

# THE WAQF ACT, 1995

## ARRANGEMENT OF SECTIONS

### CHAPTER I

#### PRELIMINARY

#### SECTIONS

1. Short title, extent and commencement.
2. Application of the Act.
3. Definitions.

### CHAPTER II

#### SURVEY OF AUQAF

4. Preliminary survey of auqaf.
5. Publication of list of auqaf.
6. Disputes regarding auqaf.
7. Power of Tribunal to determine disputes regarding auqaf.
8. State Government to bear cost of survey.

### CHAPTER III

#### CENTRAL WAQF COUNCIL

9. Establishment and constitution of Central Waqf Council.
10. Finance of Council.
11. Accounts and audit.
12. Power of Central Government to make rules.

### CHAPTER IV

#### ESTABLISHMENT OF BOARDS AND THEIR FUNCTIONS

13. Incorporation.
14. Composition of Board.
15. Term of office.
16. Disqualification for being appointed, or for continuing as, a member of the Board.
17. Meetings of the Board.
18. Committees of the Board.
19. Resignation of Chairperson and members.
20. Removal of Chairperson and member.
- 20A. Removal of Chairperson by vote of no confidence.
21. Filling of a vacancy.
22. Vacancies, etc., not to invalidate proceedings of the Board.
23. Appointment of Chief Executive Officer and his term of office and other conditions of service.
24. Officers and other employees of the Board.
25. Duties and powers of Chief Executive Officer.
26. Powers of Chief Executive Officer in respect of orders or resolutions of Board.
27. Delegation of powers by the Board.
28. Power of District Magistrate, Additional District Magistrate or Sub-Divisional Magistrate to implement the directions of the Board.
29. Powers of Chief Executive Officer to inspect records, registers, etc.

## SECTIONS

30. Inspection of records.
31. Prevention of disqualification for membership of Parliament.
32. Powers and functions of the Board.
33. Powers of inspection by Chief Executive Officer or persons authorised by him.
34. Recovery of the amount determined under section 33.
35. Conditional attachment by Tribunal.

## CHAPTER V

### REGISTRATION OF AUQAF

36. Registration.
37. Register of auqaf.
38. Powers of Board to appoint Executive Officer.
39. Powers of Board in relation to auqaf which have ceased to exist.
40. Decision if a property is waqf property.
41. Power to cause registration of waqf and to amend register.
42. Change in the management of auqaf to be notified.
43. Auqaf registered before the commencement of this Act deemed to be registered.

## CHAPTER VI

### MAINTENANCE OF ACCOUNTS OF AUQAF

44. Budget.
45. Preparation of budget of auqaf under direct management of the Board.
46. Submission of Accounts of auqaf.
47. Audit of accounts of auqaf.
48. Board to pass orders on auditor's report.
49. Sums certified to be due recoverable as arrears of land revenue.
50. Duties of mutawalli.
51. Alienation of waqf property without sanction of Board to be void.
52. Recovery of waqf property transferred in contravention of section 51.
- 52A. Penalty for alienation of waqf property without sanction of Board.
53. Restriction on purchase of property on behalf of waqf.
54. Removal of encroachment from waqf property.
55. Enforcement of orders made under section 54.
- 55A. Disposal of property left on waqf property by unauthorised occupants.
56. Restriction on power to grant lease of waqf property.
57. Mutawalli entitled to pay certain costs from income of waqf property.
58. Power of Board to pay dues in case of default by mutawalli.
59. Creation of reserve fund.
60. Extension of time.
61. Penalties.
62. Mutawalli not to spend any money belonging to waqf for self defence.
63. Power to appoint mutawallis in certain cases.
64. Removal of mutawalli.
65. Assumption of direct management of certain auqaf by the Board.
66. Powers of appointment and removal of mutawalli when to be exercised by the State Government.
67. Supervision and supersession of committee of management.
68. Duty of mutawalli or committee to deliver possession of records, etc.
69. Power of Board to frame scheme for administration of waqf.
70. Inquiry relating to administration of waqf.
71. Manner of holding inquiry.

CHAPTER VII  
FINANCE OF THE BOARD

SECTIONS

72. Annual contribution payable to Board.
73. Power of Chief Executive Officer to direct banks or other person to make payments.
74. Deduction of contribution from perpetual annuity payable to the waqf.
75. Power of board to borrow.
76. Mutawalli not to lend or borrow moneys without sanction.
77. Waqf Fund.
78. Budget of Board.
79. Accounts of Board.
80. Audit of accounts of Board.
81. State Government to pass orders on auditor's report.
82. Dues of Board to be recovered as arrears of land revenue.

