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Wakf Act, 1995

Chapter 1 - Preliminary

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(1) This Act may be called the Wakf Act, 1995.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force in a State on such date[1] 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.

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1 . 1st January, 1996, 1996 vide S.O. 1007(E) dated 27th December, 1995.

Section 2 - Application of the Act

Save as otherwise expressly provided under this Act, this Act shall apply to all wakfs 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.

Section 3 - Definitions

In this Act, unless the context otherwise requires.

(a) "beneficiary" means a person or object for whose benefit a wakf 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 Wakf established under sub-section (1), or as the case may be, under sub-section (2) of section 13 and shall include a common Wakf 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 Wakf Council established under section 9;

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

(g) "list of wakfs" means the list of wakfs published under sub-section (2) of section 5;

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

(i) "mutawalli" means any person appointed, either verbally or under any deed or instrument by which a wakf has been created, or by a competent authority, to be the mutawalli of a wakf and includes any person who is a mutawalli of a wakf by virtue of any custom or who is a naib-mutawalli, khadim, mujawaf, sajjadanashin, amin or other person appointed by a mutawalli to perform the duties of a mutawalli and save as otherwise provided in this Act, any person, committee or corporation for the time being managing or administering any wakf or wakf property:

Provided that no member of a committee or corporation shall be deemed to be a mutawalli unless such member is an office bearer of such committee or corporation;

(j) "net annual income", in relation to a wakf, means net annual income determined in accordance with the provisions of the Explanations to sub-section (1) of section 72;

(k) "person interested in a wakf means any person who is entitled to receive any pecuniary or other benefits from the wakf and includes

(i) any person who has a right to worship or to perform any religious rite in a mosque, idgah, imambara, dargah ,khangah, maqbara, graveyard or any other religious institution connected with the wakf or to participate in any religious or charitableinstitution under the wakf;

(ii) the wakf and any descendant of the wakif and the mutawalli;

(l) "prescribed", except in Chapter III, means prescribed by rules made by the State Government;

(m) "regulations" means the regulations made by the Board under this Act;

(n) "Shia wakf means a wakf governed by Shia law;

(o) "Sunni wakf means a wakf governed by Sunni law;

(p) "Survey Commissioner" means the Survey Commissioner of Wakf appointed under sub-section (1) of section 4 and includes any Additional or Assistant Survey Commissioners of Wakfs under sub-section (2) of section 4;

(q) "Tribunal", in relation to any area, means the Tribunal constituted under subsection (1) of section 83, having jurisdiction in relation to that area;

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

(i) a wakf by user but such wakf shall not cease to be a wakf by reason only of the user having ceased irrespective of the period of such cesser;

(ii) "grants", including mashrut-ul-khidmat for any purpose recognised by the Muslim law as pious, religious or charitable; and

(iii) a wakf-alal-aulad to the extent to which the property is dedicated for any purpose recognised by Muslim law as pious, religious or charitable, and "wakif" means any person making such dedication;

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

(t) "Wakf Fund" means a wakf fund formed under sub-section (1) of section 77.