, a consolidated annual report of all waqf properties recorded as waqf during the year in respect of their respective district to the Chief Administrator for information and further necessary action, as deemed appropriate by the Chief Administrator under the provisions of law for the time being in force.

(4) The Manager shall report any change in the waqf property to the Chief Administrator immediately in the manner as may be prescribed.]

116(A). To obtain and hold information.--- The Manager of the waqf property shall obtain and hold information of his respective waqf property as required under sub-section (1) of section 6, and provide to the Chief Administrator on demand, and shall ensure that the information are updated in a timely manner as may be prescribe.]

7. (1) Notwithstanding anything to the contrary contained in any other law for the time being in force, or in any custom or usage, or any decree, judgment or order of any court or other authority, or in any proceeding pending before any other authority, the Chief Administrator may, by notification, take over and assume the administrative control, management and maintenance of waqf property 7[.] 7[A copy of the notification shall be served upon the management, mutawalli or any other person having interest in the waqf property and shall also be affixed on some conspicuous part of the property sought to be taken over.]

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

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.

1 Inserted vide Khyber Pakhtunkhwa Act No. XXXV of 2020.

2 Replaced vide Khyber Pakhtunkhwa Act No. II of 1985.

3 Added vide Khyber Pakhtunkhwa Act No. II of 1985.

Chief
Administrator
may take over
waqf property by
notification.

(2) No person shall perform services 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.

1[(3) The Chief Administrator shall maintain a centralized record in such a manner, design and structure as may be prescribed or notified in the official Gazette, of all properties registered with him under section 6 or the administration whereof has been taken over or assumed under section 7.

(4) At the end of each financial year, the Chief Administrator shall prepare and submit report of the waqf properties registered under section 6 or the administration whereof has been taken over or assumed under section 7 to the Government.]

°(7(A). Provision of miscellaneous information.---Prior to entering into a business relationship or carrying, out an occasional transaction with a reporting entity, any manager, whether a creator of the waqf or otherwise, shall disclose his status as such to the reporting entity.]

3[7B. Incorporation of waqf property in revenue record and land register.---After issuance of the notification regarding taking over of the waqf property under section 7 of this Ordinance, the Chief Administrator, either himself or through an officer authorized by him, shall request, in writing, to the concerned authority, for incorporating notified waqf property in land record, maintained by the concerned authority, under the relevant laws and rules for the time being in-force.]

4[8. Eviction of persons wrongfully in possession of waqf properties.---S[(1) The Chief Administrator or an officer authorized by him in this behalf, shall have power of an authorized officer in terms of the Khyber Pakhtunkhwa Public Property (Removal of Encroachment) Act, 1977 (Khyber Pakhtunkhwa Act No. V of 1977) to evict any person, who 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 Ordinance, or on expiration of lease agreement.]

(2) The Chief Administrator shall avail the assistance of the District Administration or Investigating or Prosecuting Agency and all such authority or entity shall extend such assistance to the Chief Administrator or Administrator Augaf or any other person authorized by him as and when required for the purpose of this Ordinance.

1 Added vide Khyber Pakhtunkhwa Act No. XXXV of 2020.

2 Inserted vide Khyber Pakhtunkhwa Act No. XXXV of 2020.

3 Inserted vide Khyber Pakhtunkhwa Act No. XXXV of 2021.

4 substituted vide Khyber Pakhtunkhwa Act No. XXXV of 2020.

5 substituted vide Khyber Pakhtunkhwa Act No. XXXV of 2021.

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

(4) _ If any building or other structure has been erected on any property while it was in the occupation or use of a person evicted there-from under sub-section (1) shall stand forfeited to the Chief Administrator.]

'18A. Lease of waqf property and use of income therefrom.--- 7[(1)]

The Chief Administrator shall lease out the waqf property for such period *[and terms and conditions,] as may be prescribed and the income derived from such property shall be used for any purposes recognized by Islam as religious, pious or charitable as the Chief Administrator may deem fit.]

4[(2) No person, institution or organization shall occupy any waqf property, unless entered into a lease agreement with Chief Administrator, under the provisions of this Ordinance.]

5[8B. Reserve rental value.--- The reserve rental value per square feet for lease of the commercial, residential and agricultural waqf property shall be determined by a committee to be constituted in the prescribed manner:

Provided that the reserve rental value shall be at the best available market rate.

