

# **The Waqfs Ordinance, 1962 (East Pakistan Ordinance)**

## **( Ordinance NO. I OF 1962 )**

### **An Ordinance to consolidate and amend the law relating to the administration and management of Waqf properties in Bangladesh.♣**

WHEREAS it is expedient to consolidate and amend the law relating to the administration and management of Waqf properties in Bangladesh;

NOW, THEREFORE, in pursuance of the Presidential Proclamation of the seventh day of October, 1958, and having received the previous instructions of the President, the Governor is pleased, in exercise of all powers enabling him in that behalf, to make and promulgate the following Ordinance, namely:-

## **CHAPTER I**

**Short title, extent and commencement** 1. (1) This Ordinance may be called the <sup>1</sup>[\* \* \*] Waqfs Ordinance, 1962.  
(2) It extends to the whole of Bangladesh.

(3) It shall come into force at once.

**Definitions** 2. In this Ordinance, unless there is anything repugnant in the subject or context,-

(1) “Administrator” means the Administrator of Waqfs appointed under section 7;

(2) “beneficiary” means any person entitled to receive any pecuniary or other material benefits from a waqf and includes any institution, such as mosque, shrine, dargah, khanquah, school, madrasah, idgah or graveyard entitled to receive any such benefits;

(3) “benefit” does not include any benefit which a mutawalli is entitled to claim solely by reason of his being such mutawalli;

(4) "Committee" means the Waqfs Committee established under section 19;

<sup>2</sup>[(4A) "Deputy Commissioner" shall include Additional Deputy Commissioner]

(5) "enrolment" means the enrolment of a waqf under section 47;

(6) "mutawalli" means any person appointed either orally or under any deed or instrument by which a waqf has been created or by a competent authority to be the mutawalli of a waqf, and includes a naib mutawalli, any other person appointed or entrusted by a mutawalli to perform the duties of a mutawalli, the guardian of a mutawalli who is a minor or of unsound mind and any person or committee for the time being managing or administering any waqf property as such.

Explanation. A Receiver appointed under the provisions of the Code of Civil Procedure, 1908, or under section 145 or 146 of the Code of Criminal Procedure, 1898, to manage or administer a waqf property, or a Common Manager managing any waqf property under the provisions of any law for the time being in force, shall be deemed to be a mutawalli for the purposes of this Ordinance;

(7) "net available income" of a waqf means the income as determined from time to time, in the manner prescribed by the rules;

(8) "person interested in a waqf " includes a beneficiary and any person who has a right to worship or to perform any religious rite in a mosque, idgah, imambarah, dargah, maqbara or other religious institution and establishment connected with the waqf or to participate in any religious or charitable institutions under the waqf;

(9) "stranger to waqf " means a person other than a person interested within the meaning of clause (8);

(10) "waqf " means the permanent dedication by a person professing Islam of any movable or immovable property for any purpose recognised by Muslim Law as pious, religious or charitable, and includes any other

endowment or grant for the aforesaid purposes, a waqf by user, and a waqf created by a non Muslim.

Explanation. When more than fifty per cent of the net available income of a waqf is exclusively applied for religious and charitable purposes, such a waqf shall be deemed to be a public waqf within the meaning of clause (e) of sub-section (1) of section 85 of the <sup>3</sup>[\* \* \*] Non-Agricultural Tenancy Act, 1949 and shall be deemed to be a trust for public purposes of a charitable or religious nature within the meaning of section 92 of the Code of Civil Procedure, 1908, <sup>4</sup>[\* \* \*];

(11) "waqf deed" means any deed or instrument by which a waqf has been created and includes any valid subsequent deed or instrument by which any of the terms of the original dedication has been varied;

<sup>5</sup>[(11a) "waqf estate" means the totality of immovable properties, as well as movable properties, in respect of which the waqf is made by a deed; and no waqf property shall be designated as waqf estate if it consists of only movable properties;]

(12) "waqf property" includes property of any kind acquired with the sale proceeds of, or in exchange of, or from the income arising out of, waqf property, and all offerings made, or charities consecrated or contributed, on or to waqf property; and

(13) "waqif " means any person creating a waqf.

### **Application**

3. This Ordinance shall apply to all waqfs, whether created before or after the commencement of this Ordinance, and to any part of the property which is situated in Bangladesh.

### **[Omitted.]**

4. [Exemption of certain waqf property.- Omitted by section 3 and the Second Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).]

### **Power to exempt waqfs from the**

5. The Administrator may, with the previous sanction of the Government, and subject to rules made by the Government in this behalf, exempt any waqf from all or any of the provisions of this Ordinance.

**operation of  
this  
Ordinance**

**Survey of  
waqf  
properties**

6. (1) The Administrator shall cause a survey to be made of all waqf properties existing at the date of the commencement of this Ordinance in such manner as may be prescribed by the rules, and, for this purpose, may appoint such persons as may be necessary, who shall, on completion of the survey, submit to the Administrator a report containing such particulars as may be prescribed by the rules.

(2) On receipt of the report under sub section (1), the Administrator shall take such action as he may deem necessary under Chapter IV of this Ordinance for the enrolment of the waqfs.

**Record-of-  
Rights,  
separate  
khatian, etc.**

<sup>6</sup>[6A. (1) Any immovable property belonging to any waqf estate shall be recorded in the record-of-rights in the name the waqf, and shall be represented by the designation of mutawalli, Receiver or Administrator, as the case may be.

(2) The personal name of any mutawalli, Receiver or Administrator shall not be stated in the record-of-rights.

(3) Notwithstanding anything contained in any other law for the time being in force, the Revenue Officer shall record the waqf estate in a separate khatian.

Explanation.- Revenue-officer as referred to in this sub-section means the Revenue-officer as defined in section 2(24) of the State Acquisition and Tenancy, Act 1950 (Act No. XXVIII of 1951).

(4) If any immovable property belonging to any waqf estate is not recorded in accordance with the provisions of this section, the Administrator shall take immediate steps for correction of the record-of-rights.]

## **CHAPTER II**

### **APPOINTMENT OF ADMINISTRATOR OF WAQFS, OFFICERS AND STAFF, AND CONSTITUTION OF COMMITTEE**

**Appointment  
of the  
Administrator**

7. (1) The Government shall appoint an Administrator of Waqfs <sup>7</sup>[for Bangladesh].

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

(3) The Administrator shall ordinarily be appointed for five years, and shall be eligible for re appointment.

**Terms and  
conditions  
of service  
of the  
Administrator**

8. Subject to the provisions of this Ordinance, the salary and the terms and conditions of service of the Administrator shall be such as may be prescribed by the rules.

**Removal of  
the  
Administrator**

9. If at any time it appears to the Government that the Administrator has shown himself to be unsuitable for his office, or has been guilty of misconduct or neglect which renders his removal expedient, it may, by notification in the official Gazette, declare that the Administrator shall cease to hold such office.

**Administrator  
to be a  
public  
officer**

10. The Administrator shall be deemed to be a public officer within the meaning of the Code of Civil Procedure, 1908.

**Administrator  
to be a  
Corporation  
sole**

11. The Administrator shall be a corporation sole by name of "the Administrator of Waqfs, Bangladesh" and shall have perpetual succession and an official seal and shall by the said name sue and be sued.

**Office of  
the  
Administrator**

12. The office of the Administrator shall be situated at Dacca.

**Appointment  
of Deputy  
and  
Assistant  
Administrators**

13. The Government may, in consultation with the Administrator, appoint such number of Deputy Administrators and Assistant Administrators as may be deemed necessary.

**Remuneration  
of the**