

PROVINCIAL ASSEMBLY OF SINDH
NOTIFICATION

KARACHI, THE 28th SEPTEMBER, 2020

NO.PAS/LEGIS-B-22/2020- The Sindh Waqaf Properties Bill, 2020 having been passed by the Provincial Assembly of Sindh on 21st August, 2020 and assented to by the Governor of Sindh on 22nd September, 2020 is hereby published as an Act of the Legislature of Sindh.

THE SINDH WAQAF PROPERTIES ACT, 2020

SINDH ACT NO. XXVII OF
2020

AN
ACT

to make provisions relating to the proper management
and administration of Waqf Properties in the Province of Sindh.

WHEREAS it is necessary to make provisions relating
to proper management and administration of Waqf Properties in
the Sindh or incidental thereto;

It is hereby enacted as follows:-

1. (1) This Act may be called the Sindh Waqf Properties
Act, 2020.

(2) It extends to the whole province of Sindh.

(3) It shall come into force at once as may be notified by the
Government.

2. 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 an Administrator of
Waqf appointed under the provision of section 4;

(b) "Beneficial owner" means a natural person who
ultimately owns or controls a Waqf, whether directly or
indirectly, or by exercising effective control of that
Waqf through other means as may be prescribed;

(c) "Beneficiary" means any person who — gets
benefits from the Waqf property or whose name is
listed in the waqf document as benefiting from the
waqf property;

(d) "Chief Administrator" means the _ Chief
Administrator of Waqf, appointed under section 3;

(e) "Competent Authorities" means the
regulators, the oversight bodies for Self-
Regulatory Bodies * the "investigating or
prosecuting agency" and the "Financial
Monitoring Unit" as specified in the Anti- Money
Laundering Act, 2010;

(f) "Government" means the Government of Sindh;

Short title, extent
and
commencement.

Definitions.

”

(g) “Investigating or Prosecuting Agency means the _ Investigating or Prosecuting Agency as_ specified in the Anti-Money Laundering Act 2010

(h) “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;

(i) “Natural person” means an_ individual or individuals;

(j) “Person” means a natural person or a legal person;

(k) “Prescribed” means prescribed by the rules made under this Act;

(l) “Reporting entity” shall have the same meaning as defined in the Anti-Money Laundering Act, 2010;

(m) “Waqf Manager” means any person or persons who is in charge of the day-to-day management and operations of the Waaqf property;

(n) “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 Waadf Validating Act, 1913 (Act VI of 1913), under which any benefit is for the time being claimable for himself by the person by whom the wadf was created or by any member of his family or descendants.

Explanation 1.—If a property has been used 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 wadf property.

Explanation 2.—Property allotted in lieu of or in exchange of waqf property left in India shall be deemed to be wadf 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
subscription raised for any purpose recognized by

Islam as religious, pious or charitable, shall be deemed to be wadf property.

Explanation 4.—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 wacaf property.

Explanation 5.—Property permanently dedicated for the purposes of a Mosque, Takia, Khankah, Dargah, or other shrine, shall be deemed to be wadf property.

Explanation 6.—Relief of the poor and the orphans, education, workshop, 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;

(0) "Waqif" means any person or persons who dedicates the Waaf Property.

3. (1) Government shall appoint a Chief Administrator Augaf for Sindh and may by order, vest in him and the wadqf properties situated in the Province including all rights, assets, debts, liabilities and obligations relating thereto.

(2) No person shall be appointed as Chief Administrator Augaf, Administrator, Deputy Administrator unless they are 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 Administrator of Augaf, Sindh, 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.

4. (1) Government may appoint an Administrator or Administrator(s) for such area or areas and Deputy Administrator(s) 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.

Appointment of

Chief Administrator
of Auqaf

Appointment of
Administrator and
Deputy
Administrators.

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

(3) No person shall be appointed as Administrator, Deputy Administrator or officer under this Act unless he is a Muslim and possess such qualifications as may be prescribed.

5. (1) The Chief Administrator with the previous General sanction of Government may, from time to time, determine appointments. 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 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 (XLV of 1860).

6. (1) Any Waqf Manager, whether a creator of Registration of the Waqf or otherwise, or any authorized Wagqf Property. representative nominated by him, shall get the waqf

property registered with the Chief Administrator in

the prescribed circumstances and manner.

(2) The information to be contained in the registration of any wagqf shall be prescribed.

(3) Any wadf property not registered with the Chief Administrator as required under sub-section (1) shall be deemed to have been notified under section 8 of Sindh Waaf Properties Act, 2020.

(4) Collector / Deputy Commissioner of the District, being the custodian of the land records and the District Registrar (concerned), being focal person of registering all deeds, agreements and documents etc, shall furnish, in the prescribed circumstances and manner, a consolidated annual report of all waqf properties recorded as waqf during the year in re spect of their respective Districts to the Chief Administrator for information and further necessary action, or as deemed appropriate by the Chief Administrator, under the provisions of law for the time being enforced.

(5) Any change in the wagdf property information

shall be updated by the Waqf Manager to the District Registrar in a timely manner, as prescribed.