8C. Renewal of lease agreement.--- (1) Every lease agreement shall be for specific period as referred to in section 8A and there shall be no renewal per se:

Provided that the Chief Administrator may renew a lease.agreement by specifying cogent reasons that such renewal is in the interest of the waqf property.

(2) After the expiry of the lease period of a waqf property, if its further leasing out is deemed desirable in the public interest, such waqf property shall be put to open competitive bidding for leasing it out for another period.

8D. Registration of lease agreement.---All. lease agreements, exceeding the period of one year, shall be registered with the office of Registrar:

Provided that the expenses of such registration, if any, shall be borne by the lessee.]

619. Power to terminate a lease or resume a tenancy of 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 lease or tenancy, the Administrator may give to such lessee or tenant a notice, to appear before the authority and state his objections to an order being made for the termination of lease or resumption of the tenancy.

1 Inserted vide Khyber Pakhtunkhwa Act No. XXXV of 2020.

2 Numbered vide Khyber Pakhtunkhwa Act No. XXXV of 2021.

3 Inserted vide Khyber Pakhtunkhwa Act No. XXXV of 2021.

4 added vide Khyber Pakhtunkhwa Act No. XXXV of 2021.

5 Inserted vide Khyber Pakhtunkhwa Act No. XXXV of 2021.

© substituted vide Khyber Pakhtunkhwa Act No. XXXV of 2020.

1 Inserted vide Khyber Pakhtunkhwa Act No. XXXV of 2020.

2 Numbered vide Khyber Pakhtunkhwa Act No. XXXV of 2021.

3 Inserted vide Khyber Pakhtunkhwa Act No. XXXV of 2021.

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- (2) If 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 rectifications and undertake to rectify it.

(2) If 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 rectifications and undertake to rectify it.

(3) If the Administrator is satisfied that the breach is capable of rectification, it 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-reap 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.

(5) If lease terminated, or 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 to whom allotted such property.]

'T9A.- Revocation of lease agreement.--- Notwithstanding anything contained in this Ordinance, the Chief Administrator may, with the prior approval of Government, at any time during the currency of lease agreement, revoke such lease agreement, if deemed appropriate in the public interest.]

10. (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 Chief Administrator, and the Chief Administrator, 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 an order of termination of lease or resumption of tenancy made by the Administrator 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 Chief

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1 Inserted vide Khyber Pakhtunkhwa Act No. XXXV of 2021.

Appeal and
finality.

11.(1) Any person claiming any interest in any waqf property is 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-

(a) _ that the property is not waqf property;

(b) that the property is waqf property within limits stated in the petition:

Provided that, notwithstanding any thing 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 IV to clause (e) of section 2, or the services or ceremonies (Rasoomat) mentioned in 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 vacation or delay.

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

13. 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 11 or an appeal filed under section 12 have the power to issue temporary injunction or order restraining the Chief Administrator from taking over or assuming the administration, control, management and maintenance of property in respect of which a notification has been issued under section 7.

14. If there is no appeal, the decision of the District Court, or when there is an appeal, the decision in appeal shall be final.

Petition to
District Court
against
notification.

Appeal against
the decision of
District Court.

District Court
and High Court
not to issue
temporary
injunction or
order.

Decision of the
District Court
under section 11
or the High
Court under
section 12 to be
final.

15. (1) The Chief Administrator 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 'Tpurpose specific scheme] for the administration and development of such waqf property.

[(1A) Notwithstanding anything contained in sub-section (1), for better utilization and development of a commercial waqf property, the Chief Administrator may enter into agreement with private entrepreneur or organization or company, registered under the relevant law, in accordance with the Khyber Pakhtunkhwa Public Private Partnership Act, 2020 (Khyber Pakhtunkhwa Act No. XLII of 2020).]

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

3[15A. Services of the facility management company.---The Chief Administrator may hire services of a public or private sector company registered, under the relevant law, after completion of all codal formalities, for cleaning, security, rent collection or any other services as may be prescribed.]

16. "[Subject to the provisions contained in sub-section (2).of section 15,] Government may, where it is satisfied that circumstances exist which it necessary to sell or otherwise dispose of any waqf property in order—

1 substituted vide Khyber Pakhtunkhwa Act No. XXXV of 2021.

