NATIONAL ASSEMBLY SECRETARIAT

REPORT OF THE STANDING COMMITTEE ON INTERIOR ON THE ISLAMABAD CAPITAL TERRITORY WAQF PROPERTIES BILL, 2020

I, Chairman of the Standing Committee on Interior have the honour to present this report on the Bill for the proper management and administration of Waqf properties [The Islamabad Capital Territory Waqf Properties Bill, 2020] (Government Bill), referred to the Committee on 27th July, 2020.

2. The Committee comprises the following:

1)	**Raja Khurram Shahzad Nawaz**	**Chairman**
2)	Mr. Sher Akbar Khan	Member
3)	Mehar Ghulam Muhammad Lali	Member
4)	Mr. Raza Nasrullah	Member
5)	Khawaja Sheraz Mehmood	Member
6)	Mr. Rahat Aman Ullah Bhatti	Member
7)	Malik Karamat Ali Khokhar	Member
8)	Sardar Talib Hassan Nakai	Member
9)	Ms. Nafeesa Inayatullah Khan Khattak	Member
10)	Mr. Muhammad Akhtar Mengal	Member
11)	Nawabzada Shazain Bugti	Member
12)	Malik Sohail Khan	Member
13)	Mr. Mohammad Pervaiz Malik	Member
14)	Mr. Nadeem Abbas	Member
15)	Ms. Maryam Aurangzaib	Member
16)	Syed Agha Rafiullah	Member
17)	Nawab Muhammad Yousuf Talpur	Member
18)	Mr. Abdul Qadir Patel	Member
19)	Mr. Asmatullah	Member
20)	Mr. Ijaz Ahmad Shah, Minister for Interior	Ex-officio Member

3. The Committee considered the Bill as introduced in the National Assembly placed at **Annex-A**, in its meetings held on 28-7-2020, 29-7-2020, 7-8-2020 and 10-8-2020 and proposed the following amendments, therein:-

1) Clause 1

In clause 1, in sub-clause (2), after the word, 'territory' the word, "Islamabad", shall be added.

2) Clause 2

In clause 2.-

i) the entire paragraphs shall be re-arranged alphabetically and re-marked accordingly;
ii) In re-marked paragraph (e), the expression, "the oversight bodies far SRBs", shall be omitted.

3) **Caluse-3**

In caluse-3.-

i) for sub-clause (2), the following shall be substituted, namely:-

"(2) No person shall be appointed as chief administrator unless he is a Muslim and serving Government servant of BS-19.";

ii) in sub-clause (3), for the words, "corporate body", the word, "Corporation", shall be substituted.

4. **Clause 6**

In clause 6, in sub-clause (1), for the word, "them", the word, "him" shall be substituted.

5. **Clause 8**

In clause 8.-

a) In sub-clause (1), after the expression, "contained in", the expression, "section 22 of Religious Endowments Act, 1863 (XX of 1860)", shall be inserted.
b) in proviso, for the expression, "or person", the expression, "and on such terms and conditions as may be agreed upon between such person" shall be substituted.
c) in the proviso, for the full stop at the end a colon shall be substituted and thereafter, the following new proviso shall be inserted, namely:-

"Provided further that the notification shall be served upon the management or the mutawalli and also affixed on some prominent part of the property which is sought to be taken over."

6. **Clause 9**

In clause-9, in sub-clause (1), after the word, "entity", the expression "as defined in the Anti-Money Laundering Act, 2010(VII of 2010)" shall be inserted.

7) **Clause 13**

In clause, 13, in paragraph (b), the proviso shall be omitted.

8) **Clause 14**

In clause-14, the expression, "without notice to the chief administrator", appearing after the expression, "section 8", shall be omitted.

9) **Clause 15**

In clause-15, the word, "Islamabad" shall be omitted.

10) **Clause 16**

In clause-16, for sub-clause (1) the following shall be substituted, namely:-

"(1) The chief administrator shall in respect of a waqf property regarding which a notification under section 8,has been issued and the gross annual income from which exceeds one hundred thousand rupees and on other cases may settle a scheme for the administration and development of such waqaf property."

11) Clause 17

In clause 17, in sub-clause (3), before the word, "Government "the word, "Federal", shall be inserted.

12) Clause 19

In clause 19, for sub-clause (3), the following shall be substituted, namely:-

"(3) At the end of each financial year the accounts maintained by the chief administrator shall be audited by such authority as may be prescribed by the chief commissioner, ICT and the audit report with the comments of the chief commissioner, ICT shall be laid before Federal Government."

13) Clause 22

In clause 22.-

i) In sub-clause (1), the word, "any" shall be omitted.
ii) In sub-clause (2), for the expression, "prescribed", appearing at the end, the expression, "specified in the Anti Money Laundering Act, 2010(VII of 2010)" shall be substituted.

14) Clause 26

Clause 26, shall be omitted and the remaining clauses shall be renumbered accordingly.

15) Clause 27

In renumbered clause 26, in paragraph b), after the word, "fine", the expression, "upto twenty five million", shall be inserted.

16) Clause 29

In renumbered clause 28, for the word, "The", appearing at the start, the expression, "Subject to the approval by the Federal Government, the", shall be substituted.

4. The Committee recommends that the Bill as reported by the Standing Committee placed at **(Annex-B)** may be passed by the National Assembly.

