

MUSLIM MOSQUE
and
CHARITABLE TRUSTS
or
WAKFS ACT.

Publication :

**Department of Muslim Religious
and
Cultural Affairs**

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FOREWORD

I have great pleasure in presenting this consolidated Wakf Act. consisting of -

- (1) Main Act No. 51 of 1956
- (2) Amended Act No. 21 of 1962, and
- (3) Amended Act No. 33 of 1982

This consolidated Wakf Act will be of vital importance to the Muslims, specially in the administration of all Mosques and Charitable Trusts in Sri Lanka.

This consolidated Act is only for guidance, and not for any statutory purpose.

A. C. M. Zeirideen
Director

Department of Muslim Religious & Cultural Affairs

21st September, 1987.

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MUSLIM MOSQUES AND CHARITABLE TRUSTS OR WAKFS

Act No. 33 of 1982

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△ For Regulation, please refer to the Gazette of the Democratic Socialist Republic of Sri Lanka (Extra Ordinary) No. 342/8 of 29 - 3 - 85.

An Act to provide for the registration of Mosques, Muslim Shrines and Places of Religious Resort, whether incorporated or not, to prescribe the powers, duties and functions of the Trustees of Registered Mosques, Muslim Shrines, Places of Religious Resort and Muslim Charitable Trusts or "Wakfs", to establish a Muslim Charities Fund, to repeal Chapter II of the Muslim Intestate Succession and "Wakfs" Ordinance and to provide for matters connected therewith or incidental thereto.

Short title and date of operation.

PART I

The Staff, the Board and Tribunal

Appointment of officers and servants.

2. (1) There may be appointed for the purpose of this Act a Director for Mosques and Muslim Charitable Trusts or Wakfs and such number of Deputy Directors for Mosques and Muslim Charitable Trusts or Wakfs and other officers and servants as may be necessary. Such Director, Deputy Directors and other officers and servants shall be servants of the Crown in respect of the Government of Ceylon.

(2) A person who is not a Muslim shall not be appointed as the Director or as a Deputy Director.

Deputy Directors may exercise and perform director's powers and duties

4. A Deputy Director may subject to the direction and control of the Director, exercise any of the Director's powers and perform any of the Director's duties.

The Board.

5. (1) There shall be established for the purposes of this Act a board which shall be called the Mosques

and Muslim Charitable Trusts or Wakfs Board and which shall consist of the Director and seven other members appointed by the Minister.

(2) Every member who vacates his office by effluxion of time shall be eligible for reappointment.

(3) The Minister may appoint one of the members, other than the Director, to be the Chairman of the board

(4) The Minister may remove any member of the board from office if he is satisfied that such member is not discharging his duties in a competent manner. The removal of any member of the board from office by the Minister shall not be called in question in any court.

Disqualifi-
cations.

6. A person shall be disqualified for appointment as a member of the board or if so appointed, shall vacate his office as such if he-

- (a) is not a Muslim, or
- (b) is, or becomes or a Member of Parliament, or
- (c) is or becomes a trustee of a registered mosque, a Muslim shrine or place of religious resort or a Muslim charitable trust or wakf.

Term of office
of members.

7. Every member appointed by the Minister shall, unless he earlier vacates his office, hold office for a period of three years from the date of his appointment

Provided, however, that every member appointed to fill a vacancy occurring otherwise than by effluxion of time shall hold office for the unexpired portion of the term of office of the member in whose place he is appointed.

Vacation of off-
ice by members
appointed by
the Minister.

8. A member appointed by the Minister shall vacate his office-

- (a) if he is convicted by a competent court of an offence involving moral turpitude; or

- (b) if he is adjudged by a competent court to be of unsound mind, or
- (c) if, having been adjudged an insolvent or a bankrupt, he has not been granted by a competent court a certificate to the effect that his insolvency or bankruptcy has arisen wholly or partly by unavoidable losses or misfortunes, or
- (d) if he absents himself without leave of the board from three consecutive meetings of the board; or
- (e) if he is removed from office by the Minister under section 5 (4); or
- (f) if he resigns office by writing under his hand addressed to the Minister.

Meetings of,
and dissolu-
tion of board

9. (1) The Chairman shall preside at every meeting of the board at which he is present. If the Chairman is absent from any meeting of the board, the members present at the meeting shall elect one from among themselves to preside at the meeting.

(2) The quorum for a meeting of the board shall be three members.

(3) Where the votes of the members present and voting at any meeting of the board, are equally divided in regard to any question, the Chairman or other member presiding at such meeting shall, in addition to his vote as a member, have a casting vote.

(4) Meetings of the board shall be held at least once in every three months and in addition as frequently as is necessary for the exercise and discharge of its powers and duties under this Act.

(5) No act or proceedings of the board shall be invalid by reason of any vacancy among its members or any defect in the appointment of any member.

(6) Regulations may be made providing for the procedure to be followed at meetings of the board. Subject to the provisions of any such regulation, the board may regulate its own procedure.

(7) If at three consecutive meetings of the board there is not a sufficient number of members present to form a quorum for the transaction of business, the Minister may dissolve the existing board.

(8) In the event of a dissolution of the board-

(a) a new board shall be constituted in accordance with the provisions of sections 5 and 6; and

(b) the Director shall, until such time as a new board is so constituted, exercise the powers and discharge the duties of the board under this Act.

Delegation of powers, duties or functions of the board to the Director.

9A. The board may by resolution delegate to the Director any of the powers, duties or functions conferred or imposed upon, or vested in, the board by or under this Act.

Any act done by the Director in pursuance of any power, duty or function delegated to him under this section shall be reported by the Director to the board.

Powers of board to summon witnesses & c.

9B. The Chairman of the board and if the Chairman is not presiding at any meeting of the board, the Chairman of that meeting shall, for the purpose of the consideration and determination of any matter, have the power-

(a) to summon and compel the attendance of witnesses;

(b) to compel the production of documents; and

(c) to administer any oath or affirmation to witnesses.

Application to the board.

9C. An application to the board under the Act shall be in the manner prescribed.

Wakfs Tribunal.

9D. (1) There shall be appointed by the Judicial Service Commission for the purpose of this Act a Wakfs Tribunal or such number of Tribunals as may be

determined by the Minister from time to time, each of which shall consist of three persons who are Muslims.

(2) The Commission shall appoint one of the members to be the Chairman of the Tribunal.

(3) Two members of the Tribunal shall form a quorum. No matter shall be heard by the Tribunal unless a quorum is present.

(4) The decision of a majority of the members of the Tribunal who are present at the hearing of any matter shall for all purposes be deemed to be the decision of the Tribunal.

General powers of the Tribunal.

