

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

Dated the 9th September, 1990.

No. 515-19/LD/90. The following Ordinance made by the President on the 9th day of September, 1990, is hereby published for general information:-

(ORDINANCE LXII OF 1990)

AN

ORDINANCE

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;

AND WHEREAS the Legislative Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by sub-section (1) of Section 41 of the Azad Jammu and Kashmir Interim Constitution Act, 1974, the President is pleased to make and promulgate the following Ordinance:-

1. **Short title and Commencement.**- (1) This Ordinance may be called the Azad Jammu and Kashmir Waqf Properties (Amendment) Ordinance, 1990.
(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 Waqf Property the Chief Administration shall not take over and assume the administration, control, management and Waqaf Property, except with the consent of such person and on such term 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 services or ceremonies (Rasmoomat) referred to in sub-section (1) except with the prior permission of the Chief -Administrator and in accordance with such direction as may be given by him.

6-A, Eviction of persons wrongfully in possession of Waqf Properties.- Any person unauthorisedly 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 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 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 lessor 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 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, and the lessee or tenant has failed to comply with such notice.

(2) Where an order terminating the lease or resuming 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 or 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 shall be 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 andceremonies (Rasoomat) at or in a waqf property.

4. **Amendment of Section 7, Act IX of 1960.-** Inthe said Act, in section7, in subsection (I) 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.”

5. **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 during the period from 1st January 1970, to 11th August, 1977, was made for any purpose not connected with the objects of the Waqf Properties Act, 1960 or because of the political affiliation of such person the Government or an officer authorised by it in this behalf, by notice in writing, require such person 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.

6. **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."

7. **Addition of Section 21, Act IX of 1960.**- 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, everything done, all actions taken, notifications issued, orders 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

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issued from time to time shall be deemed to have been validly done, taken, issued, made, initiated or exercised under this Ordinance.

Sd/-
(Saihibzada Ishaq Zafar)
President
Azad Jammu and Kashmir

Sd/-
(Syed Shakir Shah)
Under Secretary Legislation
Law Department
Azad Government of the State of
Jammu and Kashmir

AJK LAW Department (Library)