(TAHIR HUSSAIN)
Secretary
Islamabad 10th August, 2020

(RAJA KHURRAM SHAHZAD NAWAZ)
Chairman

ANNEX-A

[AS INTRODUCED IN THE NATIONAL ASSEMBLY]

A

Bill

for the proper management and administration of waqf properties

Whereas it is expedient to provide for the proper management, supervision and administration of waqf properties in the territorial limits of the Islamabad Capital Territory, Islamabad; and for matters ancillary thereto.

It is hereby enacted as follows:-

1. **Short title, extent and commencement. - (1)** This Act shall be called the Islamabad Capital Territory Waqf Properties Act, 2020.

(2) It extends to the Islamabad Capital Territory.

(3) It shall come into force at once.

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

(a) "administrator" means and administrator of auqaf appointed under section 4;

(b) "beneficiary" means any person who gets benefits from the waqf property or whose name is listed in the waqf document as benefiting from the waqf property;

"Competent authorities" means the 'regulators', the 'oversight bodies for SRBs' the "investigating or prosecuting agency" and the "Financial Monitoring Unit" as specified in the Anti-Money Laundering Act 2010;

(c) "chief administrator" means the chief administrator of auqaf appointed under section 3;

"beneficial owner" means a natural person who ultimately owns or controls a waqf, whether directly or indirectly or exercises effective control of that waqf through other means as prescribed;

(d) "district courts" means the district judiciary subordinate to Islamabad High Court;

(e) "High Court" means the Islamabad High Court, Islamabad;

(f) "investigation or prosecuting agency" means the "investigating or prosecuting agency" as specified in the Anti-Money Laundering Act 2010 (VII of 2010);

(g) "legal person" means any person or entity other than a natural person, that can do the things that any person can usually do in law, such as entering into contracts, sue or can be sued, own property, and so on;

(h) "natural person" means an individual;

(i) "person" means a natural person or a legal person;

(j) "prescribed" means prescribed by rules made under this Ordinance;

"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 (VI of 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 a waqf property.

Explanation 2.— Property allotted in lieu of or in exchange of waqf property left in India shall be deemed to be waqf property.

Explanation 3.— Property of any kind acquired with the sale proceeds or in exchange of or from the income arising out of waqf property or from subscription raised for any purpose recognized by Islam as religious, pious or charitable, shall be deemed to be waqf property.

Explanation 4.— The income from boxes placed at shrines and offerings, subscriptions or articles of any kind, description or use presented to a shrine or to any person at the premises of a shrine shall be deemed to be a waqf property.

Explanation 5.— Property permanently dedicated for the purposes of a Mosque, Takia, Khankah, Dargah or other shrines shall be deemed to be a waqf property.

Explanation 6.— Relief of the poor and the orphans, education, workshop, medical relief, maintenance of shrines and the advancement of any other object of charitable, religious or pious nature or of general public utility shall be deemed to be charitable purposes.

(k) "reporting entity" means any person as defined in the Anti-Money Laundering Act, 2010;

(l) "waqf" means any person who dedicate the waqf property; and

(m) waqf manager" means any person or persons who are in charge of the day-to-day management and operations of the Waqf property.

3. Appointment of chief administrator of auqaf.—(1)The chief commissioner, ICT shall appoint a Chief Administrator Auqaf for the Islamabad Capital Territory (ICT) and may by order, vest in him and the waqf properties situated in the territorial limits of ICT including all rights, assets, debts, liabilities and obligations relating thereto.

(2) No person shall be appointed as chief administrator unless he is a Muslim and possesses such qualifications as may be prescribed by the Federal Government.

(3) The chief administrator shall be a corporate body sole by the name of the chief administrator of auqaf, ICT and shall have perpetual succession and an official seal and may sue and can be sued in his corporate name.

(4) The chief administrator shall perform his duties subject to administrative control of the Federal Government.

4. Appointment of administrator and deputy administrators.—(1) The Chief Commissioner, ICT may appoint administrator and deputy administrators for waqf properties as may be specified in the notification to assist the chief administrator and any administrator or deputy administrators to so appointed shall subject to the general or special orders of the chief administrator, be competent to discharge such duties and exercise such powers of the chief 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 chief administrator.

(2) The administrator or deputy administrator appointed under sub-section (1) shall be under the Administrative control of the Chief Administrator.

5. General appointments. - (1) The chief administrator with the previous sanction of Chief Commissioner, ICT may, from time to time, determine the number, designation and grade of the officers and servants whom he considers necessary to employ for the purposes of this Ordinance 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 Ordinance shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code, 1860 1860 (XLV of 1860).

6. **Registration of waqf property.**- (1) Any waqf manager, whether a creator of the waqf or otherwise, or any authorized representative nominated by them, shall register such waqf property with the chief administrator in the prescribed circumstances and manner.

(2) The information to be contained in the registration of any waqf shall be prescribed.

(3) Any waqf property not registered with the chief administrator as required under sub-section (1) shall be deemed to have been notified under section 7.

(4) The district collector, ICT being custodian of land record and the supervisory officer of the registration branch where all deeds, agreements and documents are registered under Registration Act 1908 (XVI of 1908), shall furnish, in the prescribed circumstances and manner, a consolidated annual report of all waqf properties recorded as waqf during the year, in respect of revenue limits of ICT to the chief administrator for information and further necessary action, or as deemed appropriate by the chief administrator, under the provisions of law for the time being enforced.