7. (1) The Waqf Manager shall obtain and hold the Waqf Manager to information as required under sub-section (2) of obtain and hold

section 6 and shall ensure that the information is information updated in a timely manner as prescribed.

(2) Any Waqf manager shall provide, upon request, any of the information held in accordance with sub-section (1) of Section 6 to the Chief Administrator in a timely manner as prescribed.

8. (1) Notwithstanding anything to the _ contrary Chief Administrator contained in or any other law for the time being in force, or may take over Waqf in any custom or usage, or in any decree, judgment or Property by

order of any Court or other authority or in any proceedings Notification. pending before any Court of other authority, the Chief

Administrator may, by notification, take over and assume

the administration, control, management and maintenance

of waqf property:

Provided that during the life-time of waqif (person dedicated waqf property), the Chief Administrator shall not take over and assume the administrative control, management and maintenance of such wadf property, except with the consent of such person and on such terms and conditions as may be agreed upon 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 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.

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

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

9. (41) Prior to entering into a business relationship or Provision of carrying out an occasional transaction with a reporting Miscellaneous

entity, any Waqf Manager, whether a creator of the waqf information.
or otherwise, shall disclose its status as such to the

reporting entity.

(2) The Waqf Manager in respect of any waqf

existing before the commencement of this Act, whether a creator of the waqf or otherwise, shall disclose its status as such to the reporting entity with which they have a business relationship.

10. Any person unauthorizedly entering upon occupation of any immovable waqf property or using or occupying any such property to the use or occupation whereof by reason of any provisions of this Act or any rule made there-under, 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 Administrator, with the use of such force as may be necessary and any crop raised in such property shall be liable to forfeiture and any building or other construction erected thereon shall also, if not removed by such person after service on him of a notice by the 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.

11. (1) If the Administrator is satisfied that lessee or tenant of any immovable waqf property has committed a breach of the conditions of the lease or tenancy the 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 Administrator shall not order the termination of the lease or resumption of 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 days to be stated in the notice or more than ninety days, to be stated in the notice, and the lessee or tenant has failed to comply with such notice:

Provided further that if any immovable waqf property is required to be used for public purpose by Government, the Chief Administrator shall, after serving three notices within intervals of one month for eviction of the waqf property, terminate the lease.

(2) Where an order terminating the lease or resuming the tenancy has been passed under the provisions of sub-section (1), the Administrator may forthwith re-enter upon the waqf property and resume possession of it, subject to the payment of compensation to

Eviction of persons
wrongfully in
possession of waqf
properties.

Power to terminate
a lease or resume a
tenancy for breach
of conditions.

be fixed by the Administrator for un-cut and ungathered crop 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 compensation, if any, paid to the out-going lessee or tenant may be recovered from the new lessee or tenant.

12. (1) _ 'Any person evicted under the provisions of section 10 of this Act or aggrieved by an order of termination of lease or resumption of tenancy made under section 11 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 may, after giving such person an opportunity of being heard, confirm, modify or vacate the order made by the Administrator under section 10 and 11 of this Act.

(2) If there is no appeal against an eviction under section 10 or an order of termination of lease or resumption of tenancy made by the Administrator under section 11 of 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 Administrator in appeal shall be final.

13. (1) Any person claiming any interest, in any waaf property in respect of which a notification has been issued under section 8 may, within thirty days of the publication of such notification, file petition with the District Court within whose jurisdiction the waqf property or any 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 the limits stated in the petition:

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 of other authority no such petition shall lie in respect of any interest in the income, offerings, subscription or articles, referred to in Explanation 4 of section 2, or the services or ceremonies (Rasoomat) mentioned in section 8.

(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

Appeal and finality.

Petition to District
Court against
Notification.

or the production of any document or other thing if it considers necessary that it has been made for the purpose of vexation or delay.

14. Any person aggrieved by a decision of the District Court under sub-section (1) of section 13 may, within sixty days of the order, appeal to the High Court.

15. 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 13 or an appeal filed under section 14 have the power to issue a 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 8 of this Act.

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

17. (1) The Chief Administrator shall as respects the waqf property in respect of which a notification under section 8 has been issued and the gross annual income from which exceeds five thousand rupees and on other cases may settle a scheme for the administration and development of such waqf property.

(2) In the settlement of a scheme under sub-section (1), the Chief Administrator shall give effect to such wishes of the Wagif as can be ascertained, and to which effect can be reasonably given.

18. 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

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 13 or the High Court under section 14 to be final.

Chief Administrator to prepare scheme for the administration and development of wadf property.

Sale of waqf property by chief administrator and application of proceeds.

(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:

Provided that the sale proceeds of the property shall not be used for any purpose unless the main purpose of the wadf is served and satisfied.

19. Subject to the provision of this Act, a wadf 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.

20. (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 realized by the Chief Administrator in respect of properties under his control and management shall form and be credited to a fund to be called Auqaf 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.

Use of waqf
property and
application of

income therefrom.

Chief Administrator
to maintain
accounts.

21. Any sum due to 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.

22. (1) The Chief Administrator may require any Waaf Manager, the administration of any waqf property 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 Wadf Manager, the administration of wagqf property 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 and integrity of Pakistan or 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 or lectures, and the Waqf manager _ shall comply with such instructions and directions.

