

# The Mussalman Wakf Validating Act, 1930

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### Act 32 of 1930

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#### 775.

Statement of Objects and Reasons.-Muhammadan Law permits a perpetual bequest in the form of wakf-al-aulad, that is a bequest for the benefit of the testator's descendants. As such it contravenes the law against perpetuities as enacted in section 14 of the Transfer of Property Act and section 114 of the Indian Succession Act. A doubt was cast on this doctrine by the Privy Council in several cases in which their Lordships held such bequests illegal as obnoxious to the rule against perpetuities (Abdul Fata v. Rasamaya, 22 C 619 (PC); Abdul Gafur v. Nizamuddin, ILR 19 Ind App 170; Mujidun-nissa v. Abdul Rahim, 23 A 233 (PC); Muhammad Munawar Ali v. Razia Bibi, 27 A 320 (PC). Mr Jinnah introduced a Bill which became Act VI of 1913 restoring the validity of such wakfs. But in several cases since decided this Act is held to be inapplicable to wakfs created before its enactment (Khajeli Solehman v. Salimullah, 49 C 820 (PC); Rahimunnissa v. Shaik Manik Jan, 19 CWN 76; Mahomed Bukht v. Dewan Ajman Reja, 43 C 158; Amirbibi v. Azizabibi, 39 B 563). As Act 6 of 1913 was merely declaratory of the validity of such wakfs, it was understood that it would apply equally to all wakfs whether created before or since that enactment. But as the Courts have held otherwise, this Bill is framed to give that Act retrospective operation. It is apprehended that Mussalman Wakf Validating Act (6 of 1913) was not intended to introduce a change in the old law being enacted to restore the old rule. This Bill will, if passed, carry out its intention by resolving a doubt resulting from recent cases. [25th July, 1930] An Act to give retrospective effect to the Mussalman Wakf Validating Act, 1913. Whereas the Mussalman Wakf Validating Act, 1913, does not apply to wakfs created before its enactment; And whereas it is expedient to validate such wakfs without infringing any rights contrary thereto which may have already accrued or been acquired; It is hereby enacted as follows:-

This Act has been declared to be in force in the Sonthal Parganas by notification under Section 3(3)(a) of the Sonthal Parganas Settlement Regulation 3 of 1872. The Act has been extended to the

new Provinces and Merged States, by the Merged States (Laws) Act 59 of 1949, to the States of Manipur, Tripura and Vindhya Pradesh by the Union Territories (Laws) Act 30 of 1950; Manipur and Tripura are full-fledged States now, see Act 81 of 1971. Vindhya Pradesh is a part of the State of Madhya Pradesh now, see Act 37 of 1956. The Act has been extended to the transferred territory in the State of Tamil Nadu, by the Madras (Transferred Territory) Extension of Laws Act 23 of 1960. The Act has been extended to the Union Territory of Dadra and Nagar Haveli by the Dadra and Nagar Haveli (Laws) Regulation 6 of 1963.

**1. Short title .-This Act may be called The Mussalman Wakf Validating Act, 1930.**

**2. Act 6 of 1913 to apply retrospectively .-The Mussalman Wakf Validating Act, 1913 (6 of 1913), shall be deemed to apply to wakfs created before its commencement:**

Provided that nothing herein contained shall be deemed in any way to affect any right, title, obligation or liability already acquired, accrued or incurred before the commencement of this Act.