(5) Any change in the waqf property information shall be updated by the waqf manager to the district collector, ICT in a timely manner as prescribed.

7. **Waqf manager to obtain and hold information.**- (1) Any Waqf manager shall also obtain and hold the information as required under sub-section (2) of section 6, and shall ensure that the information is updated in a timely manner as prescribed.

(2) Any waqf manager shall provide, upon request, any of the information held in accordance with sub-section (1) to the chief administrator in a timely manner as prescribed.

8. **Take over waqf property.** - (1) Notwithstanding anything to be contrary contained in 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 any other authority or in any proceedings pending before any court or any other authority, the chief administrator may, by notification, take over and assume the administration, control, management and maintenance of waqf property:

Provided that during the life time of a waqif, the chief administrator shall not take over and assume the administrative control, management and maintenance of such waqf property, except with the consent of such person or persons 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 or Rasoomat at or in a waqf property.

(2) No person shall perform services or ceremonies 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.

(3) The chief administrator shall maintain a centralized record in such a manner, design and structure as prescribed or notified in the official Gazette, of all properties registered with him under section 6 or the administration thereof has been taken over or assumed under section 7.

(4) At the end of each financial year, the chief administrator shall prepare and submit report of the waqf properties registered under section 6 or the administration whereof has been taken over or assumed under section 7 to the Federal Government.

9. Provision of miscellaneous information.- (1) Prior to entering into a business relationship or carrying out an occasional transaction with a reporting entity , any waqf manager, whether a creator of the waqf or otherwise, shall disclose their status as such to the reporting entity.

(2) With respect to any waqf in existence, at the time this provision comes into force, any waqf manager, whether a creator of the waqf or otherwise, shall disclose his status as such to any reporting entity with which they have a business relationship.

10. Eviction of persons wrongfully in possession of waqf properties.- Any unauthorized person entering upon occupation of any immovable waqf property or using or occupying any such property to the use or occupation whereof by reason of any provisions of this Ordinance or any rule made there under, he is not entitled or has ceased to be entitled may, after being provided a reasonable opportunity of showing cause against such action be summarily evicted from such waqf property by the 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 unauthorized person, after services on him of a notice by the 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.

11. Terminate of tenancy.—(1) If the administrator is satisfied that lessee or tenant of any immovable waqf property has committed a breach of the conditions of the lease or tenancy, the administrator may, after giving such lessee or tenant an opportunity of hearing, order the termination of lease or resumption of tenancy:

Provided that if the breach is capable of rectification, the administrator shall not order the termination of the 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 or more than sixty 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 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 administrator for un-cut and un-gathered 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:

12. Appeal. - (1) Any person evicted under the provisions of section 10 or aggrieved by an order of termination of lease or resumption of tenancy made under section 11, 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 fiving such person an opportunity of hearing, shall confirm, modify or vacate the order made by the administrator under section 10 or 11.

(2) If there is no appeal preferred against an order of eviction made under section 10 or an order of termination of lease or resumption of tenancy made under section 11, the eviction, termination of lease or resumption of tenancy, as the case may be, shall attain finality,

and when there an appeal has been preferred, the decision of the chief administrator in appeal shall be considered final.

13. Appeal to High Court.- (1) Any person claiming any interest, in any waqf property in respect of which a notification has been issued under section 8 may, within thirty days of the publication of such notification in the official Gazette may file an appeal in the Islamabad High Court for a declaration -

(a) that the property is not waqf property; or

(b) that the property is waqf property within the limits stated in the petition:

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 of other authority no such petition shall lie in respect of any interest in the income, offerings, subscription or articles, referred to in Explanation 4 to clause (e) of section 2, or the services or ceremonies mentioned in section 8.

14. No temporary injunction or order without prior notice.—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 13 shall not issue temporary injunction or an order restraining the chief administrator from taking over or assuming the administration, control, management and maintenance of property in respect of which a notification has been issued under section 8 without notice to the chief administrator.

15. Decision of the High Court shall be final.— if no appeal is preferred within thirty days, the decision of the Islamabad High Court, or when there is an appeal, the decision in appeal shall be final.

16. Scheme for the administration OF waqf property.—(1) The chief administrator in respect of the waqf property about which a notification under section 8 has been issued and the gross annual income from which exceeds five thousand rupees and on other cases, may settle a scheme for the administration and development of such waqf property.

(2) in the settlement of a scheme the chief administrator shall give effect to such wishes of the waqif as can be ascertained, and to which effect can be reasonably given.

17. Sale process of waqf property.— (1) The Chief Commissioner, ICT may, where it is satisfied that circumstances exists, sell or otherwise dispose of any waqf property in order -

(a) to secure maximum economic benefits out of such property and to avoid loss or damage to such property; or

(b) to serve the best public interest and public purpose for which such property was dedicated; or

(c) to give effect to such wishes of the person dedicating the property as can be ascertained; or

(d) to enable the property to be used in the absence of evidence of express dedication, for the purpose for which it has been used or for any purpose recognized by Islam as religious, pious or charitable; or

(e) to provide maintenance to those who, on account of unemployment, sickness, infirmity or old age are unable to maintain themselves; or

(f) to provide education, medical aid, housing, public facilities and services such as roads, sewerage, gas and electric power; or

(g) to prevent danger to life, property or public health,

(2) The Chief Commissioner, ICT may permit the chief administrator to invest the proceeds in accordance with its directions.