9E. (1) The powers of the Tribunal under this Act shall include the power to hear and determine any application made in respect of a Muslim charitable trust or wakf for an order providing for all or any of the following purposes:-

(a) removing from office any trustee of the trust or wakf;

(b) appointing where necessary, a trustee or trustees for the trust or wakf;

(c) directing the submission of statements of accounts to the Tribunal or the board;

(d) declaring what proportion of the property of the trust or wakf or of the interest therein shall be allocated to any specified object of the trust or wakf;

(e) settling a scheme for the management of the trust or wakf;

(f) directing the specific performance of any act by the trustee or trustees of the trust or wakf;

(g) declaring any trustee of the trust or wakf guilty of any misfeasance, breach of trust or neglect of duty;

(h) ordering the payment by any trustee of the trust or wakf of any sum to the funds of the trust or wakf

by way of damages in respect of any misfeasance, breach of trust or neglect of duty; and

(i) granting such further or other relief arising from the matters specified in paragraphs (a) to (h)

(2) Subject to the provisions of subsection (3), every application in respect of a Muslim charitable trust or wakf shall be made by the Director upon a direction given by the board in that behalf, or any five or more persons interested in that trust or wakf,

(3) No application, other than an application made by the Director, shall be entertained by the Tribunal under this section unless the application is accompanied by a certificate under the hand of the Director that the application has been approved by the board.

(4) Where five or more persons interested in a Muslim charitable trust or wakf have made an application under subsection (1), the withdrawal of one or more than one such person shall not prevent the Tribunal from hearing and determining the application so long as at least one person who made the application continues to be a party.

9F. The Chairman of the Tribunal and if the Chairman is not presiding at any meeting of the Tribunal, the Chairman of that meeting shall for the purpose of the consideration and determination of any matter have all the powers of the District Court-

(a) to summon and compel the attendance of witnesses;

(b) to compel the production of documents and

(c) to administer any oath or affirmation to witnesses

9G. In any proceedings under this Act, the Tribunal shall follow the procedure of a District Court, and in the execution of orders and judgments, shall have all the powers of a District Court and the provisions of the Civil Procedure Code, relating to the procedures and powers of execution of a District Court, shall mutatis mutandis, apply to and in relation of the procedures and powers of execution of the tribunal.

Powers of the Tribunal to summon witnesses etc.

Proceedings before Tribunal

Appeals to Tribunals from orders of board.

9H. (1) Any person aggrieved by any order or decision made by the board may within thirty days of such order or decision appeal in writing to the Tribunal against such order or decision

(2) For the purpose of hearing and determining any appeal made under subsection (1) the Tribunal shall have the following powers:

(a) to call for the record of any proceedings before the board any documents in the possession of the board;

(b) to make such inquiries as may be necessary for the purpose of the appeal and, if it thinks fit, to admit or call for any evidence, whether oral or documentary

(3) After the hearing of an appeal, the Tribunal shall make order confirming, setting aside or varying the order or decision of the board, or make such other order thereon as it may think it.

Tribunals have exclusion jurisdiction to inquire into matters relating to Muslim charitable trusts or wakfs.

9J. The Jurisdiction exercisable by the Tribunal in respect of matters relating to Muslim charitable trusts or wakfs shall be exclusive and any matter falling within that jurisdiction shall not be tried or inquired into by any court or tribunal of first instance.

PART II

Registration of Mosques

Application for registration of mosques

10. (1) The trustee for the time being of a mosque, and if there is no such trustee, the person for the time being in charge of a mosque, opened for public worship before the appointed date shall, within six months after that date, make a written application to the board for registration of that mosque.

(2) The trustee for the time being of a mosque, or if there is no such trustee, the person for the time being in charge of a mosque, opened for public worship on or after the

(8)

appointed date shall, within six months after the date on which that mosque is so opened, make a written application to the board for registration of that mosque.

Board's power to call for information and documents as to mosques

11. (1) Upon receipt of an application under section 10, the board may, by notice served in the prescribed manner, require the applicant to furnish to the board, within such time as may be specified in the notice, all such information and documents regarding the mosque to which that application relates as the board may consider necessary.

(2) Every applicant required by notice under subsection (1) to furnish any information and documents to the board shall furnish such information and documents to the board within the time specified in that notice.

Register of mosques

12. (1) The board shall cause a register of mosques to be maintained.

(2) The register of mosques shall, on payment of the prescribed fee, be open for inspection by any person at any time during which the office of the Director is open for the transaction of business.

Registration of mosques

13. Upon application made to the board for the registration of a mosque under section 10, the board, after making such inquiries as it may deem necessary for verifying-

- (a) the particulars contained in such application and,
- (b) if any information and documents had been received by it in accordance with any notice served under section 11 on the applicant for registration, such information and the particulars contained in such documents,

shall cause that mosque to be registered in the register of mosques by the entry therein of the prescribed particulars relating to that mosque.

(9)

Registration of mosques on application made after period specified in section 10.

Power of board to register a mosque when no application for registration is made.

13A. Notwithstanding anything in section 10, where an application for the registration of a mosque is made at any time after the expiry of the period specified in that section, such application shall be received by the board and the provisions of section 11 and 13 shall apply in relation to such application as if such application were made within the period specified in section 10.

13B. (1) Where the board determines that a mosque in respect of which no application for registration had been made should be registered, the board shall for the purposes of such registration collect all such information as it may consider necessary regarding that mosque, and publish a notice of such determination in the Sinhala, Tamil and English languages in the Gazette and in one or more newspapers circulating in the area in which such mosque is situated.

(2) Every notice under subsection (1) shall specify a date (such date being not later than one month after the date of that notice) on or before which objections to the proposed registration will be received by the board.

(3) Every objection preferred in consequence of a notice under subsection (2) shall be in writing and shall contain a statement of the grounds upon which the objection is made.

(4) After the expiry of the date referred to in subsection (2), the board shall, if it is of the opinion that the mosque should be registered after considering the objections, if any, to the registration of the mosque, cause the mosque to be registered in the register of mosques by the entry therein of such particulars relating to the mosques as are available to the board.

Power of board to cancel the registration of a mosque which had been registered by reason of a mistake of law or of fact.

13C. If at any time the board is satisfied that it has caused a mosque to be registered by reason of a mistake of law or of fact, it shall be lawful for the board to cause the entry relating to that mosque to be deleted from the register of mosque, and such mosque shall be deemed to be not registered with effect from the date of such deletion.

PART III

Appointment, Powers and Duties of Trustees of Registered Mosques, &c.