CHAPTER VIII  
JUDICIAL PROCEEDINGS

83. Constitution of Tribunals, etc.
84. Tribunal to hold proceedings expeditiously and to furnish to the parties copies of its decision.
85. Bar of jurisdiction of civil courts.
86. Appointment of a receiver in certain cases.
87. [*Omitted.*].
88. Bar to challenge of validity of any notification, etc.
89. Notice of suits by parties against Board.
90. Notice of suits, etc., by courts.
91. Proceedings under the Act 1 of 1894.
92. Board to be party to suit or proceeding.
93. Bar to compromise of suits by or against mutawalli.
94. Power to make application to the Tribunal in case of failure of mutawalli to discharge his duties.
95. Power of appellate authority to entertain appeal after expiry of specified period.

CHAPTER IX  
MISCELLANEOUS

96. Power of Central Government to regulate secular activities of auqaf.
97. Directions by State Government.
98. Annual report by State Government.
99. Power to supersede Board.
100. Protection of action taken in good faith.
101. Survey Commissioner, members and officers of the Board, deemed to be public servants.
102. Special provision for reorganisation of certain Boards.
103. Special provision for establishment of Board for part of a State.
104. Application of Act to properties given or donated by persons not professing Islam for support of certain waqf.
- 104A. Prohibition of sale, gift, exchange, mortgage or transfer of waqf property.
- 104B. Restoration of waqf properties in occupation of Government agencies to waqf Board.
105. Power of Board and Chief Executive Officer to require copies of documents, etc., to be furnished.
106. Powers of Central Government to constitute common Boards.
107. Act 36 of 1963 not to apply for recovery of waqf properties.
108. Special provision as to evacuee waqf properties.
- 108A. Act to have overriding effect.

## SECTIONS

- 109. Power to make rules.
- 110. Powers to make regulations by the Board.
- 111. Laying of rules and regulations before State Legislature.
- 112. Repeal and savings.
- 113. Power to remove difficulties.

# THE WAQF ACT, 1995

ACT NO. 43 OF 1995

[22nd November, 1995.]

An Act to provide for the better administration of <sup>1</sup>[Auqaf] and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows:—

## CHAPTER I

### PRELIMINARY

**1. Short title, extent and commencement.**—(1) This Act may be called the <sup>2</sup>[Waqf] Act, 1995.

(2) It extends to the whole of India <sup>3\*\*\*\*</sup>.

(3) It shall come into force in a State on such date<sup>4</sup> as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different areas within a State and for different provisions of this Act, and any reference in any provision to the commencement of this Act, shall, in relation to any State or area therein, be construed as reference to the commencement of that provision in such State or area.

**2. Application of the Act.**—Save as otherwise expressly provided under this Act, this Act shall apply to all <sup>1</sup>[auqaf] whether created before or after the commencement of this Act:

Provided that nothing in this Act shall apply to Durgah Khawaja Saheb, Ajmer to which the Durgah Khawaja Saheb Act, 1955 (36 of 1955) applies.

**3. Definitions.**—In this Act, unless the context otherwise requires,—

(a) “beneficiary” means a person or object for whose benefit a <sup>2</sup>[waqf] is created and includes religious, pious and charitable objects and any other objects of public utility sanctioned by the Muslim law:

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

(c) “Board” means a Board of <sup>2</sup>[Waqf] established under sub-section (1), or as the case may be, under sub-section (2) of section 13 and shall include a common <sup>2</sup>[Waqf] Board established under section 106;

(d) “Chief Executive Officer” means the Chief Executive Officer appointed under sub-section (1) of section 23;

(e) “Council” means the Central <sup>2</sup>[Waqf] Council established under section 9;

<sup>5</sup>[(e) “encroacher” means any person or institution, public or private, occupying waqf property, in whole or part, without the authority of law and includes a person whose tenancy, lease or licence has expired or has been terminated by mutawalli or the Board;]

(f) “Executive Officer” means the Executive Officer appointed by the Board under sub-section (1) of section 38;

<sup>6</sup>[(g) “list of auqaf” means the list of auqaf published under sub-section (2) of section 5 or contained in the register of auqaf maintained under section 37;]

(h) “member” means a member of the Board and includes the Chairperson;

1. Subs. by Act 27 of 2013, s. 2, for “wakfs” (w.e.f. 1-11-2013).

2. Subs. by s. 3, *ibid.*, for “wakf” (w.e.f. 1-11-2013).

3. The words “except the State of Jammu and Kashmir” omitted by Act 34 of 2019, s. 95 and the Fifth Schedule (w.e.f. 31-10-2019).

4. 1st January, 1996, *vide* notification No. S.O. 1007 (E), dated 27th December, 1995, *see* Gazette of India, Extraordinary, Part II, sec. 3(ii).

5. Ins. by s. 5, *ibid.* (w.e.f. 1-11-2013).

6. Subs. by s. 5, *ibid.*, for clause (g) (w.e.f. 1-11-2013).