(3) For carrying out the purpose mentioned in sub-section (1) and (2), the Chief Commissioner, ICT shall seek permission from the Government.

18. Use of waqf property and application of income therefrom.—Subject to the provision of this Ordinance, 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 chief administrator may deem fit.

19. Accounts.—(1) The chief 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 chief administrator and his establishment, in such manner as may be prescribed.

(2) all moneys received or realized by the chief administrator in respect of properties under his control and management shall form and be credited to a fund to be called auqaf fund which shall be under the control of and operated upon by the chief administrator subject to general supervision of Federal 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 chief administrator shall be audited by such authority as may be prescribed and the audit report with the comments of the chief administrator shall be laid before Federal Government for its scrutiny.

(4) The Chief Commissioner, ICT after giving its comments shall submit the audit report for the scrutiny of Government.

20. Rents and lease moneys in respect of waqf property. - Any sum due as rent or lease money in respect of waqf property, the administration whereof has been taken over and assumed by the chief administrator if not paid within thirty days of its having become due, may be recovered as arrears of land revenue.

21. Power of chief administrator to issue instructions.—(1) The chief administrator may require any waqf manager the administration whereof has not been taken over or assumed by him under section 8 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 chief administrator may issue to waqf manager, the administration whereof has not been taken over or assumed by the chief administrator under section 8, such instructions or directions for the proper administration, control, management and maintenance of such waqf property as he may deem necessary including directions prohibiting delivery of sermons, khutbas or lectures which may contain any matter prejudicial to the sovereignty and integrity of Pakistan or calculated to arouse feelings of hatred or disaffection amongst various religious sects or groups in the country and directions prohibiting such person from indulging in party politics through sermons or lectures and the waqf manager shall comply with such instructions and directions.

(3) The chief administrator shall require any waqf manager of waqf property registered under section 7 or of any waqf property administered by the chief administrator under section 8 to follow the all or any of the instructions given below in order to prevent the money laundering and terrorist financing:-

(a). the person properly entered into lease deed shall deposit the lease/rent amount online through his bank account to the designated account of the Chief Administrator or Administrator, while theWaqf Manager shall provide a computerized bill to the leaseholder;

(b) after execution of proper lease deed with the successful bidder or occupant of a waqf property by chief administrator, the same shall be displayed on official website for information and awareness of the general public or any authority;

(c) the lease holder at the time of execution of agreement shall provide an affidavit to the effect that the property allotted to him and income there-from shall not be used for any illegal purposes including but not limited to money laundering or terrorist financing. The lease holder shall annually submit verified bank account statement showing details of credited and debited amount to the chief administrator.

(d) to preserve complete record of the Waqf Property including auditable accounts statement, number of employees or advisors or investors or manager or accountants and their complete bio-data etc for the last five years.

22. Provision of information to competent authorities.- (1) The chief administrator shall provide prescribed information about the waqf to any competent authority in the prescribed manner and circumstances.

(2) the waqf manager shall provide to competent authorities, for domestic and international cooperation purposes at any time in the manner prescribed, any information regarding the waqf property, including but not limited to beneficial ownership of waqf property, the residences of the staff who have control over the waqf properties, any assets held

or managed by a reporting entity in relation to waqf property or any other information relating to the waqf as prescribed.

23. Provision of information to reporting entities.- (1) The chief administrator shall provide and upon request, to the reporting entity information about the beneficial ownership and assets of the waqf in the prescribed circumstances and manner.

(2) The reporting entity may, also obtain the information from the waqf manager about the beneficial owner, details of waqf assets, residential addresses of waqf manager and details of beneficiaries in the prescribed circumstances and manner.

24. Bar of jurisdiction. – Save as expressly provided in this Ordinance, no civil or revenue court or any other authority, shall have jurisdiction -

(a) to question the legality of anything done under this Ordinance by or at the instance of the Chief Administrator; or

(b) in respect of any matter which the Chief Administrator is empowered by or under this Ordinance to determine or settle; or

(c) to grant an injunction or other order in relation to any proceeding before the Chief Administrator under this Ordinance or anything done intended to be done by or at the instance of the Chief Administrator under this Ordinance.

25. Over ride effect.—Every order made and every action taken under this Ordinance 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 Ordinance.

26. Protection of action taken in good faith.—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 Ordinance or the rules made there-under.

27. OFFENCES. - (1) Whoever obstructs or offers any resistance to, or impedes or otherwise interferes with -

(a) any authority, officer or person exercising any power or performing any duty conferred or imposed upon it or him by or in pursuance of this Ordinance or otherwise discharging any lawful function under this Ordinance; 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 Ordinance, shall be punished with imprisonment for a term which may extend to five years or with fine or with both.

(2) Any person who willfully fails to comply with any requirement under section 21 shall be punished with imprisonment which shall not be less than one year but which may extend to five years and shall be liable to fine which shall not be less than the benefits derived from the waqf property but may extend to three times of the amount of income derived from the property.