Appointment of trustees of mosques, &c

14, (1) As soon as may be, after a mosque has been registered under section 13, the board-

- (a) shall confirm and appoint a person or persons to be a trustee or trustees who is or have been selected or nominated according to the practices, rules, regulations or other arrangements in force for the administration of the mosque;
- (b) no trustee or trustee is or are appointed under paragraph (a), the board may appoint a person or persons to be a trustee or trustee's from among registered members of the Jam'ath of the mosque;
- (c) may appoint a special trustee or trustees for a particular period if the board considers necessary for the proper administration of the mosque
- (1A) The board may at any time after the appointment of a person as trustee of a mosque revoke his appointment if it is satisfied that such appointment was made by reason of a mistake of law or of fact.

Where the board decides to revoke the appointment of any person as a trustee it shall by notice in writing addressed to such person-

- (i) inform him of the revocation of his appointment as trustee, and

ii. require him to return to the board the instrument of appointment issued to him, and upon receipt of such notice such person shall comply with such requirement.

2. Every person appointed as a trustee by the board shall-

- (a) officiate as trustee for such period as provided for by the practices, rules, regulations or other arrangements in force for the administration of the mosque; or
- (b) officiate as such trustee for such period as may be specified in the instrument of appointment unless he vacates his office under section 15 or his appointment as trustee is revoked by the board; or Tribunal.

3. Until the board makes an appointment or appointments under the preceding provisions of this section, the trustee or trustees for the time being of that mosque or, if there is no such trustee, the person for the time being in charge of the mosque shall be responsible for the exercise of all powers and the performance of all duties in connexion with that mosque.

3A It shall be the duty of the trustee or trustees of a mosque...to submit to the Director-

- (a) a duly certified copy of the practices, rules, regulations or other arrangements in force for the time being for the administration of the mosque; and
- (b) a copy of the list of registered members for the time being of the Jana'ath of the mosque.

15. (1) Every trustee of a registered mosque shall vacate his office-

- (a) on death; or
- (b) if he is convicted by a competent court of an offence involving moral turpitude; or

- (c) if he is adjudged by a competent court to be of unsound mind; or
- (d) if, having been adjudged an insolvent or a bankrupt, he has not been granted by a competent court a certificate to the effect that his insolvency or bankruptcy has arisen wholly or partly by unavoidable losses or misfortunes; or
- (e) if he resigns office by writing under his hand addressed to the Director; or
- (f) if whilst he is a trustee of a Jumma mosque, holds office as a trustee of another Jumma mosque;

Provided, however, that where more than one Jumma mosque is administered by a common Board of Trustees according to long usage or custom in a particular area, a trustee of a Jumma mosque may hold the office of trustee of another Jumma mosque; or

- (g) if the board removes him from office under section 29.

(2) Where a trustee of a registered mosque vacates office, the board may, taking into account the matters specified in section 14 (1), appoint in his place a new trustee for such period not exceeding five years, as may be specified in his instrument of appointment.

(3) When a trustee vacates office the other trustees shall, during the continuance of the vacancy, exercise the powers vested in, and perform the duties imposed on, trustees by or under this Act.

Duty of person or persons in charge of any property belonging to a mosque

15A. (1) Upon the appointment of a trustee or trustees of a mosque by the Board, the person or persons who immediately prior to the date of such appointment had in any capacity whatsoever the possession, custody or control of any property which-

to hand over or deliver possession of such property to the duly appointed trustee or trustees of that mosque.

- (a) belonged to that mosque; or
- (b) in any way appertained to that mosque, or
- (c) was appropriated to the use of that mosque,

shall, upon a request being made in writing therefor by such trustee or trustees; hand over or deliver possession of, such property, together with any documents relating to such property, to such trustee or trustees.

(2) Where any person fails to comply with the requirements of a request made under subsection (1) within thirty days of the date of receipt of such request, the board may, if it decides so to do, cause a notice in writing to be served on such person. Every such notice shall direct such person, Every such notice shall direct such person to hand over, or deliver possession of, within a period not exceeding one month as may be specified in such notice, such property as may be specified in the notice, together with any documents relating thereto, to the trustee or trustees of the mosque, appointed by the board.

(3) Where any person fails to deliver possession of, or to hand over, to the trustee or trustees of a mosque any property other than money specified in a notice served on him under subsection (2) within the period specified in that notice, the Director, if directed so to do by the board shall, on making an application in that behalf to the Magistrate's Court having jurisdiction over the place where the land is situated, if such property is land, or where such person resides, if such property is property other than land, be entitled to an order of that court directing the Fiscal to deliver possession of or hand over such property to the trustee or trustees of the mosque.

(4) Where any person fails to hand over to the trustee or trustees of a mosque any sum of money specified in a notice served on him under subsection (2) within the period specified in that notice, the

Director may issue a certificate setting out the sum of money and the name and last known place of abode of such person to a Magistrate having jurisdiction over the place in which such person resides and such sum may be recovered in like manner as a fine imposed by that court, notwithstanding that the amount of the money may exceed the amount of the fine which that court may in the exercise of its ordinary jurisdiction impose.

Nothing in the preceding provisions of this subsection shall authorize or require the Magistrate in any proceeding thereunder, to consider, examine or decide the correctness of any statement in the certificate of the Director.

(5) a. Where in order under subsection (3) is issued to the Fiscal by a Magistrate's Courts, he shall forthwith execute that order and shall in writing report to that court the manner in which that order was executed.

(b) For the purpose of executing an order relating to land issued by a Magistrate's Court under subsection (3), the Fiscal or any person acting under his directions may use such force as may be necessary to enter the land to which that order relates and to eject any person in occupation thereof and to deliver possession of that land to the trustee or trustees of the mosque.

(c) Notwithstanding the provisions of any other law the execution of an order made by a Magistrate's Court under subsection (3) shall not be stayed in any manner by means of any appeal or other step taken or proposed to be taken in any court with a view to varying or setting aside such order.

(6) a. A request referred to in subsection (1), or a notice referred to in subsection (2), to any person, shall be made or given by letter despatched to him by registered post and addressed to his last known place of abode.

(b) A request or notice made or given to any person by letter as provided in this subsection shall be deemed to have been made to, or served on, him at the time at which the letter would have been delivered in the ordinary course of post

(7) A decision of the board under subsection (2) shall be final and conclusive and shall not be called in question in any court.

Provided, however, that any person who claims to have any interest in any property which has been handed over, or the possession of which has been delivered to, the trustee or trustees of a registered mosque under the preceding provisions of this section may, not later than six months after the date on which such property has been handed over or possession thereof has been delivered to such trustee or trustees, institute an action of competent jurisdiction to recover possession of such property, and the decision in such action shall be binding on such trustee or trustees and the board, but so however that no costs or damages shall be awarded against the board or any member thereof or such trustee or trustees.