2 Inserted vide Khyber Pakhtunkhwa Act No. XXXV of 2021.

3 Inserted vide Khyber Pakhtunkhwa Act No. XXXV of 2021.

4 Inserted vide Khyber Pakhtunkhwa Act No. II of 1985.

Chief
Administrator to
prepare scheme
for the
administration
and development
of waqf
Property.

Sale of waqf
property by
Chief
Administrator
and application
of proceeds.

(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 waqf property was dedicated;

(d) to enable the property to be used, in the absence of evidence of express dedication, for the purpose for which it has been used or for any purpose recognized 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 Chief Administrator to do so and to invest the proceeds in accordance with its directions.

17. Subject to the provisions of this Ordinance, 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 Chief Administrator may deem fit.

18. (1) The Chief 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 Chief Administrator and his establishment, in such manner as may be prescribed.

(2) All moneys received or realised by the Chief Administrator in respect of properties under his control and management shall form and be credited to, a fund to be called Augaf Fund, which shall be under the control of, and operated upon by, the Chief Administrator, 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 Chief Administrator shall be audited by such authority as may be prescribed and the Audit Report with the comments of the Chief Administrator shall be laid before Government.

1 Omitted vide Khyber Pakhtunkhwa Act No. II of 1985.

Use of waqf
property and
application of
income there
from.

Chief
Administrator to
maintain

accounts.

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

20. (1) The Chief 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 7 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 Chief 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 Chief Administrator under section 7, such instructions or directions for the proper administration, control, management and maintenance of such waqf property as he may deem necessary, including directions prohibiting delivery of sermons, khutbas or lectures which may contain any matter prejudicial to the sovereignty or integrity of Pakistan, or calculated to arouse feelings of hatred or disaffection amongst various religious sects or group in the country and directions prohibiting such person from indulging in party politics through sermons or lectures and the person having charge or exercising control over the management of such property shall comply with such instructions and directions.

120A. Submission of report to Chief Administrator.---(1) The Deputy Administrator or Manager, as the case may be, shall provide to the Administrator, details of immovable property or properties forming part of the waqf property to be leased out, specifying the period of lease, lease rent, terms and conditions of the lease and such other details thereof, as specified in the Form appended to this Ordinance.

(2) The Administrator shall give report of all lease agreements to the Chief Administrator as early as possible but not later than one month from the date on which the lease agreement was so executed.

1 Inserted vide Khyber Pakhtunkhwa Act No. XXXV of 2021.

Rent and lease
money in respect
of waqf property
may be
recovered as
arrears of land
revenue.

Chief
Administrator
may call for
returns etc and
may issue
instructions and
directions in

respect of waqf
property.

(3) In case of failure of Deputy Administrator, Manager or Administrator to submit details and report under sub-sections (1) and (2), the same shall be deemed to be a misconduct within the meaning of the Khyber Pakhtunkhwa Efficiency and Discipline Rules, 2011 and shall be proceeded under the said rules.

20B. Initiation of process before expiry of lease agreement.---(1) Subject to the approval of the Chief Administrator, the Manager shall, before four months to the expiry of the existing lease agreement, initiate the case for the lease of the waqf property.

(2) In case of failure of Manager to initiate the case for the lease of waqf property under sub-section (1), the same shall be deemed to be a misconduct within the meaning of the Khyber Pakhtunkhwa Efficiency and Discipline Rules, 2011 and shall be proceeded under the said rules.

20C. Surrender of leased waqf property on expiration or termination of lease agreement.---Upon expiration or termination of the lease agreement, the lessee shall immediately surrender possession of the leased waqf property and all authorized leasehold improvements, in proper condition except only reasonable wear and tear, and all rights, title, and interest of the lessee in the leased waqf property shall be extinguished.]

21. Save as expressly provided in this Ordinance, no civil or revenue court or any other authority shall have jurisdiction-

(a) to question the legality of anything done under this Ordinance by or at the instance of the Chief Administrator; or

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

(c) to grant an injunction or other order in relation to any proceeding before the Chief Administrator under this Ordinance or anything done or intended to be done by or at the instance of the Chief Administrator under this Ordinance.

22. Every order made and every action taken under this Ordinance 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 Ordinance.

Bar of
Jurisdiction.