(3) Any person who intentionally fails to comply with the provisions of section 7 or intentionally conceals any information or provide incomplete or incorrect information to the chief administrator as required under this Ordinance, shall be liable to pay such amount calculated by the concerned district collector or any other authority duly authorized by the chief administrator to do so, for the period of factum of waqf property or an imprisonment of up to five years, or both.

(4) The offences punishable under this Ordinance shall be tri-able by the courts of Sessions Judges, Islamabad.

28. Administrative sanctions.- Any person who fails to comply with any provision of this Ordinance for any other reason shall be penalized with an amount up to rupees twenty five million.

29. Power to make rules. - (1) The Chief Commissioner, ICT may make rules for the purpose of carrying into effect the provision of this Act.

(2) In particular and without prejudice to the generally of the foregoing power, such rules may provide for all or any of the following matters, namely—

(a) prescribing the powers and duties of the officers appointed under this Act;

(b) regulate the delegation of any powers by the chief administrator to an administrator or a deputy administrator;

(c) prescribing the terms and condition on which waqf property may be leased or let out;

(d) regulate the manner in which schemes for administration and development of waqf properties shall be prepared;

(e) regulate the conditions of services and conduct of the persons employed under this Act;

(f) regulate the conduct of litigation by or against the chief administrator;

(g) prescribe the manner in which the accounts shall be kept;

(h) prescribe the authority for auditing the accounts maintained by the Chief Administrator;

(i) Prescribe the syllabus and curricula for the proper education and training of Imams and Khatibs and of other employees of the Auqaf Institutions in ICT;

(j) prescribe and regulate the standards of syllabus and curricula of institutions providing Islamic religious education, by whatever name called, and, where considered necessary in the public interest, the scrutiny of the accounts of such institution; and

(k) to appoint advisory committee consisting of public representatives, Ulema and other experts.

30. Continuance of actions done under the Auqaf (Federal Control) Act, 1976.—Everything done or purporting to have been done, action taken liability or penalty incurred or proceeding commenced, officer appointed or person authorized of power conferred, rule made or notification or order issued under the Auqaf (Federal Control) Act, 1976 (LVI of 1976) since repealed, shall, so far as it is not inconsistent with the provisions of this Ordinance, continue in force, and so far as may be deemed to have been done, taken, incurred, commenced, appointed, authorized, conferred, made or issued under this Ordinance.

31. Repeal.- On commencement of this Act, the Punjab Waqf Properties Ordinance, 1979 stands repealed to the extent of the territorial limits of the Islamabad Capital Territory.

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No. 5/26/2020-ICT-II
GOVERNMENT OF PAKISTAN
MINISTRY OF INTERIOR
****

Islamabad, the July, 2020

STATEMENT OF OBJECTS AND REASONS

Subject: AMENDMENT IN THE ISLAMABAD CAPITAL TERRITORY WAQF PROPERTIES ACT, 2020

In order to enhance the effectiveness of the implementation of the Orders passed by the Federal Government, the amendments are considered essential in the Islamabad Capital Territory Waqf Properties Act, 2020 for the proper management, supervision and administration of waqf properties in the territorial limits of Islamabad Capital Territory, Islamabad, whereas the Islamabad Capital Territory requires its exclusive law for regulation and administration of Waqf properties situated therein. Furthermore, the facilities required for meeting the necessary expenses through exemptions are also required to be incorporated in detail.

ZAHEER-UD-DIN BABAR AWAN
Advisor to Prime Minister
on Parliamentary Affairs

Annex. B

[AS REPORTED BY STANDING COMMITTEE]

A

BILL

for the proper management and administration of waqf properties

WHEREAS it is expedient to provide for the proper management, supervision and administration of waqf properties in the territorial limits of the Islamabad Capital Territory, Islamabad and for matters ancillary thereto,

It is hereby enacted as follows:

1. Short title, extent and commencement.- (1) This Act shall be called the Islamabad Capital Territory Waqf Properties Act, 2020.

(2) It extends to the Islamabad Capital Territory, Islamabad.

(3) It shall come into force at once.

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

a) "administrator" means an administrator of auqaf appointed under section 4;

b) "beneficiary" means any person who gets benefits from the waqf property or whose name is listed in the waqf document as benefiting from the waqf property;

c) "beneficial owner" means a natural person who ultimately owns or controls a waqf, whether directly or indirectly or exercises effective control of that waqf through other means as prescribed;

d) "chief administrator" means the chief administrator of auqaf appointed under Section 3;

e) "competent authorities" mean the 'regulators', the "investigating or prosecuting agency" and the "Financial Monitoring Unit" as specified in the Anti-Money Laundering Act 2010;

f) "district courts" mean the district judiciary subordinate to Islamabad High Court;

g) "High Court" means the Islamabad High Court, Islamabad;

h) "investigation or prosecuting agency" means the "investigating or prosecuting agency" as specified in the Anti-Money Laundering Act 2010 (Act VII of 2010);

i) "legal person" means any person or entity, other than a natural person, that can do the things that any person can usually do in law, such as entering into contracts, sue or can be sued, own property, and so on;

j) "natural person" means an individual or individuals;

k) "person" means a natural person or a legal person;

l) "prescribed" means prescribed by rules made under this Act;

m) "reporting entity" means any person as defined in the Anti-Money Laundering Act, 2010;

n) "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 (VI of 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 a waqf property.