Powers of trustees to appoint, exercise disciplinary control over, and dismiss Katheeb, & c.

15B. The trustee or trustees of a registered mosque shall have the power to appoint any person as a Katheeb, Pesh Imam, Lebbe, Muezzin, teacher in Arabic, labourer, or other employee in that mosque, and to exercise disciplinary control over and dismiss, any person carrying on the duties of a Katheeb Pesh Imam, Lebbe, Muezzin, teacher in Arabic or labourer, or carrying on duties in any other capacity whatsoever in that mosque.

16. (1) There shall vest in the trustee or trustees of a registered mosque.

(a) any movable or immovable property which-

(i) belong to, or in any wise appertains to, or in appropriated to the use of, that mosque, or

(ii) is held in trust by, or in the name of any person exclusively for the benefit of that mosque,

(b) the rents and profits of such property, and

(c) the offerings and contributions made for the use of, or to the funds of, or for the performance of religious ceremonies at, that mosque,

subject to any lease, charge or encumbrance already affecting that property and to the terms of any trust to which that property may be subject.

(2) All moneys which, under subsection (1), vest in the trustee or trustees of a registered mosque are in this Act referred to as the income of that mosque.

(1) It shall be the duty of the trustee or trustees of a registered mosque on a direction issued by the board and subject to the provisions of subsection (3), to deposit the income of that mosque in a separate account with a bank approved by the board.

(2) The bank pass books relating to any account referred to in subsection (1) shall be open for inspection by the auditor or other person referred to in section 28 at all reasonable times during the day.

(3) Where a direction is issued by the board for the deposit of the income of a registered mosque in a bank, the trustee or trustees of that mosque shall not retain in his or their possession at any time any sum in excess of one hundred rupees.

The application of the income of a registered mosque.

18. The income of a registered mosque may, with the previous sanction of the Director, or a Deputy Director or an authorized officer, be appropriated by the trustee or trustees of the mosque for all or any of the following purposes:-

(a) the repair and maintenance of the mosque and the premises belonging thereto:

(b) the remuneration of the persons employed for the purposes of the mosque;

(c) the performance of religious worship and of all customary religious observances ordinarily performed in the mosque;

(d) the promotion of religious or secular education at any school maintained in connection with the mosque and the relief of poor students at any such school;

(e) the relief of the poor, the giving of alms in accordance with custom and the burial of poor Muslims;

(f) the remuneration, as determined by the board, of the trustee or trustees of the mosque and the payment of all expenses incurred by such trustee or trustees in the exercise of the powers and the performance of the duties of such trustee or trustees;

(g) the payment of compensation awarded under section 21 and the payment of all fees due under this Act in respect of the mosque; and

(h) any other purposes which may be deemed necessary by the Jama'ath.

Investment of moneys of mosque.

19. (1) No moneys of a mosque shall be invested in such manner as may earn interest.

(2) Subject to the provisions of subsection (1), the trustee of a mosque may, with the approval of the board-

(a) purchase movable or immovable property out of the moneys of the mosque, and

(b) invest such moneys in any other manner.

Restriction on mortgage or other alienation of immovable property of a registered mosque.

20. No immovable property which by section 16 is vested in the trustee or trustees of a registered mosque shall be mortgaged sold or otherwise alienated except with the approval of the board.

Authorized officers and their functions.

20A. (1) The Director may in writing authorize such number of officers as may be necessary to be authorized officers for the purposes of this Act.

(2) Upon being instructed by the Director in that behalf, an authorized officer shall-

- (a) ascertain whether any person has contravened any provisions of this Act, or any regulation made thereunder;
- (b) make application to the board, under section 21, section 22, section 25, and section 29;
- (c) institute and defend any action or proceeding as may be necessary in the board, the Tribunal or in any Court;
- (d) investigate and report or bring to the notice of the board, the Director or and Deputy Director any allagation of fraud or misuse of property by any trustee or trustees of a registered mosque.

Recovery of immovable property improperly alienated.

21. Where the board is satisfied-

- (a) that any immovable property belonging to, or held in trust for, any mosque has been mortgaged, sold or alienated prior to the appointed date to the detriment of that mosque' or
- (b) that any immovable property which is vested by section 16 in the trustee or trustees of a registered mosque has been mortgaged, sold or alienated contrary to the provisions of this Act,

it shall be the duty of the board to direct an authorized officer to institute Legal proceedings in a competent court to set aside such mortgage, sale or alienation and to recover possession of the property:

Provided, however, that in the absence of collusion or knowledge between the parties, the court, in setting aside such mortgage, sale or alienation, shall award compensation to the mortgagee, vendee, or alienee for any permanent improvements made by him to, or upon, such property.

Power to lease immovable property of registered mosque and cancellation of invalid leases.

22. (1) The trustee or trustees of a registered mosque may from time to time lease all or any of the immovable property vested in such trustee or trustees by section 16 for such rent, and upon such conditions, as such trustee or trustees may deem reasonable:

Provided, however, that-

- (a) no trustee shall lease any such immovable property without the previous approval of the board; or
- (b) no lease shall be granted in favour of any trustee of such mosque or in favour of any person in whom any such trustee is directly or indirectly interested.

(2) Any lease granted in contravention of the provisions of subsection (1) shall be null and void and of no effect in law.

(3) Where the board is satisfied that any immovable property has been leased in contravention of the preceding provisions of this section, it shall be the duty of the board to direct an authorized officer to institute legal proceedings in a competent court to declare such lease null and void and to recover possession of the property.

Duty of trustee or trustees of a registered mosque to maintain tills in accordance with directions of the Board.

22A. It shall be the duty of a trustee or trustees of a registered mosque to maintain in the mosque such number of tills, and in such manner, as the board may direct for the reception of contributions in money made by worshipper and others who desire to make a contribution to that mosque.

23. Repealed.

24. Repealed.

Authorized officer or trustee or trustees of registered mosque may sue.

25. (1) An authorized officer or the trustee or trustees of a registered mosque may with the approval of the board sue for the recovery of any property vested in such trustee or trustees under section 16, or for any other purpose connected with, or incidental to, the exercise and performance of the powers and duties of such trustee or trustees.

25. (2) The trustee of a registered mosque or an authorized officer, whether he is the plaintiff or defendant in an action, shall not be personally liable in costs for any act bona fide done by such trustee or authorized officer in the exercise of the powers or the performance of the duties of such trustee or authorized officer.

Duty of trustees to keep accounts and maintain inventories.