Effect of orders
etc, in consistent
with this
Ordinance.

23. No suit prosecution or other legal proceeding shall be instituted against any person for anything, which is in good faith done or intended to be done under this Ordinance or the rules made thereunder.

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

(a) any authority, officer or person exercising any power or performing any duty conferred or imposed upon it or him by or in pursuance of this Ordinance or otherwise discharging any lawful function under this Ordinance; or

(b) 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 Ordinance.

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

(2) Any person who fails to comply with any requirement under section 20 shall be punished with imprisonment which shall not be less than one year but which may extend to five years and shall be liable to fine which shall not be less than the benefits derived from the waqf property but may extend to three times of the amount of income derived from the property.]

1(3) Any person who fails to comply with the provisions of section 6 or conceals any information or provide incomplete or incorrect information to the Chief Administrator as required under this Ordinance, shall be liable to pay such amount calculated by the concerned district Collector or Registrar (revenue) or any other authority duly authorized by the Chief Administrator to do so, for the period of factum of waqf property or in case of noncompliance due to any other reason, the defaulting person or persons shall be penalized with an amount upto rupees fifteen (15) million or imprisonment up to 05 years, or with both.]

3[(4) In addition of eviction of person wrongfully in possession of waqf property under section 8 of this Ordinance, any person or institution in private sector, who-

(a) occupies any waqf property in whole or part without proper authorization or lease agreement; or

1 substituted vide Khyber Pakhtunkhwa Act No. XXXV of 2020.

2 Added vide Khyber Pakhtunkhwa Act No. XXXV of 2020.

3 added vide Khyber Pakhtunkhwa Act No. XXXV of 2021.

Protection of
action taken
under this
Ordinance.

Offences.

(b) occupies any waqf property, whose lease agreement has been terminated for any reason whatsoever or either the period of such lease agreement has already been expired; or

(c) builds or extends a structure on waqf property without the authority of law or lease agreement,

shall be liable to punishment with imprisonment which may extend to ten years

or fine which may extend to Rs. 5 million or with both,

notwithstanding anything contained in any other law for the time being inforce.

(5) Incase of death of lessee, the provision of sub-section (4) shall be mutatis mutandis applicable to the legal representative of lessee.]

25. (1) Government may frame rules for the purpose of carrying into effect the provisions of this Ordinance.

(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)

(b)

(d)

(e)

(f)

(g)

(h)

prescribing the powers and duties of the officers appointed under this Ordinance;

regulating the delegation of any powers by the Chief Administrator to an Administrator or a Deputy Administrator;

prescribing the terms and conditions on which waqf property may be leased or let out;

regulating the manner in which schemes for administration and development of waqf properties shall be prepared;

regulating the conditions of service and conduct of the person employed under this Ordinance;

regulating the conduct of litigation by or against the Chief Administrator;

prescribing the manner in which the accounts shall be kept;

prescribing the authority for auditing the accounts maintained by the Chief Administrator;

Power to frame
rules.

(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 the '[Khyber Pakhtunkhwa] Province;

Gj) 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; and

(k) to appoint Advisory Committee consisting of public representative, Ulama and other experts.

Continuance of 26. Everything done or purporting to have been done, action taken, actions etc. taken liability or penalty incurred or proceeding commenced, officer appointed under Act LVI of or persons authorized, jurisdiction or power conferred, rule made or 1976. notification or order issued under the Augaf (Federal Control) Act, 1976 (LVI of 1976), since repealed, shall so far as it is not inconsistency with the provisions of this Ordinance, continue in force, and so far as may be, be deemed to have been done, taken, incurred, commenced, appointed, authorized, conferred, made or issued under this Ordinance.

21Form

(see section 20A (1))

S.No | Lessee | District Nature of Date of Rent Date of Total Lease Rent Expiry date No. of
Name | wherein lease Assessment/ | Registratio Land Per of lease Extension
with | the waqf | agreement Reserve n of lease in Month/Annum | agreement of lease
CNIC | property and land rental value | agreement | Kanal/Sq agreement
No. is use with ft Aailed
situated period

Note: Copies of the lease agreement and notification under section 7 of this Ordinance shall be attached.

Deputy Administrator/Manager |

1 substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

2 added vide Khyber Pakhtunkhwa Act No. XXXV of 2021.