Explanation 2.—Property allotted in lieu of or in exchange of waqf property left in India shall be deemed to be waqf property.

Explanation 3.—Property of any kind acquired with the sale proceeds or in exchange of or from the income arising out of waqf property or from subscription raised for any purpose recognized by Islam as religious, pious or charitable, shall be deemed to be waqf property.

Explanation 4.—The income from boxes placed at shrines and offerings, subscriptions or articles of any kind, description or use presented to a shrine or to any person at the premises of a shrine shall be deemed to be a waqf property.

Explanation 5.—Property permanently dedicated for the purposes of a Mosque, Takia, Khankah, Dargah or other shrines shall be deemed to be a waqf property.

Explanation 6.—Relief of the poor and the orphans, education, workshop, medical relief, maintenance of shrines and the advancement of any other object of charitable, religious or pious nature or of general public utility shall be deemed to be charitable purposes.

o) "waqif" means any person who dedicate the waqf property; and

p) "waqf manager" means any person or persons who are in charge of the day-to-day management and operations of the waqf property.

3. Appointment of chief administrator of auqaf.—(1)The Chief Commissioner, ICT shall appoint a chief administrator Auqaf for the Islamabad Capital Territory (ICT) and may by order, vest in him, the waqf properties situated in the territorial limits of ICT including all rights, assets, debts, liabilities and obligations relating thereto.

(2) No person shall be appointed as chief administrator unless he is a Muslim and serving Government servant of BS-19.

(3) The Chief Administrator shall be a corporation sole by the name of the chief administrator of Auqaf, ICT and shall have perpetual succession and an official seal and may sue and can be sued in his corporate name.

(4) The Chief Administrator shall perform his duties subject to administrative control of the Federal Government.

4. Appointment of administrator and deputy administrator(s).—(1) The Chief Commissioner, ICT may appoint administrator and deputy administrators for waqf properties as may be specified in the notification to assist the chief administrator and any administrator or deputy administrator(s) so appointed shall subject to the general or special orders of the chief administrator, be competent to discharge such duties and exercise such powers of the chief 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 same liabilities as the chief administrator.

(2) The administrator or deputy administrator(s) appointed under sub-section (1) shall be under the administrative control of the chief administrator.

5. General appointments.— (1) The chief administrator with the previous sanction of Chief Commissioner, ICT 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 purpose of this Act shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code, 1860 (XLV of 1860).

6. Registration of waqf property.- (1) Any waqf manager, whether a creator of the waqf or otherwise, or any authorized representative nominated by him, shall register such waqf property with the chief administrator in the prescribed circumstances and manner.

(2) The information to be contained in the registration of any waqf shall be prescribed.

(3) Any waqf property not registered with the chief administrator as required under sub section (1) shall be deemed to have been notified under section 7.

(4) The district collector, ICT being custodian of land record and the supervisory officer of the registration branch where all deeds, agreements and documents are registered under

Registration Act 1908 (XVI of 1908), shall furnish, in the prescribed circumstances and manner, a consolidated annual report of all waqf properties recorded as waqf during the year in respect of revenue limits of ICT to the chief administrator for information and further necessary action, or as deemed appropriate by the chief administrator, under the provisions of law for the time being in force.

(5) Any change in the waqf property information shall be updated by the waqf manager to the district collector, ICT in a timely manner as prescribed.

7. Waqf manager to obtain and hold information.- (1) Any waqf manager shall also obtain and hold the information as required under sub-section (2) of section 6, and shall ensure that the information is updated in a timely manner as prescribed.

(2) Any waqf manager shall provide, upon request, any of the information held in accordance with sub-section (1) of section 7 to the chief administrator in a timely manner as prescribed.

8. Take over waqf property.-- (1) Notwithstanding anything to be contrary contained in section 22 of Religious Endowments Act, 1863 (XX of 1860) 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 any other authority or in any proceedings pending before any court or any other authority, the chief administrator may, by notification, take over and assume the administration, control, management and maintenance of waqf property;

Provided that during the lifetime of a waqif the chief administrator shall not take over and assume the administrative control, management and maintenance of such waqf property, except with the consent of such person and on such terms and conditions as may be agreed upon between such person and the chief administrator;

[Provided that the notification shall be served upon the management or the mutawalli and also affixed on some prominent part of the property which is sought to be taken over.]

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 or rasoomat at or in a waqf property.

(2) No person shall perform services or ceremonies 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.

(3) The chief administrator shall maintain a centralized record in such a manner, design and structure as prescribed or notified in the official Gazette, of all properties registered with him under section 6 or the administration thereof has been taken over or assumed under section 7.

(4) At the end of each financial year, the chief administrator shall prepare and submit report of the waqf properties registered under section 6 or the administration whereof has been taken over or assumed under section 7 to the Federal Government.

9. Provision of miscellaneous information.- (1) Prior to entering into a business relationship or carrying out an occasional transaction with a reporting entity , any waqf manager, whether a creator of the waqf or otherwise, shall disclose their status as such to the reporting entity as defined in Anti money Laundering Act, 2010 (VII of 2010).

(2) With respect to any waqf in existence, at the time this provision comes into force, any waqf manager, whether a creator of the waqf or otherwise, shall disclose his status as such to any reporting entity with whom they have a business relationship.