26. It shall be the duty of the trustee or trustees of a registered mosque-

- (a) to keep in such form as the board may direct full and detailed accounts of the income of that mosque and of all expenditure incurred by such trustee or trustees;
- (b) to keep in such form as the board may direct an inventory of all property for the time being vested in such trustee or trustees; and
- (c) to make such accounts and inventory available for inspection by any member of the board or by any person authorized by the board or by an authorized officer at all reasonable times during the day.

Half-yearly statements of accounts to be sent to the board.

27. (1) It shall be the duty of the trustee or trustees of a registered mosque-

- (a) to prepare a statement of the accounts, in such form as may be prescribed, relating to all the moneys received and expended in respect of that mosque for each half-year ending on the thirtieth day of June and the thirty-first day of December and to sign a declaration at the end of that statement to the effect that those accounts are true and correct;
- (b) to furnish that statement to the board within a period of thirty days after the end of the half-year to which that statement relates; and
- (c) to exhibit a copy of that statement for a period of thirty days in a conspicuous position in the premises of that mosque.

(2) Every statement of accounts prepared under subsection (1) shall be in the language in which the accounts of the mosque are usually kept.

Audit of accounts.

28. The board may cause any accounts specified in a statement furnished to the board under section 27 to be audited by an auditor, or by any other person, approved by the board.

Suspension and removal of trustee of mosque.

29. (1) The board may, of its own motion or upon a complaint made by any five members of the jama'ath of any registered mosque, either inquire, or direct the Director or any person authorized in that behalf by the board to hold an inquiry, into any alleged misfeasance, breach of trust or neglect of duty committed by a trustee of that mosque in respect of any property vested in that trustee or into any failure on the part of a trustee of that mosque to comply with the provisions of this Act, or into the inability of a trustee of that mosque to perform the duties imposed by or under this Act or to administer efficiently the general affairs of that mosque.

(2) Where an inquiry under subsection (1) has been held by the board, the board may, if it is satisfied that the allegations against the trustee have been proved, remove such trustee from office.

(3) Where an inquiry under subsection (1) has been held by the Director, the Director may if he is satisfied that the allegations against the trustee have been proved, suspend such trustee and appoint an interim trustee and thereupon shall submit a report in writing on the inquiry held by him to the board who shall after considering such report remove the trustee, in respect of whom such inquiry was held, from office or reinstate such trustee.

(4) Where an inquiry under subsection (1) has been held by a person other than the Director, such person shall submit a report on the inquiry held by him to the board who may if it is satisfied that the allegations against the trustee have been proved, remove the trustee from office.

(5) Where any person has been appointed as an interim trustee of a registered mosque under subsection (3) such person shall hold office until the board either reinstates the trustee who was suspended or appoints a new trustee, and shall exercise, perform and discharge the powers, duties or functions conferred or imposed upon, or vested in, a trustee of a mosque by or under this Act.

(6) Subject to the provisions of subsection (7), the Director upon direction issued by the board in that behalf in respect of a registered mosque, or any five persons interested in that mosque may as against a trustee of that mosque, make an application to the Tribunal for an order providing for all or any of the following purposes:-

- (a) directing the specific performance of any act by the trustee,
- (b) declaring that trustee guilty of any misfeasance breach of trust, or neglect of duty;
- (c) ordering the payment by that trustee of any sum to the funds of the mosque by way of damage in respect of any such misfeasance, breach of trust, or neglect of duty; and
- (d) granting such further or other relief as the circumstances of the case may require.

(7) No application, other than an application made by the Director, shall be entertained by the Tribunal under this section unless the application is accompanied by a certificate under the hand of the Director that the application has been approved by the board.

(8) For the purposes of this section, any member of the jama'ath of a registered mosque shall be deemed to be a person interested in that mosque.

(9) Where five or more persons interested in a mosque have made an application under subsection (6), the withdrawal of one or more than one such person from the application shall not prevent the Tribunal from

hearing and determining the application so long as at least one person who made the application continues to be a party.

Effect of
Part III

30. The provision, of this Part shall, save as expressly provided in this Act, have effect notwithstanding anything contained in any deed or other instrument-

- (a) relating to the constitution of the office of trustee of any mosque, or the period during which any such trustee shall hold office or the powers and duties of any such trustee or
- (b) prescribing the purposes for which and the manner in which the income from any property held in trust for the benefit of any mosque may be applied.

PART IV

Application of Provisions Relating to Mosques to Muslims Shrines and Places of Religious Resort.

Application of Parts II and III to Muslim shrines and places of religious resort. 31. The provisions of Parts II and III shall apply to Muslim shrines and places of religious resort in like manner as they apply to mosques subject to the amendments specified in the Second Schedules hereto.

PART V

Muslim Charitable Trusts or Wakfs

32. (1) The provisions of this Part shall apply to every Muslim charitable trust or wakf created for all or any of the following purposes other than a Muslim charitable trust or wakf which is solely for the benefit of a registered mosque-

- (a) the relief of poverty among Muslims or any section thereof;

- (b) the advancement of the education of Muslims or any section thereof;
- (c) the advancement of Islam generally;
- (d) the management of any mosque or Muslim shrine or place of religious resort or the performance of religious rites or practices at such mosque, shrine or place or in any other place whatsoever;
- (e) any purpose beneficial to Muslim or any section thereof; and
- (f) any other purpose recognized by Muslim law as religious, pious or charitable,

(2) Repealed.

Duty of trustees to furnish statements relating to the trusts or wakfs.

33. (1) The trustee or trustees of a Muslim charitable trust or Wakf created before the appointed date shall furnish to the board, within six months after that date a statement setting out the particulars specified in section 34 in respect of that trust or wakf.

(2) The trustee or trustees of a Muslim charitable trust or wakf created or after the appointed date shall furnish to the board, within six months after the date of creation of that trust a statement setting out the particulars specified in section 34 in respect of that trust or wakf.

(3) Notwithstanding the preceding provisions of this section, the board may where the board is satisfied that the trustee or trustees of a Muslim charitable trust or wakf will be unable to furnish the statement required to be furnished under those provisions within the time allowed by those provisions, allow such trustee or trustees further time for the purpose of furnishing such statement.

The contents of the statements to be furnished under section 33.

34. (1) Every statement required to be furnished under section 33 in respect of a Muslim charitable trust or wakf shall contain the following particulars:-

- (a) the name of every person who is a trustee of that trust or wakf and the title under which each such person is entitled to be a trustee;

- (b) a description of all the properties subject to that trust or wakf;
- (c) the gross amount of the income from such properties for the period of twelve months ending on the date on which the statement is furnished, or where that trust or wakf was created within that period, the gross amount of the income from such properties after the creation of that trust or wakf;
- (d) the amount of all taxes and rates annually payable to the Crown or to any local authority in respect of such properties;
- (e) an estimate of the average annual expenditure necessary for the realization of the income from such properties;
- (f) the amount or amounts, if any, set apart under that trust or wakf for each of the following purposes;
 - (i) the remuneration of every trustee of, and the remuneration of every person employed for the purposes of, that trust or wakf,
 - (ii) contributions to mosques;
 - (iii) other religious and charitable purposes, and
 - (iv) other purposes; and
- (g) such other particulars as may be prescribed.

