

**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 :-

1. **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.
2. **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 Waqf.

Explanation 2:- 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 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.

3. **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.

4. **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.

5. **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.

1[“6. Chief Administrator may take over Waqf

1 Subs. By The Azad Jammu and Kashmir Waqf Properties (Amdt.) Act, 1992 (Act VII of 1992) dt. 29-06-1992. The original extract of sec.6 of The Azad Jammu & Kashmir Waqf Properties Act, 1960 is reproduced as under:

“6. Administrator may take over Waqf property by notification:- Notwithstanding anything contained in

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 maintenance of each Waqf property, except with the consent of such person and on such terms and conditions as may be agreed to between such person and the Chief Administrator.

Explanation. - For the purpose of this Section, control, and 'management' shall include control over the performance and management of religious, spiritual, cultural and other services and ceremonies (Rasoomat) at or in a Waqf property.

(2) No person shall perform service or ceremonies (Rasoomat) referred to in sub-section (1) except with the prior permission of the Chief Administrator and in accordance with such directions as may be given by him:

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

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

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."

removal after the expiry of the period specified in the notice.

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

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

(2) Where an order terminating the lease or reasuming the tenancy has been passed under the provisions of sub-section (1), the Deputy Administrator may forthwith re-enter upon the Waqf property and resume possession of it, subject to the payment of compensation to be fixed by the Deputy Administrator for un-cut and ungathered crops or for the improvements, if any, that may have been made by the lessee or tenant under the terms of the lease or tenancy or with the permission of the Chief Administrator:

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

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

(2) If there is no appeal against an eviction under Section 6-A, or an order of termination of lease or resumption of tenancy made by; the Deputy Administrator under Section 6-B, the eviction, termination of lease or resumption of tenancy, as the case may be, 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 and ceremonies at or in a Waqf property.

7. **Petition to District Court against notification:-**¹[(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;

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]

- (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.

8. **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.

9. **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

¹ The full stop at the end of subsec.(1) of sec. 7 subs. By colon and thereafter following proviso add. By the Azad Jammu and Kashmir Waqf Properties (Amdt.) Act (Act VII of 1992) dt.29-06-1992.

““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.”

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

10. **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.
11. **Administrator to prepare scheme for the administration of Waqf property:-** (1) The Administrator shall, as respects the Waqf 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.
12. **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.
13. **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.

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

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

¹Ins by By the Azad Jammu and Kashmir Waqf Properties (Amdt.) Act (Act VII of 1992) dt.29-06-1992.

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 Auqaf 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.

(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.

14-A. **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.

14-B. **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.

15. **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 anything done or intended to be done by or at the instance of the Administrator under this Act.
16. **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.
17. **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.
18. **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) 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 1 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.
19. **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 under this Act ;
- (b) regarding the delegation of any powers by the Administrator to a Deputy Administrator;
- ¹ [(bb) Prescribing the terms and conditions of which Waqf Property may be leased or let out.]
- (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.

20. **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.

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

¹Ins by By the Azad Jammu and Kashmir Waqf Properties (Amdt.) Act (Act VII of 1992) dt.29-06-1992.

² Ins. By Ibid.

taken issued, made, initiated or exercised under this Ordinance.]