(3) The Chief Administrator shall require any Waqf Manager of waqf property registered under section 6 or of any waqf property administered by the Chief Administrator under section 7 to follow all or any of the following instructions in order to prevent the money laundering and terrorist financing:-

(a) The person properly entered into lease deed shall deposit the lease or rent amount online through his bank account to the designated account of the Chief Administrator or Administrator, while the Waaqf Manager shall provide a computerized bill to the leaseholder.

(b) After execution of proper lease deed with the successful bidder or occupant of a Waaqf Property by Chief Administrator, which shall be displayed on official website for information and awareness of the general public or any authority.

(c) The leaseholder at the time of execution of agreement shall provide an affidavit to the

Rents and lease

moneys in respect
of waqf property
may be recovered
as arrears of land
revenue.

Chief Administrator
may call for return,
etc. and may issue
instructions and
directions in respect
of waqf property.

effect that the property allotted to him and income therefrom shall not be used for any illegal purposes including but not limited to Money Laundering or Terrorist Financing.

(d) The leaseholder' shall annually submit verified Bank account statement showing details of credited and debited amount to the Chief Administrator.

(e) To preserve complete record of the Waaf Property including auditable accounts statement, number of employees, Advisors, Investors, Managers, Accountants and their complete Bio-data etc. for the last five years.

23. (1) The Chief Administrator shall provide prescribed information about the waqf to any competent authority in the prescribed manner and circumstances.

(2) The Waqf Manager shall provide to competent authorities, for domestic and international cooperation purposes at any time in the manner prescribed, any information regarding the wadf property, including but not limited to beneficial ownership of waqf property, the residences of the staff who have control over the Waqf properties, any assets held or managed by a reporting entity in relation to waqf property or any other information relating to the wagdf as prescribed.

24. (1) The Chief Administrator shall provide and upon request, to the reporting entity information about the beneficial ownership and assets of the wadf in the prescribed circumstances and manner.

(2) The reporting entity may also obtain the information from the Waqf Manager about the beneficial owner, details of Waqf assets, residential addresses of Waaf Manager and details of beneficiaries in the prescribed circumstances and manner.

25. 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 Chief Administrator; or

Provision of
information to

competent
authorities.

Provision of
information to
reporting entities.

Bar of jurisdiction.

(b) in respect of any matter which the Chief 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 proceeding before the Chief

Administrator under this Act or anything done

intended to be done by or at the instance of

the Chief Administrator under this Act.

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

27. No suit, prosecution or other legal proceedings Protection of action shall be instituted against any person for anything which is taken under this

in good faith done or intended to be done under this Act or Act.

the rules made there-under.

28. (1) Whoever obstructs or offers any resistance to, or Offences. 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 Act or otherwise discharging any lawful function under this Act; or

(b)

YS

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 a term which may extend to five years or with fine or with both.

(2) Any person whoever disobeys or willfully fails to comply with any requirement under section 21 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.

(3) Any person who intentionally fails to comply with the provisions of section 6 or intentionally conceals any information or provide

incomplete or incorrect information to the Chief Administrator as required under this Act, shall be liable to pay such amount calculated by the concerned District Collector or District Registrar or any other authority duly authorized by the Chief Administrator to do so, for the period of factum of waqf property, or an imprisonment which may extend to five years, or both.

(4) The offences punishable under this Act shall be triable by the Court of Sessions.

29. Any person who fails to comply with any of the provisions of this Act for any other reason shall be penalized with a fine which may extend to rupees twenty five million.

30. (1) Government may frame rules for the purpose of carrying into effect the provision of this Act.

(2) In particular and without prejudice to the generally 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 Chief Administrator to an Administrator or a Deputy Administrator;

(c) prescribing the terms and condition 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 services and conduct of the persons employed under this Act;

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

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

(h) prescribing the authority for auditing the accounts maintained by the Chief Administrator;

(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 Sindh;

Administrative

sanctions.

Power to frame

rules.

13

(j) prescribing and regulating the standards of syllabus 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 institution; and

(k) to appoint Advisory Committee consisting of public representatives, Ulema and_ other experts.

31. If any difficulty arises in giving effect to any provision of this Act, Government may, make such order not inconsistent with the provisions of this Act, as may appear to it to be necessary for purpose of removing such difficulty.

32. (1) The Sindh Waqf Properties Ordinance, 1979 (IX of 1979) shall, on commencement of this Act, stand repealed.

(2) Notwithstanding the repeal under sub-section (1), anything done, rules made, notifications or orders issued, officer appointed, notice given, proceedings commenced or other action taken under the repealed Ordinance or purportedly under that Ordinance till the coming into force of this Act, shall be deemed to have been validly done, made, issued, appointed, given, commenced or taken, under this Act.

BY ORDER OF THE SPEAKER
PROVINCIAL ASSEMBLY OF SINDH

G.M.UMAR FAROOQ
SECRETARY
PROVINCIAL ASSEMBLY OF SINDH

Removal of
difficulties.

Repeal and Saving