(2) Every statement of particulars required to be furnished under section 33 in respect of any Muslim charitable trust or wakf shall be accompanied by a copy, certified as a true copy under the hand of the person furnishing that statement, of every deed or other instrument, if any, by which that trust or wakf was created;

Provided, however, that where no such deed or instrument has been executed, or no such copy can be procured, the statement of particulars shall contain all such information as may be within the knowledge of

the person or persons furnishing such statement relating to the origin, nature and objects of such trust or wakf.

(3) Every statement of particulars required to be furnished under section 33 shall be signed by the person or persons by whom the statement is furnished and shall contain a declaration that the particulars contained therein are true and accurate. Such declaration shall be free of stamp duty.

Duty of trustees to furnish statements of accounts.

35. (1) It shall be the duty of the trustee or trustees of a Muslim charitable trust or wakf to furnish to the board before the first day of June in each year a statement of accounts in such form as may be prescribed relating to all moneys received and expended in respect of that trust or wakf during the period of twelve months ending on the thirty-first day of March of that year.

Provided, however, that where the board is satisfied that such trustee or trustees will be unable to furnish such statement before the first day of June in that year, the board may allow such trustee or trustees further time for the purpose of furnishing such statement.

(2) Every statement of accounts furnished under this section shall be signed by the trustee or trustees by whom the statement is furnished and shall contain a declaration that the particulars set out therein are true and accurate. Such declaration shall be free of stamp duty.

(3) Every statement of accounts furnished under this section shall be in the language in which the accounts of the trust or wakf are usually kept.

Audit of accounts of trustees.

36. All accounts specified in a statement furnished to the board under section 35 shall be audited by an auditor, or by any other person, approved by the board, and shall be accompanied by a report of the person auditing such accounts.

Inspection of certain documents

37. Every statement of particulars furnished under section 33, every statement of accounts furnished under section 35 and every auditor's report referred to in section 36 shall be open for inspection by any person authorized in writing by the board or by any Authorized Officer at any reasonable time of the day during the prescribed period.

Power of board to call for information or documents for verifying statements and accounts.

38. Where any statement of particulars or accounts is furnished to the board under section 33 or section 35, the board may, by notice, require the person or persons by whom that statement was furnished to furnish such further information or such documents as the board may require for the purpose of verifying any matter specified in that statement within such period as may be specified in the notice. The person or persons required to furnish information or documents under the preceding provisions of this section shall furnish such information or documents before the expiry, of the period specified in the notice.

Director or interested persons to have the power to institute action for enforcing the provisions of a Muslim charitable trust or wakf, &c.

39. (1) Subject to the provisions of subsection (2), the Director upon a directive given by the board in that behalf in respect of a Muslim charitable trust or wakf or any five persons interested in that trust or wakf may, without joining as plaintiff any other person so interested, institute an action in the District Court of the district in which the whole or any part of the subject matter of that trust or wakf is situated for both or either of the following purposes:-

- (a) enumerating the properties comprised in the trust or wakf; and
- (b) granting such further or other relief as the circumstances of the case may require-

(2) No action other than an action instituted by the Director shall be entertained by the District Court under this section unless the plaint in the action is accompanied by a certificate under the hand of the Director that the action has been approved by the board.

(3) The interest required in order to entitle any person to be one of the plaintiffs in any action instituted under this section need not be a pecuniary or immediate interest or such an interest as would entitle the person to take any part in the management or superintendance of the trust or wakf.

(4) For the purposes of any action to be instituted on any date under this section, any person who-

- (a) is the doner of any property subject to any Muslim charitable trust or wakf or is a direct made descendant of the donor, or
- (b) in the case of any Muslim charitable trust or wakf created partly for the benefit of a registerd mosque, is a member of the Jama'ath of that mosque, or
- (c) has, during a period of twelve months preceding that date, received any alms distributed by any trustee of a Muslim charitable trust or wakf or otherwise enjoyed the benefits of that trust or wakf,

shall be deemed to be a person interested in that trust or wakf.

(5) Where five or more persons interested in a Muslim charitable trust or wakf have instituted an action under subsection (1), the withdrawal of one or more than one such person from the action shall not prevent the District Court from continuing and concluding that action, so long as at least one person who instituted the action continues to be a party.

Tribunal's powers in setting schemes for the management of Muslim charitable trust or wakfs. 40. In setting a scheme for the management of any Muslim charitable trust or wakf under subsection (1) of section 39, the Tribunal may-

- (a) order the inspection of any institution maintained for the purposes of, or in connection with, that trust or wakf by persons authorized by the Tribunal;

(b) fix as the amount of annual remuneration of any trustee of that trust or wakf any amount not exceeding ten per centum of the gross annual income of that trust or wakf; and

(c) direct that any surplus remaining out of the income of that trust or wakf after reasonable provision has been made for carrying out the objects of that trust or wakf shall be applied to such purposes as the Tribunal may consider fit.

Application of religious law, &c.

41. In setting a scheme for the management of any Muslim charitable trust or wakf under subsection (1) of section 39 or in determining any question relating to the constitution or existence of any such trust or wakf or the devolution of the trusteeship or the administration of such trust or wakf, the Tribunal shall have regard to the instrument, if any, by which such trust or wakf has been created, the religious law and custom of the sect of the Muslim community concerned, the local custom with reference to such trust or wakf and the practices and other arrangements in force for the administration of such trust or wakf.

De facto Muslim charitable trusts or wakfs.

42. In dealing with any property alleged to be subject to a Muslim charitable trust or wakf, the Tribunal shall not be debarred from exercising any of its powers by the absence of evidence of the formal constitution of such trust or wakf if the Tribunal is of opinion from all the circumstances of the case that such trust or wakf in fact exists or ought to be deemed to exist.

PART VI

THE MUSLIM CHARITIES FUND

Muslim Charities Fund.

43. (1) There shall be a Muslim Charities Fund (hereinafter referred to as the "fund"), and the fund shall be administered by the board.