10. Eviction of persons wrongfully in possession of waqf properties.- Any unauthorized person entering upon occupation of any immovable waqf property or using or occupying any such property to the use or 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 provided a reasonable opportunity of showing cause against such action be summarily evicted from such waqf property by the 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 unauthorized person, after service on him of a notice by the 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.

11. Termination of tenancy.—(1) If the administrator is satisfied that lessee or tenant of any immovable waqf property has committed a breach of the conditions of the lease or tenancy, the administrator may, after giving such lessee or tenant an opportunity of hearing, order the termination of lease or resumption of tenancy:

Provided that if the breach is capable of rectification, the administrator shall not order the termination of the 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 or more than sixty 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 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 administrator for un-cut and un-gathered 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.

12. Appeal.- (1) Any person evicted under the provisions of section 10 or aggrieved by an order of termination of lease or resumption of tenancy made under section 11 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 hearing, shall confirm, modify or vacate the order made by the administrator under section 10 or 11.

(2) If there is no appeal preferred against an order of eviction made under section 10 or an order of termination of lease or resumption of tenancy made under section 11, the eviction, termination of lease or resumption of tenancy, as the case may be, shall attain finality, and when there an appeal has been preferred, the decision of the chief administrator in appeal shall be considered final.

13. Petition to High Court.- (1) Any person claiming any interest, in any waqf property in respect of which a notification has been issued under section 8 may, within thirty days of the publication of such notification in the official Gazette may file a petition in the High Court for a declaration:-

a) that the property is not waqf property; or
b) that the property is waqf property within the limits stated in the petition:

14. No temporary injunction or order without prior notice.—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 13 shall not issue a temporary injunction or an order restraining the chief administrator from taking over or assuming the administration, control, management and maintenance of property in respect of which a notification has been issued under section 8.

15. Decision of the High Court shall be final.—if no appeal is preferred within thirty days, the decision of the High Court, or when there is an appeal, the decision in appeal shall be final.

16. Scheme for administration of waqf property.—(1) The chief administrator shall in respect of a waqf property regarding which a notification under section 8 has been issued and the gross annual income from which exceeds one hundred thousand rupees and on other cases may settle a scheme for the administration and development of such waqf property.

(2) In the settlement of a scheme the chief administrator shall give effect to such wishes of the waqif as can be ascertained, and to which effect can be reasonable given.

17. Sale process of waqf property.— (1) The Chief Commissioner, ICT may, where it is satisfied that circumstances exists, sell or otherwise dispose of any waqf property in order,—

a) to secure maximum economic benefits out of such property and to avoid loss or damage to such property; or

b) to serve the best public interest and public purpose for which such property was dedicated; or

c) to give effect to such wishes of the person dedicating the property as can be ascertained; or

d) to enable the property to be used in the absence of evidence of express dedication, for the purpose for which it has been used or for any purpose recognized by Islam as religious, pious or charitable; or

e) to provide maintenance to those who, on account of unemployment, sickness, infirmity or old age are unable to maintain themselves; or

f) to provide education, medical aid, housing, public facilities and services such as roads, sewerage, gas and electric power; or

g) to prevent danger to life, property or public health,

(2) The Chief Commissioner, ICT may permit the chief administrator to invest the proceeds in accordance with his directions.

(3) For carrying out the purpose mentioned in sub-section (1) and (2), the Chief Commissioner, ICT shall seek permission from Federal Government.

18. Use of waqf property and application of income therefrom.—Subject to the provision 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 chief administrator may deem fit.

19. Accounts.—(1) The chief 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 chief administrator and his establishment, in such manner as may be prescribed.

(2) all moneys received or realized by the chief administrator in respect of properties under his control and management shall form and be credited to a fund to be called auqaf fund which shall be under the control of and operated upon by the chief administrator

subject to general supervision of Federal 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 chief administrator shall be audited by such authority as may be prescribed by the Chief Commissioner, ICT and the audit report with the comments of the Chief Commissioner, ICT shall be laid before Federal Government.

20. Rents and lease moneys in respect of waqf property.— Any sum due as rent or lease money in respect of waqf property, the administration whereof has been taken over and assumed by the chief administrator if not paid within thirty days of its having become due, may be recovered as arrears of land revenue as provided in Land Revenue Act, 1967.

21. Power of chief administrator to issue instructions.—(1) The chief administrator may require any waqf manager the administration whereof has not been taken over or assumed by him under section 8 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 chief administrator may issue to waqf manager, the administration whereof has not been taken over or assumed by the chief administrator under section 8, such instructions or directions for the proper administration, control, management and maintenance of such waqf property as he may deem necessary including directions prohibiting delivery of sermons, khutbas or lectures which may contain any matter prejudicial to the sovereignty and integrity of Pakistan or calculated to arouse feelings of hatred or disaffection amongst various religious sects or groups in the country and directions prohibiting such person from indulging in party politics through sermons or lectures, and the waqf manager shall comply with such instructions and directions.