(2) Subject as hereinafter provided, it shall be the duty of the trustee or trustees of each mosque referred to in Part II or Part III, Muslim shrine or

place of religious resort referred to in Part IV, or Muslim charitable trust or wakf referred to in Part V, in respect of that mosque, shrine, place, trust or wakf, to pay to the Director in each year to be credited to the fund, within twenty-one days after the date on which the statement referred to in section 46 is required to be furnished, a contribution on the total income of that mosque, shrine, place, trust or wakf, less, any sums paid out of such income as rates and taxes, during the period of twelve months immediately preceding the thirty-first day of March of that year, calculated at such of the rates specified in the First Schedule to this Act as is appropriate to the case, and, where such trustee or trustees has or have failed to furnish such statement, a contribution out of such amount as is determined by the board to be income of that mosque, shrine, place, trust or wakf less any sums paid out of such income as rates or taxes, during the period of twelve months immediately preceding the thirty-first day of March in the year in which such failure has occurred, calculated at such of the rates specified in that Schedules as is appropriate to the case :

Provided, however, that the board may by Order published in the Gazette exempt any such trustee or trustees from the obligation to pay such contribution.

(3) In addition to the contribution referred to in subsection (2), there shall be credited to the fund all such sums as may from time to time be paid or bequeathed to the Director as donations to the fund.

(4) Any contribution payable to the Director under subsection (2) shall be recoverable in such manner as may be prescribed.

(5) Subject to and in accordance with the provisions of this Part and of any regulations referred to in subsection (7), the Director shall be responsible for the management of the fund and for the due application of the moneys and income thereof for such purposes as may be approved by the board.

(6) All actions and other proceedings in respect of the fund shall be by or against the Director; and all contracts and other transactions with respect of the fund shall be entered into by the Director or some officer authorized by the Director for the purpose.

(7) Regulations may be made providing for the manner in which the conditions subject to which the powers, duties and functions assigned to the Director by subsection (5) shall be exercised and performed.

(8) The accounts of the fund shall be maintained by or under the director of the Director and audited by an auditor, or by any other person, approved by the board and shall be accompanied by a report of the person auditing the accounts.

(9) For the purposes of this section, section 46, and the First Schedule hereto, the total income in respect of a Muslim charitable trust or wakf shall not include income from a mosque or Muslim shrine or place of religious resort.

Investment of moneys in the fund.

44. The board may invest the moneys in the fund in such manner as may be prescribed:

Provided, however, that the board shall not invest much moneys so as to earn interest.

Expenditure of moneys in the fund.

45. The board may expend the moneys in the fund for all or any of the following purposes:-

- (a) the building, restoration and maintenance of mosques;
- (b) the relief of poverty among Muslims or any section thereof;
- (c) the advancement of the education of the Muslims or any section thereof;
- (d) the advancement of Islam generally;
- (e) any other purpose beneficial to Muslims or any section thereof; and
- (f) the payment of expenditure incurred in the management and administration of the fund.

PART VII

GENERAL

Duty of trustees to furnish statements of income.

46. (1) It shall be the duty of the trustee or trustees of each mosque referred to in Part II or Part III Muslim shrine or place of religious resort referred to in Part IV or Muslim charitable trust or wakf referred to in Part V to furnish on or before the first day of June in each year, in addition to any other statement of accounts which is required to be furnished under this Act, a statement specifying the income referred to in section 43;

Provided, however, that where the board is satisfied that such trustee or trustees will be unable to furnish such statement before the first day of June in such year, the board may allow such trustee or trustees further time for the purpose of furnishing such statement.

(2) Every statement furnished under this section shall be signed by the trustee or trustees by whom the statement is furnished and shall contain a declaration that the particulars set out therein are true and accurate. Such declaration shall be free of stamp duty.

(3) Every statement furnished under this section shall be in the language in which the accounts of the trust or wakf are usually kept.

Additional powers of Tribunal in regard to applications under section 29.

47. Where any application is made to the Tribunal under section 29, the Tribunal may provide in its order, in addition to the matters which may be provided for in such order under section 29, for all or any of the following purposes:-

- (a) the submission of accounts by a trustee or trustees in respect of any period not exceeding three years prior to the date on which such decree is made;
- (b) the payment by a trustee or trustees of any sum paid by him or them wrongly to any other person or appropriated by him or them dishonestly to his or their own use;

(c) the payment by a trustee or trustees of any sum representing a loss to the funds of a registered mosque for a Muslim charitable trust or wakf, such loss being caused by any neglect or omission of such trustee or trustees;

(d) the deposit by a trustee or trustees of security.

48. Repealed.

49. Repealed.

Offences.

50. No action instituted under section 29 or section 39 shall be a bar to, or be suspended by, any criminal proceedings in any court.

51. Repealed.

Director's statement of board's decision to be conclusive evidence thereof.

52. A written statement under the hand of the Director embodying a decision of the board shall for the purposes of this Act, be conclusive evidence of such decision.

Offences.

53. (1) Every person who-

- (a) contravenes any of the provisions of this Act or of any regulation made thereunder, or
- (b) makes to the Director, board, any arbitrator or committee for the purposes of this Act any oral or written statement which is to his knowledge false in any material particular,

*Section 53 (2) repealed

shall be guilty of an offence under this Act.

(3) Every person guilty of an offence under this Act shall on conviction after summary trial before a Magistrate, be liable to a fine not exceeding two thousand rupees, or to imprisonment of either description for a term not exceeding three months or to both such fine and imprisonment.

Regulations.

54. (1) The Minister may, with the advice of the board, make regulations for the purpose of carrying out or giving effect to the principle and provisions of this Act.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may, with the advice of the board, make regulations in respect of all or any of the following matters:-

- (a) all matters authorized or required by this Act to be prescribed;
- (b) the payment of allowances to members of the board and fees to auditors or other persons auditing accounts for the purposes of this Act, and the rates according to which such allowances or fees are to be calculated; and
- (c) the procedure to be observed at meetings of the board or the Tribunal or of trustees of a mosque.

(3) Every regulation made by the Minister shall be published in the Gezette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(4) Every regulation shall as soon as convenient after publication in the Gazette be brought before Parliament for approval and upon such approval, shall have the same force and effect as a provision on this Act. Any regulation which is not approved shall be deemed to be rescinded from the date of its disapproval but without prejudice to anything previously done thereunder.

(5) Notification of the date on which any regulation made by the Minister is deemed to be rescinded shall be published in the Gazette.

Non-application of sections 100 to 109 of Trusts Ordinance

55. Section 100 to 109 (both sections inclusive) of the Trusts Ordinance shall not apply to any Muslim charitable trust or wakf or any property subject to such trust or wakf.

Appeals.

55A. Every order made by the Tribunal shall be deemed to be an order made by a District Court and the provisions of the Civil Procedure Code governing appeals from orders and judgments of a District Court shall, mutatis mutandis, apply as though the references therein to a District Court were references to the Tribunal.

Contempt proceedings.

55B. For the purposes of dealing with offences of contempt against the authority of the Tribunal, the Tribunal shall have the powers of a District Court, and accordingly the provisions of section 55 of the Judicature Act, No. 2 of 1978, shall mutatis mutandis, apply as though the references therein to a District Court were references to the Tribunal.

Repeals.

56. Sections 5 to 24* (both sections inclusive) of the Muslim Intestate Succession and Wakfs Ordinance, No 10 of 1931. are hereby repealed.

57. Repealed.

No action against board &c., for things done in good faith under the Act.

57A. No action or other legal proceeding shall lie against the board or any member thereof, or the Director or any other person duly appointed or authorized under this Act, in respect of anything which is in good faith done or purported to be done under this Act.

57B. The provisions of this Act shall apply to every mosque, Muslim shrine and place of religious resort, whether incorporated or not, notwithstanding anything in any other written law or any order made by a court of law as regards the administration of any mosque; Muslim shrine or place of religious resort, and where there is a conflict between this Act and any other written law, the provisions of this Act shall prevail.

Procedure for the recovery of penalties and fines.

57C. Any fine or penalty imposed by the Tribunal or Court of Appeal may in case of default be recovered on an application made by an authorized officer to the Magistrate having jurisdiction in the area where the person liable to pay such penalty or fine is for the time being resident notwithstanding any limits imposed by any other law.

Interpretation.

58. In this Act, unless the context otherwise require
- “authorized officer” means an officer authorized to act as such for the purposes of this Act;
- “board” means the Mosques and Muslim Charitable trusts or Wakfs Board established under this Act.
- “Director” means the Director for Mosques and Muslim Charitable Trusts or Wakfs appointed under this Act;
- “Deputy Director” means any Deputy Director for Mosques and Muslim Charitable Trusts or Wakfs appointed under this Act;
- “Jama’ath” in relation to a mosque means the persons who ordinarily worship at, or participate in the religious or customary rites and ceremonies of, that mosque and whose names appear on the register of members of the mosque for the time being;
- “member” means a member of the board or the Tribunal as the case may be;
- “Minister” means the Minister in charge of the subject of Muslim Affairs;
- “Mosque” means any place of exclusive Muslim worship whether of or for any sect or Jama’ath and whether incorporated or not, and includes any thakiya or zavia whether affiliated or unaffiliated to any mosque;
- “Muslim shrines and places of religious resort” include a Muslim shrine or a place of religious resort situated in land which is wakf or in land in private ownership.
- “person or persons who immediately prior to the date of such appointment had in any capacity whatsoever the possession, custody or control” means any person who, contrary to the provisions of any trust, deed, or document, possesses, occupies, alienates, acquires or commits trespass

(37)

upon, in any manner whatsoever notwithstanding any other law, any property, movable or immovable belonging to, or in any way appertaining to or appropriated to the use of that mosque;

“prescribed” means prescribed by regulation made under this Act; and

“Tribunal” means the Wakft Tribunal, established under this Act,

In this Act, except in Parts II and V and in subsection (3) of section 14, unless the context otherwise requires, “trustee”, in relation to a mosque, Muslim shrine or place of religious resort, shall mean a trustee appointed by the board under this Act.

“18. (1) Where, by reason of the repeal of subsection (2) of section 32 of the principal Act, by Act No. 21 of 1962, the provisions of Part V of the principal Act become applicable to any Muslim charitable trust or wakf of the description specified in that subsection, the trustee or trustees of any such trust or wakf shall, notwithstanding anything in the principal Act, furnish to the board within six months after 16th June, 1962, a statement setting out the particulars specified in section 34 of the principal Act in respect of such trust or wakf.

(2) Any person who contravenes the provisions of subsection (1) of this section shall be guilty of an offence under the principal Act and shall, on conviction after summary trial before a Magistrate, be liable to the same penalty as is specified in section 53 (3) of that Act.” See Section 18 of the Muslim Mosques and Charitable Trusts or wakfs (Amendment) Act. No. 21 of 1962.

FIRST SCHEDULE

Rates of contribution to the Muslim Charitable Fund

Section 43 (2)

1. The rate of contribution for any year in respect of a registered mosque, Muslim charitable trust or wakf to the Muslim Charitable Fund, shall be six per centum of the net income in that year;

2. The rate of contribution for any year in respect of a Muslim shrine or place of religious resort to the Muslim Charities Fund shall be 10 per centum of the income referred to in section 43 of that shrine or place in that year.

SECOND SCHEDULE

(Section 31)

1. In Parts II and III, there shall be substituted for the word "mosque", wherever that word occurs in those Parts, the words "shrine or place of religious resort"

2. In section 10-

(a) in subsection (1), there shall be substituted for the words "opened for public worship", the words "which came into existence as such" and

(b) in subsection (2)-

(i) there shall be substituted for the words "opened for public worship", the words "which come into existence as such", and

(ii) there shall be substituted for the words "is so opened" the words, "comes into existence"

3. In sections 12 and 13, there shall be substituted for the word "mosque" the words, "shrines and places of religious resort".

3A. In subsection (1) of section 13B and section 13C there shall be substituted for the word "mosque", the words "Shrines and places of religious resort".

4. In section 18 (h), there shall be substituted for the word "jama'ath", the word "board".

5. In section 29-

(a) in subsection (1), there shall be substituted for the words "members of the jama'ath of", the words "persons interested in";

(b) there shall be substituted for subsection (8) the following new subsection:-

"(8) The interest required in order to entitle any person to be one of the plaintiff in any action instituted under this section need not be a pecuniary or an immediate interest or such an interest as would entitle the person to take part in the management or superintendence of the shrine or place of religious resort."; and

(c) there shall be inserted immediately after subsection (9), the following subsection:-

"(10) For the purposes of this section, any person who-

(a) is the donor or any property to the shrine or place of religious resort or is the direct male descendent of the donor, or

(b) has during the period of twelve months immediately preceding that date been in the habit of-

(i) attending such shrine or place, or

(ii) contributing to the payment of any expenditure incurred in connection with such shrine or place, or

(iii) receiving any alms distributed by any trustee of such shrine or place or otherwise enjoying the benefit thereof,

shall be deemed to be a person interested in the shrine or place."

Transitional
provision.

All matters, suits and proceedings pendings on the day preceding the date of commencement of this Act in any court.....in respect of any matter which by the principal enactment, as amended by this Act, is within the exclusive jurisdictions of the Wakfs Tribunal, have and except any appeal pending in the court of appeal or Supreme Court from any judgment or order in respect of any such matter, shall stand removed with effect from the date of commencement of this Act to the Wakfs Tribunal to be heard and determined or continued and completed.

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