(3) The chief administrator shall require any waqf manager of Waqf Property registered under section 7 or of any waqf property administered by the chief administrator under section 8 to follow all or any of the instructions given below in order to prevent the money laundering and terrorist financing:-

a. The person properly entered into lease deed shall deposit the lease/rent amount online through his bank account to the designated account of the chief administrator or administrator, while the waqf manager shall provide a computerized bill to the leaseholder;

b. After execution of proper lease deed with the successful bidder/occupant of a waqf property by chief administrator, the same shall be displayed on official website for information and awareness of the general public or any authority;

c. The leaseholder at the time of execution of agreement shall provide an affidavit to the effect that the property allotted to him and income there-from shall not be used for any illegal purposes including but not limited to money laundering or terrorist financing. The leaseholder shall annually submit verified bank account statement showing details of credited & debited amount to the chief administrator;

d. To preserve complete record of the waqf property including auditable accounts statement, number of employees or advisors or investors or manager or accountants and their complete bio-data etc. for the last five years.

22. Provision of information to competent authorities.- (1) The chief administrator shall provide prescribed information about the waqf to competent authority in the prescribed manner and circumstances.

(2) The waqf manager shall provide to competent authorities, for domestic and international cooperation purposes at any time in the manner prescribed, any information regarding the waqf property, including but not limited to beneficial ownership of waqf property, the residences of the staff who have control over the waqf properties, any assets held or managed by a reporting entity in relation to waqf property or any other information relating to the waqf as specified in Anti Money Laundering Act, 2010(VII of 2010).

23. Provision of information to reporting entities.— (1) The chief administrator shall provide and upon request, to the reporting entity information about the beneficial ownership and assets of the waqf in the prescribed circumstances and manner.

(2) The reporting entity may, also obtain the information from the waqf manager about the beneficial owner, details of waqf assets, residential addresses of waqf manager and details of beneficiaries in the prescribed circumstances and manner.

24. 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 Chief Administrator; or

b) in respect of any matter which the Chief 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 proceeding before the Chief Administrator under this Act or anything done intended to be done by or at the instance of the chief administrator under this Act.

25. Override effect.—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.

26. Offences.— (1) Whoever obstructs or offers any resistance to, or impedes or otherwise interferes with—

a) any authority, officer or person exercising any power or performing any duty conferred or imposed upon it or him by or in pursuance of this Act or otherwise discharging any lawful 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 a term which may extend to five years or **with fine upto twenty five million or with both.**

(2) Any person who willfully fails to comply with any requirement under section 21 shall be punished with imprisonment which shall not be less than one year but which may extend to five years and shall be liable to fine which shall not be less than the benefits derived from the waqf property but may extend to three times of the amount of income derived from the property.

(3) Any person who intentionally fails to comply with the provisions of section 7 or intentionally conceals any information or provide incomplete or incorrect information to the chief administrator as required under this Act, shall be liable to pay such amount calculated by the concerned district collector or any other authority duly authorized by the chief administrator to do so, for the period of factum of waqf property or an imprisonment of upto five years, or both.

(4) The offences punishable under this Act shall be triable by the court of sessions.

27. Administrative sanctions.— Any person who fails to comply with any provision of this Act for any other reason shall be penalized with an amount up to rupees twenty five million.

28. Power to make rules.— (1) Subject to approval by the Federal Government, the Chief Commissioner, ICT shall frame rules for the purpose of carrying into effect the provision of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely—

a) prescribing the powers and duties of the officers appointed under this Act;

b) regulate the delegation of any powers by the chief administrator to an administrator or a deputy administrator;

c) prescribing the terms and condition on which waqf property may be leased or let-out;

d) regulate the manner in which schemes for administration and development of waqf properties shall be prepared;

e) regulate the conditions of services and conduct of the persons employed under this Act;

f) regulate the conduct of litigation by or against the chief administrator;

g) prescribe the manner in which the accounts shall be kept;

h) prescribe the authority for auditing the accounts maintained by the Chief Administrator;

i) prescribe the syllabus and curricula for the proper education and training of Imams and khatibs and of other employees of the auqaf institutions in ICT;

j) prescribe and regulate the standards of syllabus and curricula of institutions providing Islamic religious education, by whatever name called, and, where considered necessary in the public interest, the scrutiny of the accounts of such institution; and

k) to appoint advisory committee consisting of public representatives, ulema and other experts.

29. Continuance of actions done under the Auqaf (Federal Control) Act, 1976.— Everything done or purporting to have been done, action taken liability or penalty incurred or proceeding commenced, officer appointed or person authorized of power conferred, rule made or notification or order issued under the Auqaf (Federal Control) Act, 1976 (LVI of 1976) since repealed, shall, so far as it is not inconsistent with the provisions of this Act, continue in force, and so far as may be deemed to have been done, taken, incurred, commenced, appointed, authorized, conferred, made or issued under this Act.

30. Repeal.— On commencement of this Act, the Punjab Waqf Properties Ordinance, 1979 shall stand repealed to the extent of the Islamabad Capital Territory, Islamabad.

STATEMENT OF OBJECTS AND REASONS

In order to enhance the effectiveness of the implementation of the Orders passed by the Federal Government, the amendments are considered essential in the Islamabad Capital Territory Waqf Properties Act, 2020 for the purpose management, supervision and administration of waqf properties in the territorial limits of Islamabad Capital Territory, Islamabad, whereas the Islamabad Capital Territory requires its exclusive law for regulation and administration of Waqf properties situated therein. Furthermore, the facilities required for meeting the necessary expenses through exemptions are also required to be incorporated in detail.

ZAHEER-UD-DIN BABAR AWAN
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on Parliamentary Affairs.